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

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

RESERVATIONS: (202) 741–6008

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Presidential Documents

Title 3—

The President

Proclamation 8907 of November 20, 2012

National Child's Day, 2012

By the President of the United States of America

A Proclamation

All children deserve the chance to follow their passions, chase their dreams, and pursue their fullest measure of happiness. On National Child's Day, we celebrate the innumerable ways our sons and daughters have enriched our lives, and we rededicate ourselves to helping them achieve excellence in everything they do.

America's success in the 21st century depends on our ability to give our children the best education possible. By providing the critical foundation for academic achievement, parents, families, and community groups play an essential part in fulfilling that mission. To bolster their efforts, my Administration has partnered with States and communities across our country to build more pathways to opportunity for our students. We launched Race to the Top, a national competition to improve our schools that has helped encourage nearly every State to raise education standards. We have strengthened early childhood education to help prevent achievement gaps before they start. We have invested in math and science education, redoubled efforts to turn around struggling schools, and expanded financial aid to help make higher education something every family can afford. And moving forward, we will keep working to ensure all our children have the skills they need to achieve their highest ambitions.

In order to thrive in school and grow up strong, our children need a healthy start in life that includes nourishing meals and regular physical activity. Every day, parents and guardians are taking up that important task by making healthy choices for their kids. Schools are finding innovative ways to provide nutritious food for their students, and communities are coming together to help young people lead healthier lives right from the start. As these groups fulfill their responsibilities to our children, my Administration is striving to fulfill ours through efforts like First Lady Michelle Obama's *Let's Move!* initiative, which aims to solve the problem of childhood obesity within a generation, and the Affordable Care Act, which has expanded preventive services for children and ensured health coverage for millions of young adults.

High-quality education and health care are essential to giving our children the future they deserve. As we take this opportunity to honor our sons and daughters, let us reaffirm that no matter what challenges lie ahead of us, providing the best for our children will always be our first priority.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 20, 2012, as National Child's Day. I call upon all citizens to observe this day with appropriate activities, programs, and ceremonies, and to rededicate ourselves to creating the bright future we want for our Nation's children.

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

[FR Doc. 2012–28807
Filed 11–26–12; 8:45 am]
Billing code 3295–F3

Presidential Documents

Proclamation 8908 of November 20, 2012

Thanksgiving Day, 2012

By the President of the United States of America

A Proclamation

On Thanksgiving Day, Americans everywhere gather with family and friends to recount the joys and blessings of the past year. This day is a time to take stock of the fortune we have known and the kindnesses we have shared, grateful for the God-given bounty that enriches our lives. As many pause to lend a hand to those in need, we are also reminded of the indelible spirit of compassion and mutual responsibility that has distinguished our Nation since its earliest days.

Many Thanksgivings have offered opportunities to celebrate community during times of hardship. When the Pilgrims at Plymouth Colony gave thanks for a bountiful harvest nearly four centuries ago, they enjoyed the fruits of their labor with the Wampanoag tribe—a people who had shared vital knowledge of the land in the difficult months before. When President George Washington marked our democracy's first Thanksgiving, he prayed to our Creator for peace, union, and plenty through the trials that would surely come. And when our Nation was torn by bitterness and civil war, President Abraham Lincoln reminded us that we were, at heart, one Nation, sharing a bond as Americans that could bend but would not break. Those expressions of unity still echo today, whether in the contributions that generations of Native Americans have made to our country, the Union our forebears fought so hard to preserve, or the providence that draws our families together this season.

As we reflect on our proud heritage, let us also give thanks to those who honor it by giving back. This Thanksgiving, thousands of our men and women in uniform will sit down for a meal far from their loved ones and the comforts of home. We honor their service and sacrifice. We also show our appreciation to Americans who are serving in their communities, ensuring their neighbors have a hot meal and a place to stay. Their actions reflect our age-old belief that we are our brothers' and sisters' keepers, and they affirm once more that we are a people who draw our deepest strength not from might or wealth, but from our bonds to each other.

On Thanksgiving Day, individuals from all walks of life come together to celebrate this most American tradition, grateful for the blessings of family, community, and country. Let us spend this day by lifting up those we love, mindful of the grace bestowed upon us by God and by all who have made our lives richer with their presence.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim Thursday, November 22, 2012, as a National Day of Thanksgiving. I encourage the people of the United States to join together—whether in our homes, places of worship, community centers, or any place of fellowship for friends and neighbors—and give thanks for all we have received in the past year, express appreciation to those whose lives enrich our own, and share our bounty with others.

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

[FR Doc. 2012–28808
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Rules and Regulations

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

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

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–20l2–0898]

RIN 1625–AA08

Special Local Regulations; 2012 Holiday Boat Parades, Captain of the Port Miami Zone; FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing five special local regulations during the month of December for holiday boat parades which are scheduled to occur on the navigable waterways in vicinities of Fort Lauderdale, Pompano Beach, Palm Beach, Boynton Beach, Delray Beach, and Miami, Florida. These special local regulations are necessary to protect the public from the hazards associated with marine parades. The special local regulations consist of a series of moving zones, to include buffer areas, around participant vessels as they transit the navigable waters of the United States during these events. Persons and vessels that are not participating in the marine parade are prohibited from entering, transiting through, anchoring in, or remaining within any of the regulated areas unless authorized by the Captain of the Port Miami or a designated representative.

DATES: This rule is effective from 12:01 a.m. on December 1, 2012 until 11:30 p.m. on December 31, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0898. 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 Lieutenant Junior Grade Mike H. Wu, Sector Miami Prevention Department, Coast Guard; telephone (305) 535–7576, email *Mike.H.Wu@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:

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FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On November 8, 2012, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled USCG–2012–0898 in the **Federal Register** (77 FR 2012–66938). No comments on the proposed rule were received. No Public meeting was requested, and none was held.

B. Basis and Purpose

(a) The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233.

(b) The purpose of the rule is to provide for the safety of life on the navigable waters during the holiday boat parades in the Captain of the Port Miami Zone.

C. Discussion of the Final Rule

The Coast Guard did not receive any comments to the proposed rule, and no changes were made to the regulatory text.

Multiple marine parades are planned for the 2012 holiday season throughout the Captain of the Port Miami Zone. The Coast Guard is establishing five special local regulations for marine parades during the month of December, 2012 within the navigable waters of the Captain of the Port Miami Zone. The special local regulations are listed below.

1. Fort Lauderdale, Florida. On December 15, 2012, Winterfest, Inc. is hosting the Seminole Hard Rock Winterfest Boat Parade on the New River and the Intracoastal Waterway in Fort Lauderdale, Florida. The marine parade will consist of approximately 120 vessels, and will begin at Cooley's Landing Marina and transit east on the New River, then head north on the Intracoastal Waterway to Lake Santa Barbara. A special local regulation was previously promulgated at 33 CFR 100.701, however, the promulgated regulation does not extend the special local regulation into the New River, nor does it provide sufficient detail regarding the regulation for the marine parade. Therefore, the special local regulation set forth in 33 CFR 100.701 is inapplicable for this year's marine parade. The special local regulation consists of a moving zone that will include a buffer zone extending 50 yards ahead of the lead parade vessel, 50 yards astern of the last participant vessel, and 50 yards on either side of the parade. Notice of the special local regulation will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. This special local regulation will be enforced from 2:30 p.m. until 11:30 p.m. on December 15, 2012.

2. Pompano Beach, Florida. On December 9, 2012, Greater Pompano Beach Chamber of Commerce is hosting the Pompano Beach Holiday Boat Parade on the Intracoastal Waterway in Pompano Beach, Florida. The marine parade will consist of approximately 50 vessels. The marine parade will begin at Lake Santa Barbara and transit north on the Intracoastal Waterway to the Hillsboro Bridge. A special local regulation was previously promulgated at 33 CFR 100.701, however, the date of the 2012 marine parade does not correspond with the date published in the Code of Federal Regulations. Therefore, the special local regulation set forth in 33 CFR 100.701 is inapplicable for this year's marine parade. The special local regulation consists of a moving zone that will include a buffer zone extending 50 yards ahead of the lead parade vessel, 50 yards astern of the last participant vessel, and 50 yards on either side of the parade. Notice of the special local

regulation will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. This special local regulation will be enforced from 5:00 p.m. until 10:00 p.m. on December 9, 2012.

3. Palm Beach, Florida. On December 1, 2012, Marine Industries Association of Palm Beach County is sponsoring the Palm Beach Holiday Boat Parade. The marine parade will be held on the waters of the Intracoastal Waterway in Palm Beach, FL. The marine parade will consist of approximately 60 vessels. The marine parade will begin at Lake Worth Daymark 28 in North Palm Beach and end at Loxahatchee River Daymark 7 east of the Glynn Mayo Highway Bridge in Jupiter, FL. A special local regulation was previously promulgated at 33 CFR 100.701, however, the route of the 2012 marine parade does not correspond with the route published in the Code of Federal Regulations. Therefore, the special local regulation set forth in 33 CFR 100.701 is inapplicable for this year's marine parade. The special local regulation consists of a moving zone that will include a buffer zone extending 50 yards ahead of the lead parade vessel, 50 yards astern of the last participant vessel, and 50 yards on either side of the parade. Notice of the special local regulation will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. The special local regulation will be enforced from 5:30 p.m. until 8:30 p.m. on December 1, 2012.

4. Boynton Beach, Florida. On December 7, 2012, Boynton Beach Community Development Agency is sponsoring the Boynton and Delray Holiday Boat Parade. The marine parade will be held on the waters of the Intracoastal Waterway in Boynton Beach, Florida. The marine parade will consist of approximately 40 vessels. The marine parade will begin at Boynton Inlet and continue south until the C–15 Canal. A special local regulation was previously promulgated at 33 CFR 100.701, however, the date of the 2012 marine parade does not correspond with the date published in the Code of Federal Regulations. Therefore, the special local regulation set forth in 33 CFR 100.701 is inapplicable for this year's marine parade. The special local regulation consists of a moving zone that will include a buffer zone extending 50 yards ahead of the lead parade vessel, 50 yards astern of the last participant vessel, and 50 yards on either side of the parade. Notice of the special local regulation will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. The special local regulation will be enforced from 6:00 p.m. until 8:00 p.m. on December 7, 2012.

5. Miami, Florida. On December 15, 2012, Miami Outboard Club is sponsoring the Miami Outboard Holiday Boat Parade. The marine parade will be held on the waters of Biscayne Bay, Miami, Florida and the Intracoastal Waterway. The marine parade will consist of approximately 70 vessels. The marine parade will begin at the Miami Outboard Club on Watson Island, head west around Palm Island and Hibiscus Island, head east between Di Lido Island, south through Meloy Channel, west through Government Cut to Bicentennial Park, south to the Dodge Island Bridge, south in the Intracoastal Waterway to Claughton Island, circling back to the north in the Intracoastal Waterway to end at the Miami Outboard Club. A special local regulation was previously promulgated at 33 CFR 100.701, however, the date of the 2012 marine parade does not correspond with the date published in the Code of Federal Regulations. Therefore, the special local regulation set forth in 33 CFR 100.701 is inapplicable for the 2012 marine parade. The special local regulation consists of a moving zone that will include a buffer zone extending 50 yards ahead of the lead parade vessel, 50 yards astern of the last participant vessel, and 50 yards on either side of the parade. Notice of the special local regulation will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. The special local regulation will be enforced from 7:00 p.m. until 11:00 p.m. on December 15, 2012.

Persons and vessels will be prohibited from entering, transiting through, anchoring, or remaining within the five aforementioned moving zones unless authorized by the Captain of the Port Miami or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within any of the moving zones may contact the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within any of the moving zones is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

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) No single special local regulation will be enforced in excess of 9 hours, and all five enforcement periods combined will not exceed 23 hours; (2) non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated areas during their respective enforcement periods if authorized by the Captain of the Port Miami or a designated representative; (3) non-participant persons and vessels not able to enter, transit through, anchor in, or remain within the regulated areas without authorization from the Captain of the Port Miami or a designated representative may operate in the surrounding areas during the respective enforcement periods; (4) the moving zones will travel with the marine parades, allowing the enforcement areas to resume normal traffic patterns in a timely manner; and (5) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and 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 received no 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 may affect the following entities, some of which may be small

entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within any of the special local regulations during the respective enforcement periods. 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 determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves special local regulations issued in conjunction with marine parades. This rule is categorically excluded from further review under paragraph 34(h) and 35(b) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

F. List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add temporary § 100.35T07–0898 to read as follows:

§ 100.35T07–0898 Special Local Regulations; 2012 Holiday Boat Parades, Captain of the Port Miami Zone; FL.

(a) *Regulated areas.* The following moving zones are regulated areas, with the specified enforcement period for each zone. The identities of the lead parade vessel and the last participating vessel will be provided prior to the marine parade by Broadcast Notice to Mariners.

(1) *Fort Lauderdale, Florida.* All waters within a moving zone that will begin at Cooley's Landing Marina and end at Lake Santa Barbara, which will include a buffer zone extending 50 yards ahead of the lead parade vessel and 50 yards astern of the last participating vessel and 50 yards on either side of the parade. This special local regulation will be enforced from

2:30 p.m. until 11:30 p.m. on December 15, 2012.

(2) *Pompano Beach, Florida.* All waters within a moving zone that will begin at Lake Santa Barbara and head north on the Intracoastal Waterway to end at the Hillsboro Bridge, which will include a buffer zone extending 50 yards ahead of the lead parade vessel and 50 yards astern of the last participating vessel and 50 yards on either side of the parade. This special local regulation will be enforced from 5:00 p.m. until 10:00 p.m. on December 9, 2012.

(3) *Palm Beach, Florida.* All waters within a moving zone that will begin at Lake Worth Daymark 28 in North Palm Beach and end at Loxahatchee River Daymark 7 east of the Glynn Mayo Highway Bridge in Jupiter, FL, which will include a buffer zone extending 50 yards ahead of the lead parade vessel and 50 yards astern of the last participating vessel and 50 yards on either side of the parade. The special local regulation will be enforced from 5:30 p.m. until 8:30 p.m. on December 1, 2012.

(4) *Boynton Beach, Florida.* All waters within a moving zone that will begin at Boynton Inlet and end at the C–15 Canal, which will include a buffer zone extending 50 yards ahead of the lead parade vessel and 50 yards astern of the last participating vessel and 50 yards on either side of the parade. The special local regulation will be enforced from 6:00 p.m. until 8:00 p.m. on December 7, 2012.

(5) *Miami, Florida.* All waters within a moving zone that will transit as follows: the marine parade will begin at the Miami Outboard Club on Watson Island, head west around Palm Island and Hibiscus Island, head east between Di Lido Island, south through Meloy Channel, west through Government Cut to Bicentennial Park, south to the Dodge Island Bridge, south in the Intracoastal Waterway to Claughton Island, circling back to the north in the Intracoastal Waterway to end at the Miami Outboard Club. This will include a buffer zone extending to 50 yards ahead of the lead vessel and 50 yards astern of the last participating vessel and 50 yards on either side of the parade. The special local regulation will be enforced from 7:00 p.m. until 11:00 p.m. on December 15, 2012.

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

(c) *Regulations.* (1) Non-participant persons and vessels are prohibited from entering the moving zones, to include the buffer zones. Non-participant persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

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

(d) *Effective date.* This rule is effective from 12:01 a.m. on December 1, 2012 until 11:30 p.m. on December 31, 2012.

Dated: November 15, 2012.

C.P. Scraba,

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

[FR Doc. 2012–28696 Filed 11–26–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR PART 165

[Docket No. USCG–2012–0904]

RIN 1625–AA00

Safety Zone; Bridge Demolition Project; Indiana Harbor Canal, East Chicago, IN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Indiana Harbor Canal in East Chicago, Indiana. This safety zone is intended to restrict vessels from a portion of the Indiana Harbor Canal due to the demolition Project on the Cline Avenue Bridge. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the demolition project.

DATES: This rule is effective from 6:00 a.m. until 9:00 a.m. on December 1, 2012. This rule will be enforced between 6:00 a.m. until 9:00 a.m. on December 1, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0904 and are available online by going to *www.regulations.gov,* inserting USCG–2012–0904 in the ''Keyword'' box, and then clicking ''search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414–747–7148 or *Joseph.P.McCollum@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

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

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for

making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

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

On December 1, 2012, Walsh Construction Company will be conducting demolition on portions of the Cline Avenue bridge in East Chicago, IN. The Captain of the Port, Sector Lake Michigan, has determined that this demolition project will pose a significant risk to public safety and property. Such hazards include loss of life and property in the proximity of explosives, and collisions among vessels and contractors involved in the demolition project.

The Coast Guard had established the same safety zone for November 3 and 10, 2012. However, the Construction Company informed the Coast Guard that their planned demolition date must be changed due to the discovery of embedded steel beams found in two of the bridge's piers. This discovery required a change in how the demolition will be prepared. Considering the delicate nature of explosive work on a transportation structure, this rule was written in order to accommodate the Construction Company's need to properly prepare the bridge for demolition.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port, Sector Lake Michigan, has determined that this temporary safety zone is necessary to ensure the safety of persons and vessels during the demolition project on the Cline Avenue bridge. This zone will be effective from 6:00 a.m. until 9:00 a.m. on December 1, 2012. This zone will be enforced between 6:00 a.m. until 9:00 a.m. on December 1, 2012.

The safety zone will encompass all waters of the Indiana Harbor Canal in the vicinity of the Cline Avenue Bridge at approximate position 41°39′4.3″ N and 87°27′54.3″ W (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be small and enforced for only three hours on one day. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

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

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Indiana Harbor Canal on December 1, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be activated, and thus subject to enforcement, for only three hours on one day. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the activation of the zone, we will issue local Broadcast Notice to Mariners.

3. Assistance for Small Entities

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

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

4. Collection of Information

This rule 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. Unfunded Mandates Reform Act

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

we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

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

8. Civil Justice Reform

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

9. Protection of Children

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

10. Indian Tribal Governments

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

11. Energy Effects

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

12. Technical Standards

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

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have 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 a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES.** We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 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 parts 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. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0904 to read as follows:

§ 165.T09–0904 Safety Zone; Bridge Demolition Project, Indiana Harbor Canal, East Chicago, Indiana.

(a) Location. The safety zone will encompass all waters of the Indiana Harbor Canal in the vicinity of the Cline Avenue Bridge at approximate position 41°39′4.3″ N and 87°27′54.3″ W (NAD 83).

(b) Effective and Enforcement Period. This rule is effective between 6:00 a.m. until 9:00 a.m. on December 1, 2012. This rule will be enforced between 6:00 a.m. until 9:00 a.m. on December 1, 2012.

(c) Regulations. (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Lake Michigan or his designated on-scene representative.

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

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

Dated: November 15, 2012.

M.W. Sibley,

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

[FR Doc. 2012–28693 Filed 11–26–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 20

RIN 2900–AO43

Rules Governing Hearings Before the Agency of Original Jurisdiction and the Board of Veterans' Appeals; Repeal of Prior Rule Change

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; confirmation of effective date and addition of applicability date.

SUMMARY: The Department of Veterans Affairs (VA) published a direct final rule amending its hearing regulations to repeal a prior amendment that specified that the provisions regarding hearings before the Agency of Original Jurisdiction (AOJ) do not apply to hearings before the Board of Veterans' Appeals (Board). VA received no significant adverse comment concerning this rule. This document confirms that the direct final rule became effective on June 18, 2012. Additionally, in the preamble of the direct final rule, VA did not provide an applicability date. This document provides an applicability date.

DATES: *Effective Date:* This final rule is effective June 18, 2012.

Applicability Date: This final rule shall apply to decisions issued by the Board on or after August 23, 2011.

FOR FURTHER INFORMATION CONTACT: Laura H. Eskenazi, Principal Deputy Vice Chairman, Board of Veterans' Appeals (01C), Department of Veterans Affairs, 810 Vermont Avenue NW.,

Washington, DC 20420, (202) 632–4603. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 18, 2012, VA published in the **Federal Register**, 77 FR 23128, a direct final rule to amend, in 38 CFR part 3, § 3.103(a) and (c)(1), and, in 38 CFR part 20, § 20.706 and Appendix A to repeal amendments made by RIN 2900–AO06, ''Rules Governing Hearings Before the Agency of Original Jurisdiction and the Board of Veterans' Appeals; Clarification,'' a final rule that had been published in the **Federal Register** on August 23, 2011. As discussed in the preamble to the direct final rule, RIN 2900–AO06 altered language upon which the United States Court of Appeals for Veterans Claims (Veterans Court) relied in *Bryant* v. *Shinseki,* 23 Vet. App. 488 (2010), which applied the provisions of § 3.103(c)(2) to a Board hearing. The *Bryant* Court held that the provisions of § 3.103(c)(2) require a ''Board hearing officer'' to ''fully explain the issues still outstanding that are relevant and material to substantiating the claim'' and to ''suggest that a claimant submit evidence on an issue material to substantiating the claim when the record is missing any evidence on that issue or when the testimony at the hearing raises an issue for which there is no evidence in the record.'' *Id.* at 496–97.

VA determined that RIN 2900–AO06 should have followed the notice-and-comment procedure of 5 U.S.C. 553(b) and (c) of the Administrative Procedure Act and published the direct final rule to return the regulations to the language in effect before August 23, 2011. The direct final rule provided a 30-day comment period that ended on May 18, 2012. No significant adverse comment was received. VA received only one comment on May 17, 2012, from the National Organization of Veterans' Advocates, Inc. (NOVA). In pertinent part, NOVA stated, ''[T]he full, retroactive repeal of the invalid [amendments made by RIN 2900–AO06] should move forward regardless of whether the 'VA receives a significant adverse comment by May 18, 2012.' * * * VA has a responsibility to repeal the rule as quickly as possible. Doing so will help ensure that any veterans harmed by the invalid rule will be able to obtain appropriate relief.'' Accordingly, under the direct final rule procedures that were described in RIN 2900–AO43, the direct final rule became effective on June 18, 2012, because no significant adverse comment was received within the comment period.

We take this opportunity to address three points made by NOVA in its comment. NOVA criticized the direct final rule procedure because it was ''conditional rather than mandatory.'' As we anticipated when we published the direct final rule, no significant adverse comment was received by VA, and the direct final rule became effective on June 18, 2012. Accordingly, NOVA's concern about the action being conditional is moot.

NOVA also urged that the ''repeal of [the amendments made by RIN 2900–AO06 be] retroactive to August 23, 2011.'' In the direct final rule, we stated that we were ''repealing'' those amendments but provided only an effective date—June 18, 2012. We did not provide an applicability date. Accordingly, in this document we have added, in the **DATES** section above, an *Applicability Date* paragraph, stating, ''This final rule shall apply to decisions issued by the Board on or after August 23, 2011.''

Finally, NOVA also encouraged VA to ''clarify that any veteran who suffered any harm as a result of the invalid rule is now entitled to obtain relief.'' In this regard, appellants have a statutory right to appeal a Board decision to the Veterans Court within 120 days after the date on which the appellant is notified of the Board's decision. *See* 38 U.S.C. 7266(a). Additionally, VA regulations permit appellants whose claims have been denied by the Board to file with the Board at any time a motion for reconsideration of the decision. *See* 38 CFR 20.1001. If the Chairman of the Board denies a motion for reconsideration, that denial and the underlying Board decision may be appealed to the Veterans Court if a timely appeal was previously filed with the Veterans Court with respect to that underlying Board decision. *See Mayer* v. *Brown,* 37 F.3d 618, 620 (Fed. Cir. 1994), *overruled in part by Bailey* v. *West,* 160 F.3d 1360 (Fed. Cir. 1998) (en banc). Also, the Board's decision may be appealed to the Veterans Court if the appellant filed the motion for reconsideration not later than 120 days after being notified of the Board's decision and then appeals to the Veterans Court not later than 120 days after reconsideration is denied. *Rosler* v. *Derwinski,* 1 Vet. App. 241, 249 (1991); *see also Linville* v. *West,* 165 F.3d 1382, 1385–86 (Fed. Cir. 1999). Additionally, the 120-day period to appeal a Board decision to the Veterans Court is subject to the doctrine of equitable tolling within certain parameters. *See Bove* v. *Shinseki,* 25 Vet. App. 136, 140 (2011). These procedures provide adequate avenues of relief to any claimants who may have been adversely affected by the repealed rule.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, Department of Veterans Affairs, approved this document on November 20, 2012, for publication.

Dated: November 20, 2012.

Robert C. McFetridge,

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

[FR Doc. 2012–28621 Filed 11–26–12; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0809; FRL–9754–5]

Approval and Promulgation of Implementation Plans; Florida; Section 128 and 110(a)(2)(E)(ii) and (G) Infrastructure Requirements for the 1997 8-hour Ozone National Ambient Air Quality Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, correction.

SUMMARY: EPA published in the **Federal Register** of July 30, 2012, a final rule approving portions of the State Implementation Plan (SIP) revision submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP) on May 24, 2012, as demonstrating that the State met the SIP requirements of the Clean Air Act (CAA or the Act) for the 1997 8-hour ozone national ambient air quality standards (NAAQS). In that final rule, EPA approved Florida's infrastructure submission, provided to EPA on May 24, 2012, which included state statues to be incorporated into the SIP to address infrastructure requirements regarding state boards and emergency powers. While EPA discussed in the final rulemaking that it was taking action to approve certain state statues into the Florida SIP to address the state board requirements and emergency powers, EPA inadvertently did not list these state statues in the regulatory text of the July 30, 2012, final rule. Accordingly, this rulemaking corrects that inadvertent regulatory text omission.

DATES: Effective November 27, 2012.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov*.

SUPPLEMENTARY INFORMATION: This action corrects an inadvertent omission in the regulatory language in a July 30, 2012, final rulemaking where EPA approved certain state statues into the Florida SIP to address section 110(a)(2)(E)(ii) regarding state boards and 110(a)(2)(G) regarding emergency powers for the 1997 8-hour ozone NAAQS. *See* 77 FR 29581. In the July 30, 2012, final rule, EPA inadvertently did not list these state statues in the regulatory text. Accordingly, this rulemaking corrects that inadvertent regulatory text omission.

EPA has determined that today's action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action is unnecessary because today's action to correct an inadvertent regulatory text omission included with EPA's July 30, 2012, final rule is consistent with the substantive revisions to the Florida SIP described in the May 18, 2012, proposed rule for the July 30, 2012, final rule. *See* 77 FR 29581. As such, public notice and comment has been provided for these revisions and additional notice and comment procedures are unnecessary. In addition, EPA can identify no particular reason why the public would be interested in being notified of the correction, or in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change the meaning of EPA's analysis or action to approve certain state statues as addressing the state board and emergency episode requirements for 1997 8-hour ozone NAAQS into the Florida SIP. EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's action merely corrects an inadvertent omission for the regulatory text of a prior rulemaking by listing these state statues in the regulatory text for the Florida SIP. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely corrects an inadvertent omission for the regulatory text of EPA's July 30, 2012, final rule to approve certain state statues as addressing the state board and emergency episode requirements for 1997 8-hour ozone NAAQS into the Florida SIP, and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely corrects an inadvertent omission for the regulatory text of EPA's July 30, 2012, final rule to approve certain state statues as addressing the state board and emergency episode requirements for 1997 8-hour ozone NAAQS into the Florida SIP, and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely corrects an inadvertent omission for the regulatory text of EPA's July 30, 2012, final rule to approve certain state statues as addressing the state board and emergency episode requirements for 1997 8-hour ozone NAAQS into the Florida SIP, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

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 January 28, 2013.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness

of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* CAA section 307(b)(2).

Dated: November 14, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]

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

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

Subpart K—Florida

■ 2. Section 52.520(c), is amended by adding in numerical order a new entry for ''State Statutes,'' at the end of the table to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED FLORIDA REGULATIONS

State citation (Section)	Title/subject	State effective date	EPA approval date	Explanation
*	* *	*	*	*
State Statutes				
112.3143(4)	Voting Conflict	4/19/2012	7/30/2012 77 FR 44485	To satisfy the requirements of sections 128 and 110(a)(2)(E)(ii).
112.3144	Full and Public Disclosure of Financial Interests.	4/19/2012	7/30/2012 77 FR 44485	To satisfy the requirements of sections 128 and 110(a)(2)(E)(ii).
403.131	Injunctive relief, remedies	4/19/2012	7/30/2012 77 FR 44485	To satisfy the requirements of section 110(a)(2)(G).
120.569	Decisions which affect substantial interests.	4/19/2012	7/30/2012 77 FR 44485	To satisfy the requirements of section 110(a)(2)(G).

* * * * *

[FR Doc. 2012–28589 Filed 11–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0786; FRL–9752–5]

Approval and Promulgation of Implementation Plans; Tennessee; Regional Haze State Implementation Plan; Best Available Retrofit Technology Requirements for Eastman Chemical Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of the Best Available Retrofit Technology (BART) requirements for the Eastman Chemical Company (Eastman) that were provided in a revision to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee, through the Tennessee Department Environment and Conservation (TDEC), on April 4, 2008, as later modified and supplemented on May 14, 2012, and May 25, 2012. EPA previously proposed action on the BART requirements for Eastman in association with action on Tennessee's April 4, 2008, regional haze SIP revision. On April 24, 2012, EPA took final action on all aspects of the April 4, 2008, SIP revision to address regional haze in the State's and other states' Class I areas except for the BART requirements for Eastman. The May 14, 2012, SIP revision (as clarified in a May 25, 2012, SIP revision) changed the compliance date for the Eastman BART determination included in Tennessee's April 4, 2008, SIP revision and provided a BART alternative determination option for Eastman. EPA is finalizing approval of the BART requirements for Eastman, as provided in Tennessee's April 4, 2008, May 14, 2012, and May 25, 2012, SIP revisions because these SIP revisions are consistent with the regional haze provisions of the Clean Air Act (CAA) and EPA's regulations.

DATES: *Effective Date:* This rule will be effective December 27, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2009–0786. 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., Confidential Business Information 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 Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 a.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Michele Notarianni can be reached at telephone number (404) 562–9031 and by electronic mail at *notarianni.michele@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What is the background for this final action?

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (e.g., sulfur dioxide (SO_2), nitrogen oxides, and in some cases, ammonia and volatile organic compounds). Fine particle precursors react in the atmosphere to form fine particulate matter ($PM_{2.5}$) which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. $PM_{2.5}$ can also cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I areas which impairment results from manmade air pollution.'' On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, i.e., ''reasonably attributable visibility impairment.'' *See* 45 FR 80084. These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35713), the Regional Haze Rule (RHR). The RHR revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in EPA's visibility protection regulations at 40 CFR 51.300–309. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia, and the Virgin Islands. 40 CFR 51.308(b) requires states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

On April 4, 2008, TDEC submitted a revision to Tennessee's SIP to address regional haze in the State's and other states' Class I areas. On June 9, 2011, EPA published an action proposing a limited approval and a limited disapproval of Tennessee's April 4, 2008, SIP revision (including the BART determination for Eastman—hereafter referred to as the ''original Eastman BART determination'') to address the first implementation period for regional haze. *See* 76 FR 33662. After publication of EPA's June 2011 proposed action on Tennessee's regional haze SIP revision, the State and Eastman entered into discussions regarding a BART alternative determination that would give Eastman the option to comply with the regional haze BART requirements by converting its B–253 Powerhouse to natural gas in lieu of continuing to use coal and retrofitting its facility pursuant to the BART determination for SO_2 emissions (hereafter referred to as the ''Eastman BART alternative determination'').

On April 24, 2012, EPA took final action on Tennessee's April 4, 2008, regional haze SIP revision, with the exception of the original Eastman BART determination. *See* 77 FR 24392. As noted in that action, EPA took no action on the original Eastman BART determination provided in the April 4, 2008, SIP revision at that time since EPA expected Tennessee to submit a supplemental SIP addressing an Eastman BART alternative determination. EPA's proposed action for the original Eastman BART determination remained in place after EPA's April 24, 2012, action on the remainder of Tennessee's regional haze SIP revision. On May 14, 2012, TDEC submitted a modification and supplement to its April 2008 Tennessee regional haze plan to address BART requirements for Eastman. On May 25, 2012, Tennessee modified the permit to clarify that Eastman would fully implement BART or notify TDEC and EP of the selection of the Eastman BART alternative determination no later than April 30, 2017.

In summary, Tennessee's May 14, 2012, SIP revision: (1) Modifies the final compliance date to April 30, 2017, for the original Eastman BART determination; and (2) establishes a BART alternative determination option for Eastman to convert its B–253 Powerhouse (Boilers 25–29) to burn natural gas. The May 14, 2012, SIP revision and Eastman's CAA title V operating permit stipulate that if Eastman elects to implement the Eastman BART alternative determination instead of the original Eastman BART determination, Eastman must begin construction on the Eastman BART alternative prior to April 30, 2017, and complete construction no later than the earlier of: December 31, 2018; the end of the period of the first long-term strategy for regional haze as determined by EPA; or the compliance deadline for the one-hour SO_2 national ambient air quality standard (NAAQS). Tennessee's May 14, 2012, SIP revision (as clarified in a May 25, 2012, SIP revision) also stipulates that if Eastman elects to implement the original Eastman BART determination instead of the Eastman BART alternative determination, it must comply with the BART requirements by April 30, 2017.

The Tennessee Air Pollution Control Board approved this SIP revision and associated operating permit as Board Order 12–008 on May 9, 2012. TDEC submitted the modifications to the compliance date for the original Eastman BART determination; the additional Eastman BART alternative determination; and the Board Order as a SIP revision on May 14, 2012, and submitted a clarifying SIP revision on May 25, 2012.

On August 27, 2012 (77 FR 51739), EPA proposed to approve the modifications to the compliance date for the original Eastman BART determination and the Eastman BART alternative determination option, as provided in Tennessee's May 14, 2012, SIP revision. In that action, EPA preliminarily determined that implementation of the BART alternative option would achieve greater reasonable progress than would be achieved through the installation and operation of BART at Eastman and that the BART alternative option met the requirements of 40 CFR 51.308(e)(2). As mentioned earlier, EPA previously proposed approval of Tennessee's original Eastman BART determination as provided in the State's April 4, 2008, SIP revision. EPA proposed approval of Tennessee's SIP revision implementing BART requirements for Eastman (as submitted by the State in an April 4, 2008, SIP revision, and later modified and supplemented in a May 14, 2012, SIP revision) because EPA preliminarily determined that these requirements are consistent with the CAA and EPA's regulations on regional haze BART determinations and BART alternative determinations. The May 25, 2012, SIP revision simply clarified an established requirement and does not substantively modify the proposed action.

II. What is the update to the response to comments received on EPA's June 9, 2011, proposal related to Eastman?

EPA received six sets of comments on the June 9, 2011, rulemaking proposing a limited approval and limited disapproval of Tennessee's April 4, 2008, regional haze SIP revision. Specifically, the comments were received from the American Coalition for Clean Coal Electricity, Eastman, TDEC, the National Park Service, the Tennessee Valley Authority, and the Utility Air Regulatory Group (UARG).[1] Full sets of the comments provided by all of the aforementioned entities (hereinafter referred to as ''the Commenter'') are provided in EPA's docket for the April 24, 2012, final rulemaking, which is the same docket for today's final action.

EPA addressed these comments in the April 24, 2012, final rulemaking, and is only providing an update to the comments related to the original Eastman BART determination since EPA is now taking final action on this component of Tennessee's April 4, 2008, regional haze SIP revision. Please refer to EPA's April 24, 2012, final rulemaking on Tennessee's regional haze SIP revision for EPA's further response to comments on Tennessee's regional haze SIP. *See* 77 FR 24392. A summary of the comments related to action on the original Eastman BART determination and EPA's responses are provided below.

Comment 1: The Commenter requests that EPA delay final action on the June 9, 2011, proposed rulemaking related to Tennessee's regional haze SIP revision so that the BART requirements are harmonized with other pending federal air quality regulatory actions that affect Eastman's Tennessee facility (e.g., 1-hour SO_2 NAAQS, the maximum achievable control technology (MACT) rule for industrial boilers (Industrial Boiler MACT), and the Transport Rule). The Commenter asserts that this will provide Eastman with an opportunity to meet all of the requirements of these numerous programs at one time and will allow Eastman to comply with all pending requirements in an efficient and cost-effective manner.

Response 1: Under section 110(k)(2) of the CAA, EPA is required to act within specified timeframes to approve or disapprove SIP revisions. As mentioned above, Tennessee submitted its regional haze SIP revision for EPA review on April 4, 2008, and EPA is already past-due on its action per the statutory deadlines. There is no authority in the CAA for EPA to further delay action for the reasons provided by the Commenter, and EPA committed to take final action by November 15, 2012, on the BART requirements for Eastman.

Comment 2: The Commenter indicates that it is fundamentally inequitable to set the BART compliance deadline earlier for non-electric generating units (EGUs), in reference to the Eastman facility, than for EGUs and to require non-EGUs to make necessary investments earlier than EGUs. Further, the Commenter asserts that this step is not required to ensure reasonable progress in visibility improvement in Class I areas.

Response 2: EPA previously responded to this comment in the April 24, 2012, final rulemaking on the remainder to the Tennessee regional haze SIP. *See* 77 FR 24392. Today, EPA is responding to this comment as it relates specifically to the BART determination for Eastman. EPA reiterates that it is not clear what compliance dates the Commenter is referring to. Pursuant to 40 CFR 51.308(e), Tennessee submitted a regional haze SIP containing BART determinations for each BART-eligible source that may reasonably be anticipated to cause or contribute to any impairment of visibility in any Class I area and schedules for compliance with BART for each of these sources. Tennessee's April 4, 2008, regional haze SIP also contains a requirement, based on the provisions of 40 CFR 51.308(e)(1)(iv), that each source subject to BART be required to install and operate BART as expeditiously as practicable, but in no event later than five years after approval of the SIP revision. EPA finalized action on the State's April 4, 2008, SIP submission (excluding the BART determination for Eastman) on April 24, 2012, and the State's May 14, 2012, SIP revision, as clarified through a May 25, 2012, SIP revision, requires Eastman to comply with BART by April 30, 2017, should it elect not to implement the BART alternative option. Therefore, the latest BART compliance date under the Tennessee regional haze SIP for the State's subject-to-BART sources (including Eastman) is in 2017. These timelines are consistent with CAA requirements for implementing the regional haze program.

In comparison, the Utility Boiler MACT and the Industrial Boiler MACT require compliance with their respective standards by 2015 as does the Clean Air Interstate Rule (CAIR),[2] a rule that applies only to EGUs. It is therefore possible that an EGU relying on CAIR to satisfy BART will be required to implement controls that would satisfy BART requirements (via CAIR) before a non-EGU in Tennessee.

III. What is the response to comments received on EPA's August 27, 2012, proposal related to Eastman?

EPA received one set of comments on the August 27, 2012, proposed rulemaking to approve Tennessee's May 14, 2012, SIP revision to: (1) Modify the compliance date for the original Eastman BART determination; and (2) establish a BART alternative determination option for Eastman to convert its B–253 Powerhouse (Boilers 25–29) to burn natural gas. Specifically, the comments were received from Eastman (hereinafter referred to as ''the Commenter'') and are provided in the docket for today's final action.

In section II of this action, EPA updated its response to comments from the April 24, 2012, final rulemaking as it relates to the original Eastman BART determination. In addition, EPA is addressing comments received in response to the Agency's August 27, 2012, proposed rulemaking to approve Tennessee's May 14, 2012, SIP revision to: (1) Modify the compliance date for the original Eastman BART determination; and (2) provide the option for an Eastman BART alternative determination. Additional detail for EPA's rationale for the proposed approval of Tennessee's May 14, 2012, SIP revision can be found in EPA's August 27, 2012, proposed rulemaking. *See* 77 FR 51739. A summary of the comments related to EPA's August 27, 2012, proposal, and EPA's responses to those comments are provided below.

Comment 3: The Commenter asks EPA to clarify that December 31, 2018, is the end of the first long-term strategy period to avoid any confusion regarding the completion date for the Eastman BART alternative. Tennessee's May 14, 2012, SIP revision and Eastman's CAA title V operating permit stipulate that if Eastman elects to implement the Eastman BART alternative determination instead of the original Eastman BART determination, Eastman must begin construction on the Eastman BART alternative prior to April 30, 2017, and complete construction no later than the earlier of: December 31, 2018; the end of the period of the first

[1] EPA notes that in the April 24, 2012, final rulemaking (77 FR 24392), EPA did not specifically mention UARG as one of the Commenters for which EPA was providing response to comments. UARG's comments were one of the six sets of comments considered and responded to in the April 24, 2012, final rulemaking. These comments were included in the docket for the April 24, 2012, final rulemaking.

[2] Although remanded to EPA, CAIR continues to apply in the interim until EPA adopts a replacement.

long-term strategy for regional haze as determined by EPA; or the compliance deadline for the one-hour SO_2 NAAQS.

Response 3: As stated in EPA's August 27, 2012, proposed rulemaking notice, ''[a] December 31, 2018, date for the end of the period of the first long term strategy is consistent with the requirement to evaluate visibility over calendar year periods and the requirement for each state to submit an initial regional haze SIP that covers the period from submittal through 2018.'' *See* 77 FR 51741. Therefore, Eastman must complete construction of the BART alternative by December 31, 2018, or the compliance deadline for the one-hour SO_2 NAAQS, whichever is earlier, should it elect to implement the BART alternative.

IV. Final Action

EPA is finalizing approval of the BART requirements for Eastman that were submitted by the State of Tennessee as a part of a revision to the Tennessee SIP on April 4, 2008, and as later modified and supplemented in a SIP revision provided on May 14, 2012, and May 25, 2012. Specifically, EPA is finalizing approval of the original Eastman BART determination as provided in Tennessee's April 4, 2008, SIP revision, with the modified compliance date provided in Tennessee's May 14, 2012, SIP revision, and as clarified in a May 25, 2012, SIP revision. EPA is also finalizing approval of Tennessee's May 14, 2012, and May 25, 2012, SIP revisions to provide an option for Tennessee to implement a BART alternative determination for Eastman in lieu of the original Eastman BART determination that was provided in Tennessee's April 4, 2008, SIP revision (with the modified compliance date provided in Tennessee's May 14, 2012, SIP revision). EPA has concluded that implementation of the BART alternative option would achieve greater reasonable progress than would be achieved through the installation and operation of BART at Eastman and that the BART alternative option meets the requirements of 40 CFR 51.308(e)(2). These actions are consistent with the CAA and EPA's regulations on regional haze, BART determinations, and BART alternative determinations.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 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, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 28, 2013. 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 6, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

For the reasons stated in the preamble, 40 CFR chapter I 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 RR—Tennessee

■ 2. Amend § 52.2220 by:

■ a. In paragraph (d) by adding two new entries for ''Eastman Chemical Company'' and ''Eastman Chemical Company—Amendment #1'' at the end of the table; and

■ b. In paragraph (e) by adding a new entry for ''Regional Haze Plan—Eastman Chemical Company BART determination'' at the end of the table.

The added text reads as follows.

§ 52.2220 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED TENNESSEE SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanation
* *	*	*	* *	*
Eastman Chemical Company	BART Permit 066116H	May 9, 2012	November 27, 2012 ..... [Insert citation of publication]	BART determination.
Eastman Chemical Company—Amendment #1.	BART Permit 066116H, Amendment #1.	May 22, 2012 ...	November 27, 2012 ..... [Insert citation of publication]	Clarifying amendment to BART Determination.

(e) * * *

EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or non-attainment area	State effective date	EPA approval date	Explanation
* *	*	*	* *	*
Regional Haze Plan—Eastman Chemical Company BART determination.	Statewide	May 9, 2012	November 27, 2012 ..... [Insert citation ..... of publication]	Applicable only to the Eastman Chemical BART determination.

§ 52.2234 [Amended]

■ 3. Amend § 52.2234 by removing and reserving paragraph (b).

[FR Doc. 2012–27974 Filed 11–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2009–0050; FRL–9755–6]

Approval and Promulgation of State Implementation Plans; State of New Mexico; Regional Haze Rule Requirements for Mandatory Class I Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving New Mexico State Implementation Plan (SIP) revisions submitted on July 5, 2011, and December 1, 2003, by the Governor of New Mexico addressing the regional haze requirements for the 16 Class I areas covered by the Grand Canyon Visibility Transport Commission Report and a separate submittal for other Federal mandatory Class I areas. We are taking final approval action on all components of the State's submittals except for the submitted nitrogen oxides (NO_X) Best Available Retrofit Technology (BART) determination for the San Juan Generating Station (SJGS). We are also approving several SIP submissions offered as companion rules to the regional haze plan, including submitted regulations for the Western Backstop Sulfur Dioxide Trading Program, for the inventorying of emissions, for smoke management, and open burning. These SIP revisions were submitted to address the requirements of the Clean Air Act (CAA or Act) which require states to prevent any future and remedy any existing man-made impairment of visibility in mandatory Class I areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the ''regional haze program''). States are required to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. EPA is taking this action pursuant to section 110 of the CAA.

DATES: This final rule is effective December 27, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2009–0050. All documents in the docket are listed on the *www.regulations.gov* Web site.

Publicly available docket materials are available either electronically through *www.regulations.gov,* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733 The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at our Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Michael Feldman, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–9793; fax number 214–665–7263; email address *feldman.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

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

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

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

iii. The initials *SIP* mean or refer to State Implementation Plan.

iv. The initials *FIP* mean or refer to Federal Implementation Plan.

v. The initials *RH* and *RHR* mean or refer to Regional Haze and Regional Haze Rule.

vi. The initials *NMED* mean the New Mexico Environmental Department.

vii. The initials *NM* mean or refer to New Mexico.

viii. The initials *BART* mean or refer to Best Available Retrofit Technology.

ix. The initials *EGUs* mean or refer to Electric Generating Units.

x. The initials NO_X mean or refer to nitrogen oxides.

xi. The initials SO_2 mean or refer to sulfur dioxide.

xii. The initials PM_{10} mean or refer to particulate matter with an aerodynamic diameter of less than 10 micrometers.

xiii. The initials $PM_{2.5}$ mean or refer to particulate matter with an aerodynamic of less than 2.5 micrometers.

xiv. The initials *RPGs* mean or refer to reasonable progress goals.

xv. The initials *LTS* mean or refer to long term strategy.

xvi. The initials *RPOs* mean or refer to regional planning organizations.

xvii. The initials *WRAP* mean or refer to the Western Regional Air Partnership.

xviii. The initials *GCVTC* mean or refer to the Grand Canyon Visibility Transport Commission.

xix. The initials *PNM* mean or refer to the Public Service Company of New Mexico.

xx. The initials *SJGS* mean or refer to the San Juan Generating Station.

xxi. The initials *WESP* mean or refer to Wet Electrostatic Precipitators.

xxii. The initials *PJFF* mean or refer to Pulse Jet Fabric Filters.

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I. Background

The CAA requires each state to develop plans, referred to as SIPs, to meet various air quality requirements. A state must submit its SIPs and SIP revisions to us for approval. Once approved, a SIP is enforceable by EPA and citizens under the CAA, also known as being federally enforceable. This action involves the requirement that states have SIPs that address regional haze.

A. Regional Haze

In 1990, Congress added section 169B to the CAA to address regional haze issues, and we promulgated regulations addressing regional haze in 1999. 64 FR 35714 (July 1, 1999), codified at 40 CFR part 51, subpart P. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in our visibility protection regulations at 40 CFR 51.300–309. States are required to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia and the Virgin Islands. States were required to submit a SIP addressing regional haze visibility impairment no later than December 17, 2007. 40 CFR 51.308(b).

New Mexico submitted its regional haze (RH) SIP to EPA on July 5, 2011, and it adds to earlier RH SIP planning components that were submitted by the state on December 1, 2003.[1]

B. Lawsuits

In a lawsuit in the U.S. District Court for the District of Columbia, environmental groups sued us for our failure to timely take action with respect to the regional haze requirements of the CAA and our regulations. In particular, the lawsuits alleged that we had failed to promulgate federal implementation plans (FIPs) for these requirements within the two-year period allowed by CAA section 110(c) or, in the alternative, fully approve SIPs addressing these requirements.

As a result of these lawsuits, we entered into a consent decree. The consent decree requires that we sign a notice of final rulemaking addressing the remaining regional haze requirements for New Mexico by November 15, 2012. We are meeting that requirement with the signing of this notice of final rulemaking.

C. Our Proposal

We signed our notice of proposed rulemaking on May 31, 2012, and it was published in the **Federal Register** on June 15, 2012 (77 FR 36044). In that notice, we provided a detailed description of the various regional haze requirements. We are not repeating that description here; instead, the reader should refer to our notice of proposed rulemaking for further detail. In our proposal, we proposed to approve New Mexico SIP revisions submitted on July 5, 2011, and December 1, 2003, that address the regional haze requirements for the mandatory Class I areas under 40 CFR 51.309. We proposed to find that all reviewed components of the SIP meet the requirements of 40 CFR 51.309. We note that we did not propose action on the submitted NO_X BART determination for the San Juan Generating Station. The NO_X BART requirement for the source is presently satisfied by the BART determination that has been promulgated under the federal implementation plan at 40 CFR 52.1628.

D. Public Participation

We requested comments on all aspects of our proposed action and provided a thirty-day comment period, with the comment period closing on July 16, 2012. We received comments on our proposed rule that supported our proposed action and that were critical of our proposed action. In this action, we are responding to the comments we have received, taking final rulemaking action, and explaining the bases for our action.

II. Final Action

In this action, EPA is approving New Mexico SIP revisions submitted on July 5, 2011, and December 1, 2003, that address the regional haze requirements for the mandatory Class I areas under 40 CFR 51.309. We find that all reviewed components of the SIP meet the requirements of 40 CFR 51.309. We note that we have yet to propose action on the submitted NO_X BART determination for the San Juan Generating Station; it remains a submitted pending SIP revision at this time. The NO_X BART requirement for the source is presently satisfied by the BART determination that is effective under the federal implementation plan at 40 CFR 52.1628.

We note that EPA issued a temporary stay of the effectiveness of the NM FIP Rule for 90 days on July 16, 2012 (77 FR 41697) and this temporary stay was extended an additional 45 days to November 29, 2012 (October 24, 2012, 77 FR 64908). The temporary stays were issued to allow for additional time to discuss new and potentially different methods for complying with the NO_X BART requirements for the SJGS and to receive additional information from the state of New Mexico required for EPA to consider the state's different method and for further discussion among the stakeholders. If this approach leads to an additional regulatory proposal, it will be the subject of a separate, future rule making. Because today's action does not include any action on the State's NO_X BART determination for the SJGS, this final action is not affected by the ongoing discussions to consider replacing the NM FIP Rule.

III. Basis for Our Final Action

We have fully considered all significant comments on our proposal and have concluded that no changes from our proposal are warranted. Our action is based on an evaluation of New Mexico's regional haze SIP submittals against the regional haze rule (RHR) requirements at 40 CFR 51.300–51.309

[1] Portions of the 2003 NM 309 RH SIP submittal were resubmitted without revision on January 13, 2009. (New Mexico State Regional Haze SIP Clarification Letter submitted to EPA January 13, 2009)

and CAA sections 169A and 169B. A detailed explanation of how the NM SIP submittals meet these requirements is contained in the proposal (June 15, 2012, 77 FR 36044). All general SIP requirements contained in CAA section 110, other provisions of the CAA, and our regulations applicable to this action were also evaluated. The purpose of this action is to ensure compliance with these requirements. Our authority for action on New Mexico's SIP submittals is based on CAA section 110(k).

We are approving the State's regional haze SIP provisions outlined in our proposal because they meet the relevant regional haze requirements. Most of the adverse comments we received concerning our proposed approval of the regional haze SIP pertained to our proposed approval of the SO_2 backstop trading program.

IV. Issues Raised by Commenters and EPA's Responses

A. Comments and Responses Common to Participating States Regarding Proposed Approval of the SO_2 Backstop Trading Program Components of the RH SIPs

EPA has proposed to approve the SO_2 backstop trading program components of the RH SIPs for all participating States and has done so through four separate proposals: For the Bernalillo County proposal see 77 FR 24768 (April 25, 2012); for the Utah proposal see 77 FR 28825 (May 15, 2012); for the Wyoming proposal see 77 FR 30953 (May 24, 2012); finally, for the New Mexico proposal see 77 FR 36043 (June 15, 2012). National conservation organizations paired with organizations local to each state have together submitted very similar, if not identical, comments on various aspects of EPA's proposed approval of these common program components. These comment letters may be found in the docket for each proposal and are dated as follows: May 25, 2012 for Bernalillo County; July 16, 2012 for Utah; July 23, 2012 for Wyoming; and July 16, 2012 for New Mexico. Each of the comment letters has attached a consultant's report dated May 25, 2012, and titled: ''Evaluation of Whether the SO_2 Backstop Trading Program Proposed by the States of New Mexico, Utah and Wyoming and Albuquerque-Bernalillo County Will Result in Lower SO_2 Emissions than Source-Specific BART.'' In this section, we address and respond to those comments we identified as being consistently submitted and specifically directed to the component of the published proposals dealing with the submitted SO_2 backstop trading program. For our organizational purposes, any additional or unique comments found in the conservation organization letter that is applicable to this proposal (i.e., for the state of New Mexico) will be addressed in the next section where we also address all other comments received.

Comment: The language of the Clean Air Act appears to require BART. The commenter acknowledges that prior case law affirms EPA's regulatory basis for having ''better than BART'' alternative measures, but nevertheless asserts that it violates Congress' mandate for an alternative trading program to rely on emissions reductions from non-BART sources and excuse EGUs from compliance with BART.

Response: The Clean Air Act requires BART ''*as may be necessary* to make reasonable progress toward meeting the national goal'' of remedying existing impairment and preventing future impairment at mandatory Class I areas. See CAA Section 169A(b)(2) (emphasis added). In 1999, EPA issued regulations allowing for alternatives to BART based on a reading of the CAA that focused on the overarching goal of the statute of achieving progress. EPA's regulations provided states with the option of implementing an emissions trading program or other alternative measure in lieu of BART so long as the alternative would result in greater reasonable progress than BART. We note that this interpretation of CAA Section 169A(B)(2) was determined to be reasonable by the DC Circuit in *Center for Energy and Economic Development* v. *EP*A, 398 F.3d 653, 659–660 (DC Cir. 2005) in a challenge to the backstop market trading program under Section 309, and again found to reasonable by the DC Circuit in *Utility Air Regulatory Group* v. *EPA,* 471 F.3d 1333, 1340 (DC Cir. 2006) (''* * *[W]e have already held in *CEED* that EPA may leave states free to implement BART-alternatives so long as those alternatives also ensure reasonable progress.''). Our regulations for alternatives to BART, including the provisions for a backstop trading program under Section 309, are therefore consistent with the Clean Air Act and not in issue in this action approving a SIP submitted under those regulations. We have reviewed the submitted 309 trading program SIPs to determine whether each has the required backstop trading program (see 40 CFR 51.309(d)(4)(v)), and whether the features of the program satisfy the requirements for trading programs as alternatives to BART (see 40 CFR 51.308(e)(2)). Our regulations make clear that any market trading program as an alternative to BART contemplates market participation from a broader list of sources than merely those sources that are subject to BART. See 40 CFR 51.308(e)(2)(i)(B).

Comment: The submitted 309 Trading Program is defective because only 3 of 9 Transport States remain in the program. The Grand Canyon Visibility Transport Commission Report clearly stated that the program must be ''comprehensive.'' The program fails to include the other Western States that account for the majority of sulfate contribution in the Class I areas of participating States, and therefore Class I areas on the Colorado Plateau will see little or no visibility benefit. Non-participation by other Transport Region States compounds the program's deficiencies.

Response: We disagree that the 309 trading program is defective because only 3 States remain in the program. EPA's regulations do not require a minimum number of Transport Region States to participate in the 309 trading program, and there is no reason to believe that the limited participation by the 9 Transport States will limit the effectiveness of the program in the 3 States that have submitted 309 SIPs. The commenter's argument is not supported by the regional haze regulations and is demonstrably inconsistent with the resource commitments of the Transport Region States that have worked for many years in the WRAP to develop and submit SIPs to satisfy 40 CFR 51.309. At the outset, our regulations affirm that ''certain States* * *may choose'' to comply with the 40 CFR 51.309 requirements and conversely that ''[a]ny Transport Region State [may] elect not to submit an implementation plan'' to meet the optional requirements. 40 CFR 51.309(a); see also 40 CFR 51.309(f). We have also previously observed how the WRAP, in the course of developing its technical analyses as the framework for a trading program, ''understood that some States and Tribes may choose not to participate in the optional program provided by 40 CFR 51.309.'' 68 FR 33,769 (June 5, 2003). Only five of nine Transport Region States initially opted to participate in the backstop trading program in 2003, and of those initial participants only Oregon and Arizona later elected not to submit 309 SIPs.

We disagree with the commenter's assertion that Class I areas on the Colorado Plateau will see little or no visibility benefit. Non-participating States must account for sulfate contributions to visibility impairment at Class I areas by addressing all requirements that apply under 40 CFR 51.308. To the extent Wyoming, New Mexico and Utah sources ''do not

account for the majority of sulfate contribution'' at the 16 class I areas on Colorado Plateau, there is no legal requirement that they account for SO_2 emissions originating from sources outside these participating States. Aside from this, the modeling results detailed in the proposed rulemaking show projected visibility improvement for the 20 percent worst days in 2018 and no degradation in visibility conditions on the 20 percent best days at all 16 of the mandatory Class I areas under the submitted 309 plan.

Finally, we do not agree with the commenter's characterization of the Grand Canyon Visibility Transport Commission Report, which used the term ''comprehensive'' only in stating the following:

''It is the intent of [the recommendation for an incentive-based trading program] that [it] include as many source categories and species of pollutants as is feasible and technically defensible. This preference for a 'comprehensive' market is based upon the expectation that a comprehensive program would be more effective at improving visibility and would yield more cost-effective emission reduction strategies for the region as a whole.'' [2]

It is apparent that the Grand Canyon Visibility Transport Commission recommended comprehensive source coverage to optimize the market trading program. This does not necessitate or even necessarily correlate with geographic comprehensiveness as contemplated by the comment. We note that the submitted backstop trading program does in fact comprehensively include ''many source categories,'' as may also be expected for any intrastate trading program that any state could choose to develop and submit under 40 CFR 51.308(e)(2). As was stated in our proposal, section 51.309 does not require the participation of a certain number of States to validate its effectiveness.

Comment: The submitted 309 trading program is defective because the pollutant reductions from participating States have little visibility benefit in each other's Class I areas. The States that have submitted 309 SIPs are ''largely non-contiguous'' in terms of their physical borders and their air shed impacts. Sulfate emissions from each of the participating States have little effect on Class I areas in other participating States.

Response: We disagree. The 309 program was designed to address visibility impairment for the sixteen Class I areas on the Colorado Plateau. New Mexico, Wyoming and Utah are identified as Transport Region States because the Grand Canyon Visibility Transport Commission had determined they could impact the Colorado Plateau class I areas. The submitted trading program has been designed by these Transport Region States to satisfy their requirements under 40 CFR 51.309 to address visibility impairment at the sixteen Class I areas. The strategies in these plans are directed toward a designated clean-air corridor that is defined by the placement of the 16 Class I areas, not the placement of state borders. ''Air sheds'' that do not relate to haze at these Class I areas or that relate to other Class I areas are similarly not relevant to whether the requirements for an approvable 309 trading program are met. As applicable, any Transport Region State implementing the provisions of Section 309 must also separately demonstrate reasonable progress for any additional mandatory Class I Federal areas other than the 16 Class I areas located within the state. See 40 CFR 51.309(g). More broadly, the State must submit a long-term strategy to address these additional Class I areas as well as those Class I areas located outside the state which may be affected by emissions from the State. 40 CFR 51.309(g) and 51.308(d)(2). In developing long-term strategies, the Transport Region States may take full credit for visibility improvements that would be achieved through implementation of the strategies required by 51.309(d). A state's satisfaction of the requirements of 51.309(d), and specifically the requirement for a backstop trading program, is evaluated independently from whether a state has satisfied the requirements of 51.309(g). In neither case, however, does the approvability inquiry center on the location or contiguousness of state borders.

Comment: The emission benchmark used in the submitted 309 trading program is inaccurate. The ''better-than-BART'' demonstration needs to analyze BART for each source subject to BART in order to evaluate the alternative program. The submitted 309 trading program has no BART analysis. The ''better-than-BART'' demonstration does not comply with the regional haze regulations when it relies on the presumptive SO_2 emission rate of 0.15 lb/MMBtu for most coal-fired EGUs. The presumptive SO_2 limits are inappropriate because EPA has elsewhere asserted that ''presumptive limits represented control capabilities at the time the BART Rule was promulgated, and that [EPA] expected that scrubber technology would continue to improve and control costs would continue to decline.'' 77 FR 14614 (March 12, 2012).

Response: We disagree that the submitted 309 trading program requires an analysis that determines BART for each source subject to BART. Source specific BART determinations are not required to support the better-than-BART demonstration when the ''alternative measure has been designed to meet a requirement other than BART.'' See 40 CFR 51.308(e)(2)(i)(C). The requirements of Section 309 are meant to implement the recommendations of the Grand Canyon Visibility Transport Commission and are regulatory requirements ''other than BART'' that are part of a long-term strategy to achieve reasonable progress. As such, in its analysis, the State may assume emission reductions ''for similar types of sources within a source category based on both source-specific and category-wide information, as appropriate.'' See id. The 309 States used this approach in developing their emission benchmark, and we view it to be consistent with what we have previously stated regarding the establishment of a BART benchmark. Specifically, we have explained that States designing alternative programs to meet requirements other than BART ''may use simplifying assumptions in establishing a BART benchmark based on an analysis of what BART is likely to be for similar types of sources within a source category.'' 71 FR 60619 (Oct. 13, 2006).

We also previously stated that ''we believe that the presumptions for EGUs in the BART guidelines should be used for comparisons to a trading program or other alternative measure, unless the State determines that such presumptions are not appropriate.'' Id. Our reasoning for this has also long been clear. While EPA recognizes that a case-by-case BART analysis may result in emission limits more stringent than the presumptive limits, the presumptive limits are reasonable and appropriate for use in assessing *regional* emissions reductions for the better than BART demonstration. See 71 FR 60619 (''the presumptions represent a reasonable estimate of a stringent case BART because they would be applied across the board to a wide variety of units with varying impacts on visibility, at power plants of varying size and distance from Class I areas''). EPA's expectation that scrubber technology would continue to improve and that control costs would continue to decline is a basis for not

[2] The Grand Canyon Visibility Transport Commission, *Recommendations for Improving Western Vistas* at 32 (June 10, 1996).

regarding presumptive limits as a default or safe harbor BART determination when the BART Guidelines otherwise call for a complete, case-by-case analysis. We believe it was reasonable for the developers of the submitted trading program to use the presumptive limits for EGUs in establishing the emission benchmark, particularly since the methodology used to establish the emission benchmark was established near in time to our promulgation of the presumptive limits as well as our guidance that they should be used. We do not think the assumptions used at the time the trading program was developed, including the use of presumptive limits, were unreasonable. Moreover, the commenter has not demonstrated how the use of presumptive limits as a simplifying assumption at that time, or even now, would be flawed merely because EPA expects that scrubber technology and costs will continue to improve.

Comment: The presumptive SO_2 emission rate overstates actual emissions from sources that were included in the BART benchmark calculation. In addition, States in the Grand Canyon Visibility Transport Region have established or proposed significantly more stringent BART limits for SO_2. Using actual SO_2 emission data for EGUs, SO_2 emissions would be 130,601 tpy, not the benchmark of 141,859 tpy submitted in the 309 trading program. Using a combination of actual emissions and unit-specific BART determinations, the SO_2 emissions would be lower still at 123,529 tpy. Finally, the same data EPA relied on to support its determination that reductions under the Cross State Air Pollution Rule are ''better-than-BART'' would translate to SO_2 emissions of 124,740 tpy. These analyses show the BART benchmark is higher than actual SO_2 emissions reductions achievable through BART. It follows that the submitted 309 trading program is flawed because it cannot be deemed to achieve ''greater reasonable progress'' than BART.

Response: The BART benchmark calculation does not overstate emissions because it was not intended to assess actual emissions at BART subject sources nor was it intended to assess the control capabilities of later installed controls. Instead, the presumptive SO_2 emission rate served as a necessary simplifying assumption. When the States worked to develop the 309 trading program, they could not be expected to anticipate the future elements of case-by-case BART determinations made by other States (or EPA, in the case of a BART determination through any federal implementation plan), nor could they be expected to anticipate the details of later-installed SO_2 controls or the future application of enforceable emission limits to those controls. The emissions projections by the WRAP incorporated the best available information at the time from the states, and utilized the appropriate methods and models to provide a prediction of emissions from all source categories in this planning period. In developing a profile of planning period emissions to support each state's reasonable progress goals, as well as the submitted trading program, it was recognized that the final control decisions by all of the states were not yet complete, including decisions as they may pertain to emissions from BART eligible sources. Therefore, we believe it is appropriate that the analysis and demonstration is based on data that was available to the States at the time they worked to construct the SO_2 trading program. The States did make appropriate adjustments based on information that was available to them at the time. Notably, the WRAP appropriately adjusted its use of the presumptive limits in the case of Huntington Units 1 and 2 in Utah, because those units were already subject to federally enforceable SO_2 emission rates that were lower than the presumptive rate. The use of actual emissions data after the 2006 baseline is not relevant to the demonstration that has been submitted.

Comment: SO_2 emissions under the 309 trading program would be equivalent to the SO_2 emissions if presumptive BART were applied to each BART-subject source. Because the reductions are equivalent, the submitted 309 trading program does not show, by ''the clear weight of the evidence,'' that the alternative measure will result in greater reasonable progress than would be achieved by requiring BART. In view of the reductions being equivalent, it is not proper for EPA to rely on ''non-quantitative factors'' in finding that the SO_2 emissions trading program achieves greater reasonable progress.

Response: We recognize that the 2018 SO_2 milestone equals the BART benchmark and that the benchmark generally utilized the presumptive limits for EGUs, as was deemed appropriate by the States who worked together to develop the trading program. If the SO_2 milestone is exceeded, the trading program will be activated. We note, moreover, that the 2018 milestone constitutes an emissions cap on sulfur dioxide emissions that will persist after 2018.[3] Under this framework, sources that would otherwise be subject to the trading program have incentives to make independent reductions to avoid activation of the trading program. We cannot discount that the 2003 309 SIP submittal may have already influenced sources to upgrade their plants before any case-by-case BART determination under Section 308 may have required it. In addition, the trading program was designed to encourage early reductions by providing extra allocations for sources that made reductions prior to the program trigger year. Permitting authorities that would otherwise permit increases in SO_2 emissions for new sources would be equally conscious of the potential impacts on the achievement of the milestone. We note that the most recent emission report for the year 2010 shows a 35% reduction in emissions from 2003. The 309 trading program is designed as a backstop such that sources would work to accomplish emission reductions through 2018 that would be superior to the milestone and the BART benchmark. If instead the backstop trading program is triggered, the sources subject to the program would be expected to make any reductions necessary to achieve the emission levels consistent with each source's allocation. We do not believe that the ''clear weight of the evidence'' determination referenced in 40 CFR 51.308(e)(2)(E)—in short, a determination that the alternative measure of the 309 trading program achieves greater reasonable progress than BART—should be understood to prohibit setting the SO_2 milestone to equal the BART benchmark. Our determination that the 2018 SO_2 milestone and other design features of the 309 SIP will achieve greater reasonable progress than would be achieved through BART is based on our understanding of how the SIP will promote and sustain emission reductions of SO_2 as measured against a milestone. Sources will be actively mindful of the participating states' emissions inventory and operating to avoid exceeding the milestone, not trying to maximize their emissions to be equivalent to the milestone, as this comment suggests.

Comment: In proposing to find that the SO_2 trading program achieves greater reasonable progress than BART, EPA's reliance on the following features of the 309 trading program is flawed:

[3] The trading program can only be replaced via future SIP revisions submitted for EPA approval that will meet the BART and reasonable progress requirements of 51.308. See 40 CFR 51.309(d)(4)(vi)(A).

Non-BART emission reductions, a cap on new growth, and a mass-based cap on emissions. The reliance on non-BART emission reductions is ''a hollow promise'' because there is no evidence that the trading program will be triggered for other particular emission sources, and if the program is never triggered there will be no emission reductions from smaller non-BART sources. The reliance on a cap on future source emissions is also faulty because there is no evidence the trading program will be triggered, and thus the cap may never be implemented. Existing programs that apply to new sources will already ensure that S02 emissions from new sources are reduced to the maximum extent. EPA's discussion of the advantages of a mass-based cap is unsupported and cannot be justified. EPA wrongly states that a mass-based cap based on actual emissions is more stringent than BART. There should not be a meaningful gap between actual and allowable emissions under a proper BART determination. A mass-based cap does not effectively limit emissions when operating at lower loads and, as an annual cap, does not have restrictive compliance averaging. EPA's argument implies that BART limits do not apply during startup, shutdown or malfunction events, which is not correct. The established mass-based cap would allow sources to operate their SO_2 controls less efficiently, because some BART-subject EGUs already operate with lower emissions than the presumptive SO_2 emission rate of 0.15 lb/MMBtu and because some EGUs were assumed to be operating at 85% capacity when their capacity factor (and consequently their $S0_2$ emissions in tpy) was lower.

Response: We disagree that it is flawed to assess the benefits found in the distinguishing features of the trading program. The backstop trading program is not specifically designed so that it *will* be activated. Instead sources that are covered by the program are on notice that it will be triggered if the regulatory milestones are not achieved. Therefore, the backstop trading program would be expected to garner reductions to avoid its activation. It also remains true that if the trading program is activated, all sources subject to the program, including smaller non-BART sources would be expected to secure emission reductions as may be necessary to meet their emission allocation under the program

We also disagree that the features of the 2018 milestone as a cap on future source emissions and as a mass-based cap has no significance. As detailed in our proposal, the submitted SIP is consistent with the requirement that the 2018 milestone does indeed continue as an emission cap for SO_2 unless the milestones are replaced by a different program approved by EPA as meeting the BART and reasonable progress requirements under 51.308. Future visibility impairment is prevented by capping emissions growth from those sources not eligible under the BART requirements, BART sources, and from entirely new sources in the region. The benefits of a milestone are therefore functionally distinct from the control efficiency improvements that could be gained at a limited number of BART subject sources. While BART-subject sources may not be operating at 85% capacity today, we believe the WRAP's use of the capacity assumption in consideration of projected future energy demands in 2018 was reasonable for purposes of the submitted demonstration. While BART requires BART subject sources to operate SO_2 controls efficiently, this does not mean that an alternative to BART thereby allows, encourage, or causes sources to operate their controls less efficiently. On the contrary, we find that the SIP, consistent with the well-considered 309 program requirements, functions to the contrary. Sources will be operating their controls in consideration of the milestone and they also remain subject to any other existing or future requirements for operation of SO_2 controls.

We also disagree with the commenter's contention that existing programs are equivalent in effect to the emissions cap. EPA's new source review programs are designed to permit, not cap, source growth, so long as the national ambient air quality standards and other applicable requirements can be achieved. Moreover, we have not argued that BART does not apply at all times or that emission reductions under the cap are meant to function as emission limitations are made to meet the definition of BART (40 CFR 51.301). The better-than-BART demonstration is not, as the comment would have it, based on issues of compliance averaging or how a BART limit operates in practice at an individual facility. Instead, it is based on whether the submitted SIP follows the regulatory requirements for the demonstration and evidences comparatively superior visibility improvements for the Class I areas it is designed to address.

Comment: The submitted 309 SIP will not achieve greater reasonable progress than would the requirement for BART on individual sources. The BART program ''if adequately implemented'' will promote greater reasonable progress, and EPA should require BART on all eligible air pollution sources in the state. EPA's proposed approval of the 309 trading program is ''particularly problematic'' where the BART sources cause or contribute to impairment at Class I areas which are not on the Uniform Rate of Progress glide-path towards achieving natural conditions. EPA should require revisions to provide for greater SO_2 reductions in the 309 program, or it should require BART reductions on all sources subject to BART for SO_2.

Response: We disagree with the issues discussed in this comment. As discussed in other comments, we have found that the state's SIP submitted under the 309 program will achieve greater reasonable progress than source-by-source BART. As the regulations housed within section 51.309 make clear, States have an opportunity to submit regional haze SIPs that provide an alternative to source-by-source BART requirements. Therefore, the commenter's assertion that we should require BART on all eligible air pollution sources in the state is fundamentally misplaced. The commenter's use of the Uniform Rate of Progress (URP) as a test that should apparently be applied to the adequacy of the 309 trading program as a BART alternative is also misplaced, as there is no requirement in the regional haze rule to do so.

Comment: The 309 trading program must be disapproved because it does not provide for ''steady and continuing emissions reductions through 2018'' as required by 40 CFR 51.309(d)(4)(ii). The program establishes its reductions through milestones that are set at three year intervals. It would be arbitrary and capricious to conclude these reductions are ''steady'' or ''continuous.''

Response: We disagree and find that the reductions required at each milestone demonstrate steady and continuing emissions reductions. The milestones do this by requiring regular decreases. These decreases occur in intervals ranging from one to three years and include administrative evaluation periods with the possibility of downward adjustments of the milestone, if warranted. The interval under which ''steady and continuing emissions reductions through 2018'' must occur is not defined in the regional haze rule. We find the milestone schedule and the remainder of the trading program submitted by New Mexico does in fact reasonably provide for ''steady and continuing emissions reductions through 2018.''

Comment: The WRAP attempts to justify the SO_2 trading program because

SO_2 emissions have decreased in the three Transport Region states relying on the alternative program by 33% between 1990–2000. The justification fails because the reductions were made prior to the regional haze rule. The reliance on reductions that predate the regional haze rule violates the requirement of 40 CFR 51.308(e)(2)(iv) that BART alternatives provide emission reductions that are ''surplus'' to those resulting from programs implemented to meet other Clean Air Act Requirements.

Response: We did not focus on the WRAP's discussion of early emission reductions in our proposal. However, we do not agree with this comment. The WRAP's statements regarding past air quality improvements are not contrary to the requirement that reductions under a trading program be surplus. Instead, the WRAP was noting that forward-planning sources had already pursued emission reductions that could be partially credited to the design of the 309 SIP. We note that the most recent emission report for the year 2010 shows a 35% reduction in emissions from 2003. Sources that make early reductions prior to the program trigger year may acquire extra allocations should the program be triggered. This is an additional characteristic feature of the backstop trading program that suggests benefits that would be realized even without triggering of the program itself. The surplus emission reduction requirement for the trading program is not in issue, because the existence of surplus reductions is studied against other reductions that are realized ''as of baseline date of the SIP.'' The 1990–2000 period plainly falls earlier than the baseline date of the SIP, so we disagree that the WRAP's discussion of that period was problematic or violative of 40 CFR 51.308(e)(2)(iv), regarding surplus reductions.

Comment: EPA must correct discrepancies between the data presented in the 309 SIP submittals.[4] There are discrepancies in what has been presented as the results of WRAP photochemical modeling. The New Mexico RH SIP proposal by EPA shows, for example, that the 20% worst days at Grand Canyon National Park have visibility impairment of 11.1 deciviews, while the other EPA proposals show 11.3 deciviews. The discrepancy appears to be due to the submittals being based on different modeling scenarios developed by the WRAP. EPA must explain and correct the discrepancies and ''re-notice'' a new proposed rule containing the correct information.

Response: We agree that there are discrepancies in the numbers in Table 1 of the proposal notices. The third column of the table below shows the modeling results presented in Table 1 of the Albuquerque, Wyoming and Utah proposals. The modeling results in the New Mexico proposal Table 1 are shown in the fourth column. The discrepancies come from the State's using different preliminary reasonable progress cases developed by the WRAP. The Wyoming, Utah and Albuquerque proposed notices incorrectly identify the Preliminary Reasonable Progress case as the PRP18b emission inventory instead of correctly identifying the presented data as modeled visibility based on the ''prp18a'' emission inventory. The PRP18a emission inventory is a predicted 2018 emission inventory with all known and expected controls as of March 2007. The preliminary reasonable progress case (''PRP18b'') used by New Mexico is the more updated version produced by the WRAP with all known and expected controls as of March 2009. Thus, we are correcting Table 1, column 5 in the Wyoming, Utah and Albuquerque of our proposed notices to include model results from the PRP18b emission inventory, consistent with the New Mexico proposed notice and the fourth column in the table below. We are also correcting the description of the Preliminary Reasonable Progress Case (referred to as the PRP18b emission inventory and modeled projections) to reflect that this emission inventory includes all controls ''on the books'' as of March 2009.

Class I Area	State	2018 Preliminary Reasonable Progress PRP18a Case (deciview)	2018 Preliminary Reasonable Progress PRP18b case (deciview)
Grand Canyon National Park	AZ	11.3	11.1
Mount Baldy Wilderness	AZ	11.4	11.5
Petrified Forest National Park	AZ	12.9	12.8
Sycamore Canyon Wilderness	AZ	15.1	15.0
Black Canyon of the Gunnison National Park Wilderness	CO	9.9	9.8
Flat Tops Wilderness	CO	9.0	9.0
Maroon Bells Wilderness	CO	9.0	9.0
Mesa Verde National Park	CO	12.6	12.5
Weminuche Wilderness	CO	9.9	9.8
West Elk Wilderness	CO	9.0	9.0
San Pedro Parks Wilderness	NM	9.8	9.8
Arches National Park	UT	10.9	10.7
Bryce Canyon National Park	UT	11.2	11.1
Canyonlands National Park	UT	10.9	10.7
Capitol Reef National Park	UT	10.5	10.4
Zion National Park	UT	13.0	12.8

Section 309 requires Transport Region States to include a projection of the improvement in visibility expected through the year 2018 for the most impaired and least impaired days for each of the 16 Class I areas on the Colorado Plateau. 40 CFR 51.309(d)(2). As explained in the preamble to the 1999 regional haze regulations, EPA included this requirement to ensure that the public would be informed on the relationship between chosen emissions

[4] This particular comment was not submitted in response to the proposal to approve Albuquerque's 309 trading program, the earliest published proposal. It was consistently submitted in the comment periods for the proposals to approve the 309 trading programs for NM, WY and UT, which were later in time.

control measures and their effect on visibility. 64 FR at 35751. Given the purpose of this requirement, we do not consider the discrepancies noted above to be significant and are not re-noticing our proposed rulemaking as the discrepancies do not change our proposed conclusion that SIP submitted by New Mexico contains reasonable projections of the visibility improvements expected at the 16 Class I areas at issue. The PRP18a modeling results show projected visibility improvement for the 20 percent worst days from the baseline period to 2018. The PRP18b modeling results show either the same or additional visibility improvement on the 20 percent worst days beyond the PRP18a modeling results. We also note there are two discrepancies in New Mexico's Table 1, column four compared to the other participating States' notices. The 2018 base case visibility projection in the New Mexico proposed notice for Black Canyon of the Gunnison National Park Wilderness and Weminuche Wilderness should be corrected to read 10.1 deciview rather than 10.0. Notwithstanding the discrepancies described above, we believe that the NM SIP adequately projects the improvement in visibility for purposes of Section 309.

B. Comments on PM BART

Comment: EPA failed to identify the cost-effectiveness criteria it used to determine that wet electrostatic precipitators (WESPs) were not cost effective at San Juan Generating Station (SJGS). Public Service of New Mexico's (PNM's) own analysis shows a visibility improvement of 0.62 deciview at Mesa Verde National Park as a result of installation of WESPs on all four units at SJGS at a cost of $145,000–$173,000 per ton of PM removed. EPA remarked that PNM likely overestimated the cost of WESPs, yet failed to present the correct cost calculation in its proposed rule or reject installation of WESP as BART using proper cost numbers. The commenter states that EPA lacks the evidence to make this conclusion and that EPA must properly calculate the cost of WESPs at SJGS, identify the range of costs deemed cost-effective for other PM BART determinations, and identify objective criteria to be used for determining PM cost-effectiveness for PM controls under BART.

Response: EPA is approving the state's determination that BART for PM is no additional controls, and is not purporting to make or conduct an independent BART analysis. We hold to our original observation that the cost estimations presented for WESPs were likely overstated, but we cannot conclude these costs were radically overstated such that New Mexico, having more refined cost estimates, would have reached a different conclusion. We note that no commenters questioned New Mexico's PM BART determination or its underlying technical analysis during the state's public comment period. In reviewing the submitted BART determination, we do not agree that EPA is presently responsible for generating its own cost analysis or stating a range of cost-effectiveness for PM BART controls at SJGS. No commenters responding to our proposal have provided a basis to conclude that the addition of WESPs would achieve their objective of improving visibility in Class I areas in an economical way. The estimated average cost effectiveness of WESP that has been quoted by PNM is more than an order of magnitude larger (i.e., >cost/ton*10) than what other BART determining authorities have found to be cost effective in other case-by-case determinations. We have no record basis for assuming that the errors in the developed cost estimations are flawed to such a great degree. Nor do we have a reason to find that New Mexico's record support was inadequate such that it arrived at an unreasonable determination. In other words, the cost estimations for WESP were not so flawed as to throw into question the conclusion that the incremental visibility benefit anticipated from additional controls could not justify the high cost to achieve a more stringent emission limit.

The addition of WESP would result in an exorbitant incremental cost effectiveness value because the existing pulse jet fabric filters (PJFF) are removing much of the PM. The addition of WESP is estimated to only reduce PM emissions by an additional 69 tons per year (tpy) each at units 1 and 2, and approximately 100 tpy each at units 3 and 4. Therefore, the addition would result in a high anticipated cost on a $/ton removed basis for WESP at SJGS, even if we corrected the cost estimate to be consistent with EPA guidance; we believe the cost of installation and operation of WESP would not be cost effective. We are therefore approving the submitted PM BART determination.

Comment: EPA failed to propose a PM BART emission limit that is achievable with the operation of baghouses such as those currently installed at SJGS. Much lower PM emission rates are achievable even with SJGS's existing technology. The commenter notes that the EPA is proposing a BART PM limit of 0.012 lb/MMBtu at the nearby Four Corners Power Plant (FCPP) and a 10% opacity limit at each unit at FCPP to control PM emissions. Moreover, there have been several recent permits issued with best available control technology (''BACT'') limits at 0.010 lb/MMBtu based on operation of a fabric filter baghouse. The commenter asserts even lower levels are achievable based on source test data at some facilities. An EPA Region 9 employee concluded back in 2002 that BACT for filterable PM at two existing pulverized coal boilers firing Powder River Basin coal and equipped with a baghouse was 0.006 lb/MMBtu based on a 3-hour average and monitored via EPA Method 5 and continuously using triboelectric broken bag detectors; there is no reason that the SJGS units could not achieve similar PM emission rates as new units.

The filtration media determines the control efficiency of a baghouse for very small particles. There is a wide range of media that can be used, most of which are much more efficient for larger particles than smaller particles. Thus, PNM and EPA should have assumed lower filterable PM emissions than 0.015 lb/MMBtu for a baghouse in their evaluation of PM controls. Had they done so, the cost of control on a dollar per ton of pollution removed basis would be lower.

Response: The commenter is incorrect in summarizing the proposed PM emission limit for the Four Corners Power Plant. The proposed rule sought comment on an emission limit of 0.015 lb/MMBtu on units 4 and 5 achievable with the existing baghouses consistent with our proposal for the SJGS and also includes a proposed 10% opacity limit. The proposed rule also proposed to require an upgrade in PM controls to meet an emission limit of 0.012 lb/MMBtu and 10% opacity on Units 1–3, which is achievable either through installing baghouses or ESPs for these units. The proposal noted that because of the high incremental cost of both of these options, however, EPA was also asking for comment on whether the facility can satisfy BART by operating the existing venturi scrubbers to meet an emissions limit of 0.03 lb/MMBtu with a 20% opacity limit to demonstrate continuous compliance. The final rule (77 FR 51620) published on August 24, 2012 (after the publication of our proposed notice) requires Units 4 and 5 at FCPP to meet an emission limit of 0.015 lb/MMBtu, and retains the existing 20 percent opacity limit. These PM limits are achievable through the proper operation of the existing baghouses. EPA has determined that it is not necessary or appropriate at this

time to set new PM limits for Units 1–3 at the FCPP.

As stated in a BART analysis [5] developed by PNM and incorporated for technical support by New Mexico in the submitted PM BART determination, ''While the control effectiveness of the PJFF is usually defined by vendors at the outlet ductwork of the PJFF, the BART determination is based on the control effectiveness for particulate matter at the stack outlet. Therefore, the particulate matter emission rate has to take into account both the removal efficiency of the PJFF and the impacts of the wet FGD operation, where there is a potential for additional re-entrainment of scrubber solids into the flue gas, which increases the stack outlet particulate matter emission concentration.'' Therefore, direct comparison to performance of baghouses at other facilities or BACT analyses for new facilities is not necessarily appropriate. The PM emission limit at the SJGS represents the vendor guarantee for the performance of the fabric filters recently installed in response to the 2005 consent decree to address PM and for enhanced mercury control and includes the additional contribution of PM emissions from operation of the wet FGD downstream of the PJFF.

Comment: EPA's proposed PM BART emission limit for SJGS is improper because it appears to only apply to filterable PM. The commenter asserts that EPA's BART guidelines specify that BART should be evaluated and defined for both PM_{10} and $PM_{2.5}$. Since EPA has found that the SJGS is subject to BART for particulate matter, EPA must evaluate and define BART limits for both PM_{10} and $PM_{2.5}$.

Response: We disagree that we must promulgate any limits or disapprove the PM BART determination because the State did not make a BART determination for $PM_{2.5}$. The BART Guidelines do not specify that States must establish a BART limit for both PM_{10} and $PM_{2.5}$. The BART Guidelines provide the following:

''You must look at SO_2, NO_X, and direct particulate matter (PM) emissions in determining whether sources cause or contribute to visibility impairment, including both PM_{10} and $PM_{2.5}$.'' [Appendix Y to Part 51, section III.A.2.]

This language in the BART Guidelines was intended to clarify to States that when determining whether a source is subject to BART, the modeling evaluation to determine the source's impact on visibility has to account for both PM_{10} and $PM_{2.5}$ emissions. There are several instances in which we state in both the preamble to the RHR, and in the BART Guidelines that PM_{10} may be used as indicator for $PM_{2.5}$ in determining whether a source is subject to BART. Neither the RHR nor the BART Guidelines specify that States must make separate BART determinations for PM_{10} and $PM_{2.5}$. Therefore, we disagree that we must evaluate separate limits or disapprove the PM BART determination for SJGS on the basis that a BART determination for $PM_{2.5}$ was not made.

Furthermore, we expect that H_2SO_4 will be a main component of condensable PM emissions from the facility and anticipate that emissions of H_2SO_4 will be low given the type of coal used and the existing control equipment. We have imposed a limit on H_2SO_4 in the FIP of 2.6×10^{-4} lb/MMBtu (76 FR 52388) to limit the increase in emissions of H_2SO_4 expected from operating SCR at the SJGS units.

C. Comments on Reasonable Progress

Comment: EPA proposes no additional emission reductions from New Mexico's stationary sources to make further progress toward achieving natural visibility conditions. EPA's determination that this approach is ''reasonable,'' 77 FR 36073, is counter to the very purpose of the Regional Haze program. An implementation plan must identify and analyze the measures aimed at achieving the uniform rate of progress (URP) and determine whether these measures are reasonable. If a state establishes an RPG that does not meet the URP, the state must demonstrate, on the basis of the four factors, that (1) meeting the URP isn't reasonable; and (2) the RPG adopted by the state is reasonable. The reasonableness of measures that are necessary to achieve the uniform rate of progress is evaluated based on four factors: (1) The costs of compliance; (2) the time necessary for compliance; (3) the energy and non-air quality environmental impacts of compliance; and (4) the remaining useful life of any potentially affected sources.

While EPA has established a target of 2064 for achieving natural visibility conditions, under its proposed approval of the New Mexico SIP, natural visibility conditions will not be restored in Class I areas affected by New Mexico sources until much later, in some cases *hundreds of years* beyond 2064. EPA failed to impose any emission reductions from New Mexico's largest anthropogenic sources of haze-causing pollutants beyond BART. The commenter supports EPA's NO_X BART determination at the San Juan Generating Station, but states that greater emissions reductions are necessary across all New Mexico sources of haze-causing pollution to achieve reasonable progress. The commenter states EPA's approach in the NM RH SIP proposal guarantees that Congress' goal of achieving natural visibility conditions at Class I areas will never be reached. EPA must require additional reductions of visibility-impairing pollutants from New Mexico's largest air pollution sources to meet reasonable progress requirements.

Response: EPA's Reasonable Progress Guidance states that the URP is not a presumptive target for the RPG.[6] The state followed the proper approach in setting its RPGs through 2018. New Mexico considered the four factors established in section 169A of the CAA and in EPA's RHR at 40 CFR 51.308(d)(1)(i)(A). The factors are considered when selecting the RPGs for the best and worst days for each Class I area. New Mexico considered the costs of compliance, the time needed for compliance, the energy and non-air quality environmental impacts, and the remaining useful life of the facility for a wide variety of source categories. New Mexico also investigated additional control options on three refineries. The NMED reasonably concluded that the cost of additional controls was not warranted and concluded that the RPGs are reasonable given projected emissions reductions from anthropogenic sources and the fact that natural and out-of-state sources contribute significantly to haze. Because the State has limited ability to control naturally occurring wildfires and windblown dust, these sources of visibility impairment will continue to impact visibility at New Mexico's Class I areas and limit the visibility improvement achievable during the planning period.

The visibility improvement at issue here is the rate of visibility improvement for the first implementation period, which extends until July 31, 2018. New control programs in the future that reduce emissions may be implemented, which would hasten visibility improvement and possibly yield an earlier year to achieve natural conditions. Similarly, emission reductions in place or anticipated to be in place before 2018 that were not included in the projected

[5] Public Service Company of New Mexico, San Juan Generating Station Final particulate matter BART analysis, PNM (August 28, 2008).

[6] *Guidance for Setting Reasonable Progress Goals under the Regional Haze Program,* June 1, 2007, memorandum from William L. Wehrum, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, EPA Regions 1–10 (pp. 4–2, 5–1).

2018 emission inventory will result in improved visibility improvement over the State's RPGs. As explained in the proposal, the implementation of NO_X BART at SJGS and FCPP, as well as corrections to over-projections of NO_X and SO_2 emissions in Bernalillo County would further lower 2018 emissions projections for both NO_X and SO_2, and result in more visibility improvement than predicted by the WRAP modeling which was the basis for setting the RPGs. In addition, in this action we are approving New Mexico's participation in the SO_2 emissions milestone and backstop trading program that applies to all stationary sources which emit greater than 100 tpy of SO_2 and will result in emission reductions of SO_2 between 2002 and 2018.

New Mexico will include any additional control measures it finds reasonable along with any additional measures implemented by contributing states in the next implementation period. For the first implementation period, EPA finds adequate New Mexico's assessment of reasonable progress goals and reasonable measures for its long term strategy.

Comment: New Mexico and EPA failed to analyze or require any air pollution controls under the reasonable progress program. Instead, EPA's proposal relies on the WRAP's general, non-source specific analysis of potential reasonable progress source categories. See, Docket EPA–R06–2009–0050–0014, Appendix E. The WRAP's general source category analysis fails to identify any specific New Mexico sources that may be subject to reasonable progress controls. Id. The WRAP's general source analysis is also factually incorrect. Table 6–1 of the WRAP's analysis indicates that there are no PM, SO_2, or NO_X emissions from coal fired boilers in New Mexico. Id. at p. 340. To the contrary, coal fired boilers at SJGS, Escalante coal plant, Raton coal plant, and Four Corners all emit significant quantities of these criteria pollutants. Thus, reliance on the WRAP general source report for approval of the New Mexico SIP is arbitrary and capricious due to its factual inaccuracy.

In addition, a supplemental reasonable progress analysis was also performed for the NM RH SIP. See, Docket EPA–R06–2009–0050–0014, Appendix F. This analysis was a New Mexico source specific analysis. However, this source specific analysis only analyzed reasonable progress controls at three refineries in New Mexico. Id. Thus, the commenter asserts that New Mexico has failed to analyze the need for or require source-specific reasonable progress controls at New Mexico's EGU's or other facilities identified in the WRAP general report, such as cement plants, as is mandated under the regional haze rule. The commenter claims EPA's proposal fails to correct this deficiency. As such, EPA's proposal fails to comply with the federal regional haze rules and EPA's proposed approval of the SIP is arbitrary and capricious. Therefore, EPA must evaluate options for limiting NO_X, PM, and SO_2 emissions at all New Mexico EGUs and other large stationary sources.

Response: We disagree with the commenter's assessment of the WRAP's analysis. As the commenter acknowledges, the WRAP analysis (Supplementary Information for Four Factor Analyses by WRAP States, Appendix E of the NM RH 309(g) SIP submittal) is a general, non-source specific analysis of potential controls to be considered in a reasonable progress analysis. As such, the usefulness of the report lies not in any identification of specific sources within each state, but in the identification of available emission control technologies and analysis of the four factors for the candidate control measures identified for priority pollutants for each emission source category. The report provides information on control efficiency, cost effectiveness, time needed for implementation, energy and other impacts, and information on considerations for the impact of remaining useful life on control costs. This source category information was adopted as technical support by New Mexico in their reasonable progress analysis. We disagree with the commenter's claim that Table 6–1 is factually inaccurate because it does not include emissions from New Mexico EGUs. Table 6–1 identifies emissions from industrial boilers meeting the definition described in Subpart Db of 40 CFR Part 60, which does not include the EGU sources identified in the comment.

The supplemental WRAP analysis (Supplementary Information for Four-Factor Analyses for Selected Individual Facilities in New Mexico, Appendix F of the NM RH 309(g) SIP) analyzed reasonable progress controls at three refineries in New Mexico at the request of NMED. NMED identified these three facilities for further site-specific evaluation due to emissions and proximity to Class I areas. For other source types, such as cement kilns, NMED relied on the WRAP general four-factor analysis discussed above to inform their evaluation. New Mexico also relied on other additional sources of information as available. For example, in response to comments NMED received on the four factor analysis, NMED identifies that New Mexico through a separate process (the Four Corners Air Quality Task Force) analyzed oil and gas sources and the power plants in the four corners region. NMED did not identify any additional reductions in their evaluation of the WRAP analyses and other available sources of information.[7]

New Mexico will include any additional control measures it finds reasonable along with any additional measures implemented by contributing states in the next implementation period. For the first implementation period, EPA finds New Mexico's assessment of reasonable measures for its long term strategy to be adequate with a sufficient basis for approval.

Comment: The NM RH SIP also fails to comply with 40 CFR 51.309(g), which requires that SIPs address impacts to Class I areas not located on the Colorado plateau. 40 CFR 51.309(g). States are required to submit air quality modeling or other reliable evidence revealing visibility impacts and establishing that reasonable progress goals will be met. In December 2010 and February 2011, EPA informed Bernalillo County that its SIP failed to comply with 40 CFR 51.309(g)(1) and (2) because it did not submit evidence showing Bernalillo County's effects on visibility in Class I areas in New Mexico, such as Gila Wilderness and Carlsbad Cavern. EPA Docket EPA–R06–OAR–2008–0702–0011 at pages 110–111 and 126–127. EPA determined that SO_2 emissions in New Mexico were projected to increase from 4,966 tpy in 2002 to 14,073 tpy by 2018 with nearly 30% of the 2018 emissions coming from Bernalillo County. Id. EPA also determined that a significant increase in NO_X emissions from Bernalillo County was projected to occur over this same time period. Id. EPA asked Bernalillo County to conduct visibility modeling to determine its impacts to Class I areas and to explain how reasonable progress goals would be met in light of significant emissions increases. Id.

The commenters state that they were unable to identify any visibility modeling or other analysis conducted by Bernalillo County to address EPA's concerns. The undersigned request an opportunity to review any visibility modeling or related analysis and that EPA reject the NM RH SIP until these issues with the Bernalillo County

[7] We note that NO_X emissions from the only subject-to-BART source in New Mexico (evaluated for controls under the BART requirements) are greater than the next 20 largest NO_X sources in the State combined based on evaluation of 2008 National Emission Inventory data.

component of the SIP are fully addressed.

Response: The Albuquerque/Bernalillo County Air Quality Control Board (AQCB) is the federally delegated air quality authority for the City of Albuquerque and Bernalillo County, New Mexico (BC). The AQCB has submitted a Section 309 regional haze SIP for its geographic area of New Mexico and EPA has proposed approval of this SIP submittal (77 FR 24768). While the regional haze requirements for BC are addressed in their separate SIP submittal and our separate evaluation and proposed action, we recognize that the BC SIP submittal is a necessary component of the regional haze plan for the entire State of New Mexico and is also necessary to ensure the requirements of section 110(a)(2)(D) of the CAA are satisfied for the entire State of New Mexico. As such, we find it is appropriate to respond to the commenter's claims that the NM RH SIP fails to comply with 40 CFR 51.309(g) because of a deficiency in the BC RH SIP.

The letters referred to by the commenter state that the analysis with regard to the requirements of 40 CFR 51.309(g)(1) and (2) in BC's draft SIP revision shared with EPA in 2010 may be incomplete. Specifically, the qualitative analysis provided in ''Appendix 2007–H'' and ''Addendum to Appendix 2007–H'' addressed the impact of BC's emissions on nearby Class I areas but did not include information on the inaccuracy and over-prediction in the 2018 WRAP emission projections for NO_X and SO_2 emissions in BC, or the effect of an accurate emission inventory with respect to modeled visibility degradation at Gila Wilderness and Carlsbad Caverns.

With respect to the above mentioned modeled degradation at Gila Wilderness, an error in data retrieval affected initial results for modeled visibility conditions at Gila Wilderness in 2002 and indicated that visibility would degrade from 2002 to 2018. This error was corrected and the updated submitted data indicates a predicted improvement in visibility conditions on the 20% worst days and no degradation of visibility on the 20% best days.[8] For Carlsbad Caverns, NMED provided modeling data that demonstrates that significant projected growth in emissions by 2018 from Mexico are responsible for the degradation in visibility conditions on the 20% best days at this Class I area (Section 11.3.3 of the NM RH 309(g) SIP submittal). WRAP visibility modeling results with Mexico emissions held constant from 2002 to 2018 show a slight improvement in visibility conditions at Carlsbad Caverns on the 20% best days. Therefore, the initial modeled visibility degradation at both Gila Wilderness and Carlsbad Caverns was addressed without a need to further evaluate the impact of over-estimated NO_X and SO_2 emissions in BC.

Furthermore, BC provided additional information in Appendix 2010 B of the BC RH SIP [9] that included an evaluation of emission inventory trends for 2002, 2005, and 2008 for NO_X and SO_2 emissions for Bernalillo County. The analysis in the BC RH SIP submittal identifies some inaccuracies in the emission inventories used by the WRAP to model the 2002 baseline and the 2018 future case. The 2002 and 2018 emission projections are higher than expected when compared to the reduction in SO_2 emissions observed in the actual emissions inventories for 2002, 2005 and 2008. Table 5 of our proposed approval of the BC RH SIP (77 FR 24790) shows a comparison of emission data from Bernalillo County and a trend of decreasing emissions compared to emissions included in the WRAP estimates and photochemical modeling, projecting a large increase of both NO_X and SO_2. Based on the information provided in BC RH SIP submittal, we agree with the determination that visibility impacts at the nearby Class I areas due to area and mobile emission sources in Bernalillo County are overestimated in the WRAP 2002 and 2018 visibility modeling. The emission trends for 2002 through 2008 (BC RH SIP submittal Appendix 2010–B) indicate that emissions of NO_X and SO_2 within Bernalillo County are declining and therefore visibility impairment due to these emissions are also anticipated to decrease from their current low levels presented in Appendix 2007–H and in the addendum to Appendix 2007–H of the BC RH SIP. A separately signed action has found that BC adequately evaluated the Class I areas that may be impacted by sources of air pollution within Bernalillo County and BC adequately determined and demonstrated that, at this time, it is improbable that sources located within the county cause or contribute to visibility impairment in a Class I area located outside of the county. The separately signed action has therefore found that the BC RH SIP submittal complies with 40 CFR 51.309(g)(1) and (2).

D. Comment on Programs Related to Fire

Comment: NMED noted the following inaccuracies in Section H, Programs Related to Fire, of the Proposed Rule, which should be corrected in the final rule: Section H.1.b, Evaluation of Smoke Dispersion, incorrectly states that SMP I burns may only be conducted when the ventilation index category is rated ''Good'' or better, and that the burner must conduct visual monitoring and document the results in writing. In fact, what the New Mexico SIP provides is that SMP I burners have the option of either (1) burning during daylight hours at least 300 feet from an occupied dwelling, workplace, or place where people congregate; or (2) burning only during times when the ventilation is good or better and conducting visual monitoring along with burning. (see Subsection A of 20.2.65.102 NMAC)

In addition, Section H.1.e, Air Quality Monitoring, incorrectly states that SMP I burners are required to conduct visual monitoring. Visual monitoring under SMP I is required whenever the burn is conducted within a one-mile radius of a population.

Response: We agree with this comment. The proposed notice did not identify that Subsection A of 20.2.65.102 NMAC also provides for the option (''option 1'') of burning during the hours from one hour after sunrise until one hour before sunset, at least 300 feet from an occupied dwelling, workplace, or place where people congregate in addition to the option (''option 2'') described in the notice of limiting burning only during times when the ventilation index category is rated ''Good'' or better. In addition, the commenter is correct that SMP I burners are only required to perform visual monitoring if the burn is conducted within a one-mile radius of a population under option 1 described above or if the burn is conducted under option 2.

Thus, we are clarifying that the terms of the submitted SIP under review had included these options and requirements for SMP I burns. The review considerations for this additional option would not change our conclusion that the Smoke Management rule meets the requirements to address air quality monitoring and evaluation of smoke dispersion as described in Section III.F of the proposed notice.

E. Comments on Taking No Action on NO_X BART

Multiple commenters have acknowledged that our proposal did not

[8] Correction of WRAP region Plan02d CMAQ visibility modeling results on TSS for Regional Haze Planning—Final Memorandum, June 30, 2011, available at: *http://vista.cira.colostate.edu/tss/help/plan02d_rev.pdf.*

[9] AQD exhibit#5 EPA Docket EPA–R06–OAR–2008–0702–0013 beginning at page 227.

address NO_X BART at the San Juan Generating Station, but they nonetheless submitted comments concerning the NO_X BART part of New Mexico's 2011 Regional Haze SIP submittal (as well as a pending 2011 Interstate Transport SIP for visibility that relies on the 2011 submitted NO_X BART determination). In brief, several commenters urged EPA to take action to approve the NO_X BART portion of the SIP submittal (leading to withdrawal of the FIP), while another commenter urges EPA ''to hold to its final NO_X BART determination at SJGS.''

The NO_X BART submittal was not evaluated and not in the scope of our original proposal. There has been no supplemental proposal, and the NO_X BART submittal is manifestly not part of today's final action. Judicial review is authorized for today's approval of the various parts of the SIP submittal on which we are taking final action. See CAA 307(b)(1). In contrast, the NO_X BART portion of the SIP submittal is not the subject of a final action ''approving * * * any implementation plan under [CAA Section 110] * * * or any other final action of the Administrator under [the CAA] (including any denial or disapproval by the Administrator under subchapter I of [the CAA]).'' Id. We accordingly regard the various comments received concerning NO_X BART to provide no grounds or jurisdictional basis for judicial review. However, commenters have made various assertions regarding our obligations to act on the NO_X BART portion of the SIP, some aspects of which are factually inaccurate. We believe it is appropriate to respond to some of these remarks for the informational benefit of these stakeholders and the public.

Comment: EPA's proposal does not address the NO_X BART determination for San Juan Generating Station that was submitted by New Mexico in 2011. EPA should act expeditiously to review and approve New Mexico's BART determination.

Response: We acknowledge that New Mexico's submitted NO_X BART determination for SJGS is not addressed by our proposal and final action. We also acknowledge that this part of the SIP submittal, at this time, remains pending review. Unless this part of the SIP submittal is withdrawn by the State before EPA takes final action upon it, the Clean Air Act requires that EPA takes final action to approve or disapprove this part of the SIP submittal by January 5, 2013, i.e., 18 months after its receipt. This requirement follows from the Administrator's nondiscretionary duty to approve or disapprove SIP submittals under the deadlines prescribed at CAA Section 110(k). If EPA misses the deadline found in this section of the CAA, the agency may be subject to a civil suit in a United States District Court that will order and compel the performance of this nondiscretionary duty. See CAA Section 304(a).

Comment: One commenter asserts that we cannot approve New Mexico's reasonable progress goals based on uncertain NO_X BART reductions at SJGS. The commenter takes note that our proposal had stated our expectation that ''future emission reductions will be achieved in compliance with the existing [FIP] or in compliance with the terms of a future-approved BART determination for SJGS determined to consistent with RHR requirements.'' The commenter asserts that EPA cannot relax the 0.05 lb/MMbtu limit in the FIP unless it is judicially overturned.

Response: We do not agree that NO_X BART reductions are uncertain in a way that bars approval of the submitted reasonable progress goals. As detailed in our proposal, the reasonable progress goals submitted to satisfy the requirements of 40 CFR 51.309(g) RHR requirements have utilized visibility improvements projected in WRAP modeling. The WRAP modeling includes some assumptions about future emissions from the SJGS and FCPP based on consultation with the states but does not include the level of NO_X reductions currently anticipated from implementation of BART at FCPP or SJGS. Our reference to the existing FIP or a future-approved BART Determination from a state SIP submittal was offered to merely observe that we expect the additional emission reductions will result in improved future visibility conditions beyond the visibility projections and established reasonable progress goals based on the WRAP modeling. We believe this provides valuable context for our review of the 51.309(g) SIP submittal and to persons who read the proposal. We referenced anticipated emission reductions at Four Corners Power Plant (FCPP) for the same reason, except in that case the emission controls for that emission source are not subject to the jurisdiction of the New Mexico Environment Department. We do not agree that BART emission limits at FCPP had to be finalized as a predicate for our action on the New Mexico Regional Haze SIP. We note that the final rule addressing BART at FCPP (77 FR 51620) published on August 24, 2012 (after the publication of our proposed notice) requires an 80% reduction in NO_X emissions across all five units or for the shutdown of units 1, 2 and 3 and emission reductions at Units 4 and 5 to meet an emission limit of 0.098 lb/MMBtu NO_X, resulting in an 87% reduction in total NO_X emissions. As discussed elsewhere in this notice, we find New Mexico's assessment of RPGs and long term strategy to be adequate, providing sufficient basis for our approval. We expect the state to include any corrections and updates to emission reductions in its next Regional Haze SIP with updated modeling to quantify the visibility improvement that results from all emission reduction measures in place by 2018.

Of course, any references in the proposal to the existing FIP for SJGS or to a future-approved BART determination consistent with the RHR (i.e., from a state SIP submittal or amendment of the existing FIP) would necessarily assume that our past and future actions regarding NO_X BART at SJGS will be upheld against any judicial challenges. Since we consider the FIP to have been validly promulgated and we have not proposed to revise its limits or proposed to approve any state-submitted BART determination with different limits into the New Mexico SIP, the commenter's contention that EPA may not relax the BART limit promulgated in the FIP is not presently in issue. Commenters are not barred from resubmitting this comment as it may, in their view, apply toward future proposals, if any, regarding NO_X BART for SJGS.

Comment: An existing consent decree that requires EPA action on ''all remaining RH SIP elements'' by November 15, 2012 requires EPA to act on the NO_X BART element of New Mexico's 2011 regional haze SIP submittal by that date.

Response: The basis for the lawsuit that led to EPA's entry into the referenced consent decree was EPA's failure to ensure all regional haze requirements for New Mexico were effective on the expiration of a 2 year FIP clock that began when EPA found that New Mexico failed to submit a SIP revision to address all the requirements of the Regional Haze Rule. See CAA Section 110(c). The consent decree does not compel EPA action on any particular RH SIP submittal. NO_X BART, addressed by our earlier FIP, and already addressed by the time of EPA's entry into the consent decree is not a ''remaining'' RH SIP element under the consent decree. We note our compliance with the consent decree is subject to review by the judge who maintains jurisdiction over it. We further note that EPA's original proposal date was also required by this consent decree, and no

parties to the consent decree have suggested that EPA failed to follow its terms, either in comments on the proposal or to the supervising judge.

Comment: Section 110(k)(3) of the CAA requires EPA to take action on the entire 2011 Regional Haze SIP submittal, which includes the NO_X BART portion which was not covered by the proposal. The text of Section 110(k)(3) suggests this is required by its phrasing that a SIP submittal shall be approved ''as a whole.'' EPA cannot break apart a single SIP submittal and take final action only on certain individual components of the SIP.

Response: We disagree, because we find that NO_X BART is a severable component of the New Mexico Regional Haze SIP. We believe it can be reviewed and acted upon separately from the other components of the submitted SIP revision without compromising our approvability analysis or compromising the opportunities of the public to understand and comment on the proposed action. Aside from a comment regarding reasonable progress goals that we have rejected above, no comments have suggested otherwise. Section 110(k)(3) does not require EPA to act on the entirety of a SIP submittal in one proposal and one final action. Instead, unless parts of a submittal are not severable from each other, EPA has the flexibility to propose and finalize action on some components of a submittal while deferring review of other independent parts. EPA's authority to proceed with separate proposal and final actions on self-standing parts of submitted SIP revisions is confirmed, and not at all barred, by 110(k)(3). This is evident from innumerable past EPA actions reviewing submitted SIP revisions from state and local air quality authorities throughout the country; this long implementation history includes past EPA actions on SIP submittals from the state of New Mexico. Given that a State can freely package miscellaneous provisions dealing with different Clean Air Act requirements into one submittal, EPA generally has the discretion to act on severable parts of any submittal at different times. This discretion can allow prioritization of resources, may avoid confusion of issues for commenters, and may promote efficient review and administrative processing of pending submitted SIP revisions. For example, the NO_X BART component of the submitted SIP revision, assuming it were deemed approvable in whole or in part, would potentially entail Administrator action to withdraw or revise the previously promulgated FIP. This action may not be signed by the Regional Administrator (as is the case with this final action), and it may be subject to the procedures and review requirements of CAA Section 307(d) (as is not the case with this final action). As previously discussed, we do acknowledge the statutory obligation to act on the NO_X BART component of the submitted SIP revisions by January 5, 2013. In so doing, our review of the submitted NO_X BART determination will be subject to Section 110(k)(3), which generally requires approval, disapproval, or possible partial approval/partial disapproval, consistent with future findings on whether it meets the requirements of the Clean Air Act.

Because we have not proposed action on the submitted NO_X BART determination of July 2011, we deem this comment (as well as the other comments we have addressed in this section) to be outside the scope of our proposal and to be no bar to today's approval action.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 USC 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 USC 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 USC 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 28, 2013. 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxides, Visibility, Regional haze, Best available control technology.

Dated: November 15, 2012.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended to read 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 GG—New Mexico

■ 2. Section 52.1620 is amended:

■ a. In paragraph (c), under the first table entitled ''EPA Approved New Mexico Regulations'' by revising the entries for Part 60, Part 61, Part 73, and Part 80, and adding new entries in sequential order for ''Part 65'' and ''Part 81'', and

■ b. In paragraph (e), under the second table entitled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in The New Mexico SIP'' by adding to the end of the table a new entry for ''Regional Haze SIP under 40 CFR 51.309''.

The additions and revisions read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

State citation	Title/Subject	State approval/effective date	EPA Approval date	Comments
New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality				
* *	* *	*	*	*
Part 60	Open Burning	12/31/2003	11/27/2012 [Insert FR page number where document begins].	
Part 61	Smoke and Visible Emissions	11/30/1995	9/26/1997, 62 FR 50514	
Part 65	Smoke Management	12/31/2003	11/27/2012 [Insert FR page number where document begins].	
* *	* *	*	*	*
Part 73	Notice of Intent and Emissions Inventory Requirements.	7/6/2011	11/27/2012 [Insert FR page number where document begins].	
* *	* *	*	*	*
Part 80	Stack Heights	11/30/1995	9/26/1997, 62 FR 50514	
Part 81	Western Backstop Sulfur Dioxide Trading Program.	7/6/2011	11/27/2012 [Insert FR page number where document begins].	
* *	* *	*	*	*

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(e) * * *

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EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA Approval date	Explanation
* *	* *	*	*	*
Regional Haze SIP under 40 CFR 51.309	Statewide (except Bernalillo County).	6/24/2011	11/27/2012 [Insert FR page number where document begins].	Nitrogen oxides Best Available Retrofit Technology determination for San Juan Generating Station not included in approval action.

[FR Doc. 2012–28591 Filed 11–26–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0589 and EPA–R09–OAR–2011–0622; FRL–9753–3]

Approval of Air Quality Implementation Plans; California; San Joaquin Valley and South Coast; Attainment Plan for the 1997 8-hour Ozone Standards; Technical Amendments

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendments.

SUMMARY: EPA is making technical amendments to the Code of Federal Regulations (CFR) to reflect the Agency's March 1, 2012 final approvals of the California State Implementation Plans for attainment of the 1997 8-hour ozone National Ambient Air Quality Standards in the San Joaquin Valley and the South Coast Air Basin. These technical amendments correct the CFR to properly codify the California Air Resources Board's commitments to propose certain defined measures.

DATES: This technical amendment is effective on November 27, 2012.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region 9, (415) 972–3957, *wicher.frances@epa.gov.*

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

On March 1, 2012, EPA fully approved the California State Implementation Plans (SIPs) for attainment of the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) in the San Joaquin Valley and South Coast (Los Angeles) Air Basin and included provisions of these SIPs in the Code of Federal Regulations (CFR) at 40 CFR 52.220(c). See 77 FR 12652 (March 1, 2012) and 77 FR 12674 (March 1, 2012). As submitted, these SIPs include commitments by the California Air Resources Board (CARB) to propose certain defined measures. These commitments were included in the *Progress Report on Implementation of $PM_{2.5}$ State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions* (''2011 Progress Report''), adopted by CARB on April 28, 2011 and submitted on May 18, 2011 and the *8-Hour Ozone State Implementation Plan Revisions and Technical Revisions to the $PM_{2.5}$ State Implementation Plan Transportation Conformity Budgets for the South Coast and San Joaquin Valley Air Basins* (''2011 Ozone SIP Revisions''), adopted by CARB on July 21, 2011 and submitted on July 29, 2011.

In the preamble to our final action approving the San Joaquin Valley's 8-Hour Ozone SIP, we stated that we are approving ''CARB's commitments to propose certain defined measures, as listed in Table B–1 on page 1 of Appendix B of the 2011 Progress Report and in Appendix A–3 of the 2011 Ozone SIP Revisions.'' See 77 FR 12652 at 12670. We proposed the same at 76 FR 557846, 57867 (September 16, 2011). EPA did not, however, accurately codify this approval in the final regulatory text. We are issuing this technical amendment to 40 CFR 52.220 to correct this oversight. This technical amendment makes no changes to the substance of our March 1, 2012 approval of the SJV 8-Hour Ozone SIP.

In the preamble to our final action approving the South Coast 8-Hour Ozone SIP, we stated that we are approving ''CARB's commitments to propose certain defined measures, as listed in Appendix B, Table B–1 of the 2011 Ozone SIP Revision.'' [1] See 77 FR 12674, 12693. We proposed this action at 76 FR 57872 at 57895 (September 16, 2011). EPA did not, however, accurately codify this approval in the final regulatory text. We are issuing this technical amendment to 40 CFR 52.220 to correct this oversight. This technical amendment makes no changes to the substance of our March 1, 2012 approval of the South Coast 8-Hour Ozone SIP.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen Dioxide, Ozone, Volatile organic compounds.

Dated: November 9, 2012 .

Jared Blumenfeld,

Regional Administrator, Region IX.

For the reasons discussed in the preamble, EPA amends 40 CFR part 52 to read as follows:

[1] ''2011 Ozone SIP Revision'' here should have been ''2011 Progress Report.'' CARB included Table B–1 in Appendix B in the 2011 Ozone SIP Revision for informational purposes only but intended that the commitments to propose defined measures as given on Table B–1 of Appendix B of the 2011 Progress Report be included in the South Coast 8-hour Ozone SIP. See Appendix A–3 of the 2011 Ozone SIP Revisions.

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 F—California

■ *2. Section 52.220 is amended* by:

■ a. Adding and reserving paragraph (c)(396)(ii)(A)(*2*)(*ii*); and

■ b. Adding paragraphs (c)(396)(ii)(A)(*2*)(*iii*) and (c)(401)(ii)(A)(*2*)(*ii*).

The added text reads as follows.

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(396) * * *

(ii) * * *

(A) * * *

(*2*) * * *

(*ii*) [Reserved]

(*iii*) Commitments to propose measures as provided in Appendix B, Table B–1 of the *Progress Report on the Implementation of $PM_{2.5}$ State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions* (Release Date: March 29, 2011), adopted April 28, 2011, as amended by Appendix A, p. A–7 of the *8-Hour Ozone State Implementation Plan Revisions and Technical Revisions to the $PM_{2.5}$ State Implementation Plan Transportation Conformity Budgets for the South Coast and San Joaquin Valley Air Basins* (Release Date: June 20, 2011), adopted July 21, 2011.

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(401) * * *

(ii) * * *

(A) * * *

(*2*) * * *

(*ii*) Commitment to propose measures as provided in Appendix B Table B–1 of the *Progress Report on the Implementation of $PM_{2.5}$ State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions* (Release Date: March 29, 2011), adopted April 28, 2011.

* * * * *

[FR Doc. 2012–28598 Filed 11–26–12; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 832 and 852

RIN 2900–AN97

VA Acquisition Regulation: Electronic Submission of Payment Requests

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is issuing a final rule to require contractors to submit payment requests in electronic form in order to enhance customer service, departmental productivity, and adoption of innovative information technology, including the appropriate use of commercial best practices. This document adopts the proposed rule published on April 18, 2012, as a final rule with a non-substantive technical change.

DATES: *Effective Date:* This rule is effective December 27, 2012.

FOR FURTHER INFORMATION CONTACT: James Trudeau, Procurement Policy Service (003A2A), Office of Acquisition and Logistics, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461–5661. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On July 7, 2009, VA published a notice, in the **Federal Register** at 74 FR 32223, of a class deviation to Federal Acquisition Regulation (FAR) 32.905 (48 CFR 32.905), which added an interim electronic invoicing clause in the VA Acquisition Regulation (VAAR). The interim clause encouraged contractors to voluntarily submit invoices electronically, which VA determined would improve the accuracy and efficiency of payment processing. Under this interim clause, contractors who chose to use electronic invoicing had three options to submit payment requests in electronic form: (1) Electronic Invoice Presentment and Payment System; (2) American National Standards Institute (ANSI) X12 electronic data interchange (EDI) formats; or (3) another electronic form as prescribed by the contract administration office and the designated agency office. VA's notice regarding interim, optional electronic invoicing noted VA intended to initiate notice-and-comment rulemaking to amend the VAAR to make electronic invoicing mandatory.

On April 18, 2012, VA published a proposed rule, in the **Federal Register** at 77 FR 23204, which announced the intent to require contractors to submit payment requests in electronic form in order to enhance customer service, departmental productivity, and adoption of innovative information technology, including the appropriate use of commercial best practices.

We provided a 60-day comment period for interested parties to submit comments to VA on or before June 18, 2012. We received no comments.

Based on the rationale set forth in the proposed rule and this document, we are adopting the proposed rule as a final rule without any substantive changes. We are renumbering proposed subpart ''832.10'' and VAAR ''832.1001,'' ''832.1002,'' ''832.1003,'' ''832.1003–1,'' and ''832.1003–2'' to read subpart ''832.70'' and VAAR ''832.7000,'' ''832.7001,'' ''832.7002,'' ''832.7002–1,'' and ''832.7002–2,'' respectively, to ensure the VAAR subpart numbering does not conflict with the FAR subpart numbering. We are renumbering proposed VAAR ''852.273–76'' to read ''852.232–72'' to align it with part 832-Contract Financing. We are also making non-substantive conforming changes to the cross references in proposed VAAR 832.1002(c) (now VAAR 832.7001(c)), VAAR 832.1003–2 (now VAAR 832.7002–2), and VAAR 852.273–76 (now VAAR 852.232–72).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by the Office of Management and Budget (OMB) as ''any regulatory action that is 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 governments 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; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. The Secretary acknowledges that this final rule could affect some small entities; however, the economic impact was determined not significant and is expected to be outweighed by the positive economic impact of the final rule. Small entities should realize a positive economic impact as a result of electronic invoice submission due to the avoidance of traditional invoicing costs such as postage and mailing supplies. VA's data transmission methods for electronic invoice submission accommodate all existing accounts receivable/billing systems that contractors are currently using to submit electronic invoices to VA. As a result, no additional hardware or software purchases by contractors are necessary to submit electronic invoices. Additionally, the VA electronic invoice payment and presentment system is provided to all contractors free of charge. No negative economic impact has been reported by small entities voluntarily using electronic invoice submission in accordance with the existing interim electronic invoicing clause in the VAAR. In 2006, the U.S. Government Accountability Office issued a report to Congressional Committees titled ''DoD Payments to Small Businesses: Implementation and Effective Utilization of Electronic Invoicing Could Further Reduce Late Payments'' (GAO–06–358). The report confirmed the effectiveness of electronic invoicing in eliminating paper and redundant data entry; improving data accuracy; reducing the number of lost or misplaced documents; and ultimately, improving timely payments to small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Paperwork Reduction Act

This final rule does not impose any additional information collection requirements requiring approval of OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, et seq. Collections of information referenced in VAAR Parts 832 and 852 have previously been approved in accordance with OMB prompt payment regulations at 5 CFR part 1315. See 64 FR 52580–01. Collections relating to the submission and payment of invoices are approved under OMB Control Numbers 9000–0070 and 0102, which govern the submission of adequate documentation to support contractor requests for payment.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

There is no Catalog of Federal Domestic Assistance program number and title for the program in this final rule.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, approved this document on November 20, 2012, for publication.

List of Subjects

48 CFR Part 832

Government procurement.

48 CFR Part 852

Government procurement; Reporting and recordkeeping requirements.

Dated: November 20, 2012.

Robert C. McFetridge,

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

For the reasons set forth in the preamble, the Department of Veterans Affairs amends 48 CFR chapter 8 as follows:

PART 832—CONTRACT FINANCING

■ 1. The authority citation for part 832 continues to read as follows:

Authority: 40 U.S.C. 121(c) and 48 CFR 1.301–1.304.

■ 2. Add subpart 832.70 to read as follows:

Subpart 832.70—Electronic Invoicing Requirements

832.7000 General.
832.7001 Definitions.
832.7002 Electronic payment requests.
832.7002–1 Data transmission.
832.7002–2 Contract clause.

Subpart 832.70—Electronic Invoicing Requirements

832.7000 General.

This subpart prescribes requirements and procedures for submitting and processing payment requests in electronic form.

832.7001 Definitions.

As used in this subpart:

(a) *Contract financing payment* has the meaning given in FAR 32.001.

(b) *Designated agency office* has the meaning given in 5 CFR 1315.2(m).

(c) *Electronic form* means an automated system transmitting information electronically according to the accepted electronic data transmission methods identified in VAAR 832.7002–1. Facsimile, email, and scanned documents are not acceptable electronic forms for submission of payment requests.

(d) *Invoice payment* has the meaning given in FAR 32.001.

(e) *Payment request* means any request for contract financing payment or invoice payment submitted by a contractor under a contract.

832.7002 Electronic payment requests.

(a) The contractor shall submit payment requests in electronic form unless directed by the contracting officer to submit payment requests by mail. Purchases paid with a Government-wide commercial purchase card are considered to be an electronic transaction for purposes of this rule, and therefore no additional electronic invoice submission is required.

(b) The contracting officer may direct the contractor to submit payment requests by mail, through the United States Postal Service, to the designated agency office for:

(1) Awards made to foreign vendors for work performed outside the United States;

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified or privacy information;

(3) Contracts awarded by contracting officers in the conduct of emergency operations, such as responses to national emergencies;

(4) Solicitations or contracts in which the designated agency office is a VA entity other than the VA Financial Services Center in Austin, Texas; or

(5) Solicitations or contracts in which the VA designated agency office does not have electronic invoicing capability as described above.

832.7002–1 Data transmission.

The contractor shall submit electronic payment requests through:

(a) VA's Electronic Invoice Presentment and Payment System (See Web site at *http://www.fsc.va.gov/einvoice.asp*.); or,

(b) A system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) chartered by the American National Standards Institute (ANSI). The X12 EDI Web site (*http://www.x12.org*) includes additional information on EDI 810 and 811 formats.

832.7002–2 Contract clause.

The contracting officer shall insert the clause at 852.232–72, Electronic submission of payment requests, in all solicitations and contracts.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. The authority citation for part 852 continues to read as follows:

Authority: 38 U.S.C. 501, 8127, 8128, and 8151–8153; 40 U.S.C. 121(c) and 48 CFR 1.301–1.304.

Subpart 852.2—Texts of Provisions and Clauses

■ 4. Add 852.232–72 to subpart 852.2 to read as follows:

852.232–72 Electronic submission of payment requests.

As prescribed in 832.7002–2, insert the following clause:

Electronic Submission of Payment Requests (NOV 2012)

(a) *Definitions.* As used in this clause—

(1) *Contract financing payment* has the meaning given in FAR 32.001.

(2) *Designated agency office* has the meaning given in 5 CFR 1315.2(m).

(3) *Electronic form* means an automated system transmitting information electronically according to the accepted

electronic data transmission methods and formats identified in paragraph (c) of this clause. Facsimile, email, and scanned documents are not acceptable electronic forms for submission of payment requests.

(4) *Invoice payment* has the meaning given in FAR 32.001.

(5) *Payment request* means any request for contract financing payment or invoice payment submitted by the contractor under this contract.

(b) *Electronic payment requests.* Except as provided in paragraph (e) of this clause, the contractor shall submit payment requests in electronic form. Purchases paid with a Government-wide commercial purchase card are considered to be an electronic transaction for purposes of this rule, and therefore no additional electronic invoice submission is required.

(c) *Data transmission.* A contractor must ensure that the data transmission method and format are through one of the following:

(1) VA's Electronic Invoice Presentment and Payment System. (See Web site at *http://www.fsc.va.gov/einvoice.asp.*)

(2) Any system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) and chartered by the American National Standards Institute (ANSI). The X12 EDI Web site (*http://www.x12.org*) includes additional information on EDI 810 and 811 formats.

(d) *Invoice requirements.* Invoices shall comply with FAR 32.905.

(e) *Exceptions.* If, based on one of the circumstances below, the contracting officer directs that payment requests be made by mail, the contractor shall submit payment requests by mail through the United States Postal Service to the designated agency office. Submission of payment requests by mail may be required for:

(1) Awards made to foreign vendors for work performed outside the United States;

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified or privacy information;

(3) Contracts awarded by contracting officers in the conduct of emergency operations, such as responses to national emergencies;

(4) Solicitations or contracts in which the designated agency office is a VA entity other than the VA Financial Services Center in Austin, Texas; or

(5) Solicitations or contracts in which the VA designated agency office does not have electronic invoicing capability as described above.

(End of clause)

[FR Doc. 2012–28612 Filed 11–26–12; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 578

[Docket No. NHTSA–2012–0131; Notice 2]

RIN 2127–AL16

Civil Penalties

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

ACTION: Final rule.

SUMMARY: This document increases the maximum civil penalty amounts for violations of motor vehicle safety requirements for the National Traffic and Motor Vehicle Safety Act, as amended, and violations of bumper standards and consumer information provisions. Specifically, this increases the maximum civil penalty amounts for single violations of motor vehicle safety requirements, a series of related violations of school bus and equipment safety requirements, a series of related violations of bumper standards, and a series of related violations of consumer information regarding crashworthiness and damage susceptibility requirements. This action is taken pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which requires us to review and, as warranted, adjust penalties based on inflation at least every four years.

DATES: This rule is effective December 27, 2012.

ADDRESSES: Any petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Fourth Floor, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matthew Weisman, Office of Chief Counsel, NHTSA, telephone (202) 366–5834, facsimile (202) 366–3820, 1200 New Jersey Ave, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

In order to preserve the remedial impact of civil penalties and to foster compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (28 U.S.C. 2461 Notes, Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) (referred to collectively as the ''Adjustment Act'' or, in context, the ''Act''), requires us and other Federal agencies to adjust civil penalties for inflation. Under the Adjustment Act, following an initial adjustment that was capped by the Act, these agencies must make further adjustments, as warranted, to the amounts of penalties in statutes they administer at least once every four years.

NHTSA's initial adjustment of civil penalties under the Adjustment Act was published on February 4, 1997. 62 FR 5167. At that time, we codified the penalties under statutes administered by NHTSA, as adjusted, in 49 CFR part 578, Civil Penalties. Thereafter, we adjusted certain penalties based on the Adjustment Act and codified others based on other laws including the Transportation Recall Enhancement, Accountability, and Documentation Act.

On May 16, 2006, NHTSA last adjusted the maximum civil penalty for a single violation of the Motor Vehicle Safety Act, sections 30112, 30115, 30117 through 30122, 30123, 30125(c), 30127, or 30141 through 30147 of Title 49 of the United States Code or a regulation thereunder, as specified in 49 CFR 578.6(a)(1) from $5,000 to $6,000. 71 FR 28279. At the same time, the agency adjusted the maximum civil penalty for a single violation of the Motor Vehicle Safety Act, section 30166 of Title 49 of the United States Code or a regulation thereunder, to $6,000.

On February 10, 2010, NHTSA last adjusted the maximum civil penalty for a related series of violations of the Motor Vehicle Safety Act as amended involving school buses and school bus equipment, section 30112(a)(1) as it involves school buses and school bus equipment and section 30112(a)(2) of Title 49 of the United States Code, as specified in 49 CFR 578.6(a)(2) from $15,000,000 to $16,650,000. 75 FR 5246.

Also on February 10, 2010, NHTSA last adjusted the maximum civil penalty for a related series of violations of bumper standards, section 32506 of Title 49 of the United States Code, as specified in 49 CFR 578.6(c)(2) from $1,025,000 to $1,175,000. 75 FR 5246. In addition, on February 10, 2010, NHTSA last adjusted the maximum civil penalty for a related series of violations of consumer information requirements regarding crashworthiness and damage susceptibility, section 32308 of Title 49 of the United States Code, as specified in 49 CFR 578.6(d)(1) from $500,000 to $575,000. 75 FR 5246.

We have reviewed the civil penalty amounts in 49 CFR part 578 and on September 7, 2012, published a NPRM initiating this rulemaking to adjust

certain penalties under the Adjustment Act. 77 FR 55175.

II. Method of Calculation—Adjustments

Under the Adjustment Act, we determine the inflation adjustment for each applicable civil penalty by increasing the maximum civil penalty amount per violation by a cost-of-living adjustment, and then applying a rounding factor. Section 5(b) of the Adjustment Act defines the ''cost-of-living'' adjustment as: The percentage (if any) for each civil monetary penalty by which—

(1) The Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds

(2) The Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

Since the adjustment is intended to be effective before December 31, 2012, the ''Consumer Price Index [CPI] for the month of June of the calendar year preceding the adjustment'' would be the CPI for June 2011. This figure, based on the Adjustment Act's requirement of using the CPI ''for all-urban consumers published by the Department of Labor'' is 676.162. The penalty amounts that NHTSA is adjusting based on the Adjustment Act's requirements were last set in 2006 for a single violation of the Motor Vehicle Safety Act, and in 2010 for a series of related violations of school bus safety requirements, a series of related violations of bumper standards, and a series of related violations of consumer information requirements regarding crashworthiness and damage susceptibility. The CPI figure for June of 2006 is 607.8 and June of 2010 is 652.926

Individuals interested in deriving the CPI figures used by the agency may visit the Department of Labor's Consumer Price Index Home Page at *http://www.bls.gov/cpi/home.htm.* Scroll down to ''CPI Databases'', ''All Urban Consumers (Current Series)'', and click on ''Top Picks''. Next, select the ''U.S. ALL ITEMS 1967=100—CUUR0000AA0'' box, and click on the ''Retrieve Data'' button.

Accordingly, the factors that we are using in calculating the increases are 1.11 (676.162/607.8) for a single Motor Vehicle Safety Act violation and 1.04 (676.162/652.926) for a related series of Motor Vehicle Safety Act violations pertaining to school buses or school bus equipment, as well as for a series of related violations of bumper standards, and a series of related violations of consumer information requirements. Using these inflation factors, calculated increases under these adjustments are then subject to a specific rounding formula set forth in Section 5(a) of the Adjustment Act. 28 U.S.C. 2461, Notes. Under that formula:

Any increase shall be rounded to the nearest:

(1) Multiple of $10 in the case of penalties less than or equal to $100;

(2) Multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) Multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) Multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) Multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) Multiple of $25,000 in the case of penalties greater than $200,000.

III. Changes to Maximum Penalties Under the Motor Vehicle Safety Act, 49 U.S.C. Chapter 301

Changes to 49 CFR 578.6(a)(1), (a)(3)

The maximum civil penalty for a violation of any of sections 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, or 30141 through 30147 of Title 49 of the United States Code or a regulation prescribed under any of those sections is $6,000, as specified in 49 CFR 578.6(a)(1). The underlying statutory civil penalty provision is 49 U.S.C. 30165(a)(1). Applying the appropriate inflation factor (1.11) to the Adjustment Act calculation raises the $6,000 figure to $6,679, an increase of $679. Under the rounding formula, any increase in a penalty's amount shall be rounded to the nearest multiple of $1,000. In this case, the increase would be $1,000. Accordingly, NHTSA is amending Section 578.6(a)(1) to increase the maximum civil penalty from $6,000 to $7,000 for each violation.

The maximum civil penalty for a violation of section 30166 of Title 49 of the United States Code or a regulation prescribed under that section is $6,000, as specified in 49 CFR 578.6(a)(3). The underlying statutory civil penalty provision is 49 U.S.C. 30165(a)(3). Applying the appropriate inflation factor (1.11) to the Adjustment Act calculation raises the $6,000 figure to $6,679, an increase of $679. Under the rounding formula, any increase in a penalty's amount shall be rounded to the nearest multiple of $1,000. In this case, the increase would be $1,000. Accordingly, NHTSA is amending Section 578.6(a)(3) to increase the maximum civil penalty from $6,000 to $7,000 per violation per day.

Change to 49 CFR 578.6(a)(2)

The maximum civil penalty for a series of related violations of section 30112(a)(1) of Title 49 of the United States Code involving school buses or school bus equipment, or of the prohibition on school system purchases and leases of 15 passenger vans as specified in 30112(a)(2) of Title 49 of the United States Code is $16,650,000, as codified in 49 CFR 578.6(a)(2). The underlying statutory civil penalty provision is 49 U.S.C. 30165(a)(2). Applying the appropriate inflation factor (1.04) to the Adjustment Act calculation raises the $16,650,000 figure to $17,242,531, an increase of $592,531. Applying the rounding rules, which instruct that increases be rounded to the closest $25,000, produces an increase of $600,000. Accordingly, NHTSA is increasing the maximum penalty under Section 578.6(a)(2) to $17,250,000.

Change to Maximum Penalty Under 49 U.S.C. 32506(a) (49 CFR 578.6(c))

The maximum civil penalty for a series of related violations of bumper prohibitions, section 32506(a) of Title 49 of the United States Code, is $1,175,000 as specified in 49 CFR 578.6(c). The underlying statutory civil penalty provision is 49 U.S.C. 32507. Applying the appropriate inflation factor (1.04) to the Adjustment Act calculation raises the $1,175,000 figure to $1,216,815, an increase of $41,815. Applying the rounding rules, which instructs that increases be rounded to the closest $25,000, produces an increase of $50,000. Accordingly, NHTSA is increasing the maximum penalty under Section 578.6(c)(2) to $1,225,000.

Change to Maximum Penalty Under the Consumer Information Provisions (49 CFR 578.6(d)(1))

The maximum civil penalty for a series of related violations of consumer information provisions regarding crashworthiness and damage susceptibility, section 32308(a) of Title 49 of the United States Code, is $575,000 as specified in 49 CFR 578.6(d)(1). Applying the appropriate inflation factor (1.04) to the Adjustment Act calculation raises the $575,000 figure to $595,462, an increase of $20,462. Applying the rounding rules, which instruct that increases be rounded to the closest $25,000, produces an increase of $25,000. Accordingly, NHTSA is increasing the maximum penalty under Section 578.6(d)(1) to $600,000.

Codification of Penalty in the Medium and Heavy Duty Vehicle Fuel Efficiency Program

The Agency's regulations provide that the maximum penalty is $37,500 per vehicle or engine. 49 CFR 535.9(b)(3). Consistent with the approach of codifying the penalties under statutes administered by NHTSA in Part 578, NHTSA is codifying this amount in a new subsection (i) of 49 CFR 578.6.

IV. Public Comments on NPRM

NHTSA received one public comment in response to the Notice of Proposed Rulemaking for this rulemaking. The comment was from a private individual expressing support for the proposed rulemaking, noting that civil penalties can lose their effectiveness over time through inflation, and that review and amendment of penalties is necessary to maintain their effectiveness.

V. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under Executive Order 12866, ''Regulatory Planning and Review.'' This action is limited to the adoption of adjustments of civil penalties under statutes that the agency enforces, and has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures and the policies of the Office of Management and Budget.

Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. I certify that a this rule will not have a significant economic impact on a substantial number of small entities. The following provides the factual basis for this certification under 5 U.S.C. 605(b). The amendments almost entirely potentially affect manufacturers of motor vehicles and motor vehicle equipment.

The Small Business Administration's regulations define a small business in part as a business entity ''which operates primarily within the United States.'' 13 CFR 121.105(a). SBA's size standards were previously organized according to Standard Industrial Classification (''SIC'') Codes. SIC Code 336211 ''Motor Vehicle Body Manufacturing'' applied a small business size standard of 1,000 employees or fewer. SBA now uses size standards based on the North American Industry Classification System (''NAICS''), Subsector 336—Transportation Equipment Manufacturing, which provides a small business size standard of 1,000 employees or fewer for automobile manufacturing businesses. Other motor vehicle-related industries have lower size requirements that range between 500 and 750 employees.

For example, according to the SBA coding system, businesses that manufacture truck trailers, travel trailers/campers, carburetors, pistons, piston rings, valves, vehicular lighting equipment, motor vehicle seating/interior trim, and motor vehicle stamping qualify as small businesses if they employ 500 or fewer employees. Similarly, businesses that manufacture gasoline engines, engine parts, electrical and electronic equipment (non-vehicle lighting), motor vehicle steering/suspension components (excluding springs), motor vehicle brake systems, transmissions/power train parts, motor vehicle air-conditioning, and all other motor vehicle parts qualify as small businesses if they employ 750 or fewer employees. See *http://www.sba.gov/size/sizetable.pdf* for further details.

Many small businesses are subject to the penalty provisions of 49 U.S.C. Chapter 301 (Motor Vehicle Safety Act) and therefore may be affected by the adjustments made in this rulemaking. For example, based on comprehensive reporting pursuant to the early warning reporting (EWR) rule under the Motor Vehicle Safety Act, 49 CFR part 579, of the more than 60 light vehicle manufacturers reporting, over half are small businesses. Also, there are other, relatively low production vehicle manufacturers that are not subject to comprehensive EWR reporting. Furthermore, there are about 70 registered importers. Equipment manufacturers (including importers), entities selling motor vehicles and motor vehicle equipment, and motor vehicle repair businesses are also subject to penalties under 49 U.S.C. 30165.

As noted throughout this preamble, this rule will only increase the maximum penalty amounts that the agency could obtain for a single violation and a related series of violations of various provisions of the Motor Vehicle Safety Act, as well as for a series of related violations of bumper standards, and a series of related violations of consumer information requirements for violations. Under the Motor Vehicle Safety Act, the penalty provision requires the agency to take into account the size of a business when determining the appropriate penalty in an individual case. See 49 U.S.C. 30165(b). The agency would also consider the size of a business under its civil penalty policy when determining the appropriate civil penalty amount. See 62 FR 37115 (July 10, 1997) (NHTSA's civil penalty policy under the Small Business Regulatory Enforcement Fairness Act (''SBREFA'')). The penalty adjustments would not affect our civil penalty policy under SBREFA.

Since this regulation does not establish penalty amounts, this rule will not have a significant economic impact on small businesses. Small organizations and governmental jurisdictions will not be significantly affected as the price of motor vehicles and equipment ought not change as the result of this rule. As explained above, this action is limited to the adoption of a statutory directive, and has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures.

Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The reason is that this rule will generally apply to motor vehicle and motor vehicle equipment manufacturers (including importers), entities that sell motor vehicles and equipment and motor

vehicle repair businesses. It will have very limited applicability to States or local governments, as where they purchase or lease 15 passenger vans used for certain school purposes or activities, which vans do not comply with federal motor vehicle safety standards for school buses and multifunction school activity buses. Thus, the requirements of Section 6 of the Executive Order do not apply.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million effect, no Unfunded Mandates assessment will be prepared.

Executive Order 12778 (Civil Justice Reform)

This rule does not have a retroactive or preemptive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, we state that there are no requirements for information collection associated with this rulemaking action.

Privacy Act

Please note that 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), or you may visit *http://dms.dot.gov.*

List of Subjects in 49 CFR Part 578

Imports, Motor vehicle safety, Motor vehicles, Rubber and Rubber Products, Tires, Penalties.

In consideration of the foregoing, 49 CFR part 578 is amended as set forth below.

PART 578—CIVIL AND CRIMINAL PENALTIES

■ 1. The authority citation for 49 CFR Part 578 is revised to read as follows:

Authority: Pub. L. 101–410, Pub. L. 104–134, Pub. L. 109–59, 49 U.S.C. 30165, 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32902, 32912, and 33115; delegation of authority at 49 CFR 1.81, 1.95.

■ 2. Section 578.6 is amended by revising paragraphs (a), (c)(2), and (d)(1) and adding paragraph (i) to read as follows:

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

(a) *Motor vehicle safety*—(1) *In general.* A person who violates any of sections 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, or 30141 through 30147 of Title 49 of the United States Code or a regulation prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than $7,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum civil penalty under this paragraph for a related series of violations is $17,350,000.

(2) *School buses.* (A) Notwithstanding paragraph (a)(1) of this section, a person who:

(i) Violates section 30112(a)(1) of Title 49 United States Code by the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in 49 U.S.C. 30125(a)); or

(ii) Violates section 30112(a)(2) of Title 49 United States Code, shall be subject to a civil penalty of not more than $11,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by this section. The maximum penalty under this paragraph for a related series of violations is $17,250,000.

(3) *Section 30166.* A person who violates section 30166 of Title 49 of the United States Code or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is $7,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is $17,350,000.

* * * * *

(c) * * *

(2) The maximum civil penalty under this paragraph (c) for a related series of violations is $1,225,000.

(d) *Consumer information*—(1) *Crashworthiness and damage susceptibility.* A person who violates 49 U.S.C. 32308(a), regarding crashworthiness and damage susceptibility, is liable to the United States Government for a civil penalty of not more than $1,100 for each violation. Each failure to provide information or comply with a regulation in violation of 49 U.S.C. 32308(a) is a separate violation. The maximum penalty under this paragraph for a related series of violations is $600,000.

* * * * *

(i) *Medium- and heavy-duty vehicle fuel efficiency.* The maximum civil penalty for a violation of the fuel consumption standards of 49 CFR part 535 is not more than $37,500 per vehicle or engine. The maximum civil penalty for a related series of violations shall be determined by multiplying $37,500.00 times the vehicle or engine production volume for the model year in question within the regulatory averaging set.

Issued on: November 19, 2012.

David L. Strickland,

Administrator.

[FR Doc. 2012–28694 Filed 11–26–12; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 77, No. 228
Tuesday, November 27, 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 AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 304, 327, 381, and 590

[Docket No. FSIS–2009–0022]

RIN 0583–AD39

Electronic Import Inspection Application and Certification of Imported Products and Foreign Establishments; Amendments To Facilitate the Public Health Information System (PHIS) and Other Changes To Import Inspection Regulations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the meat, poultry, and egg products import regulations to provide for the Agency's Public Health Information System (PHIS) Import Component. The PHIS Import Component, launched on May 29, 2012, provides an electronic alternative to the paper-based import inspection application and imported product foreign inspection and foreign establishment certificate processes. In addition, the Agency is proposing to delete the discontinued ''streamlined'' import inspection procedures for Canadian product and to require Sanitation Standard Operating Procedures (SOPs) at official import inspection establishments. In addition to the proposed regulatory amendments outlined above, FSIS is announcing its intention to discontinue its practice of conducting imported product reinspection based on a foreign government's guarantee to replace a lost or incorrect foreign inspection certificate and is clarifying its policy of addressing imported product that is not presented for reinspection.

DATES: Submit comments on or before January 28, 2013.

ADDRESSES: FSIS invites interested persons to submit comments on this proposed rule. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov*. Follow the online instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E. Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2009–0022. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov*.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E. Street SW., Room 8–164A, Washington, DC 20250–3700 between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Stanley, Director, International Policy Division, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 2125, Washington, DC 20250–3700, Phone: (202)720–0287.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 620) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 466) prohibit the importation of meat and poultry products into the United States if such products are adulterated or misbranded and unless they comply with all the inspection and other requirements of the Acts and regulations as are applied to domestic products. The Egg Products Inspection Act (EPIA) (21 U.S.C. 1046) prohibits the importation of egg products unless they were processed under an approved continuous inspection system of the government of the foreign country of origin and comply with the other pertinent requirements of the Act and regulations as are applied to domestic products.

Foreign Establishment Certificate

The meat and poultry products import regulations require that an official of the foreign inspection system determine and certify, on an annual basis, only those foreign establishments that are eligible to have their products imported into the United States (9 CFR 327.2 (a)(3) and 381.196(a)(3)). The certificate prescribes a narrative statement format for certifying that the establishments fully comply with all of the requirements applied to official establishments in the United States and otherwise meet the requirements of 9 CFR 327.2(a) and 381.196(a). The certificate must list the name, address, and control number (the establishment number assigned by the foreign inspection agency) of each establishment and include the foreign official's title, signature, and date.

The egg products import regulations require that egg products imported into the United States must be from foreign countries that comply with the EPIA and the applicable regulations (9 CFR 590.910). When FSIS determines that a foreign country is eligible to import egg products into the United States, the foreign country is listed in 9 CFR 590.910(b).

Imported Product Foreign Inspection Certificates

The meat, poultry, and egg products import regulations require a foreign inspection certificate for every shipment of product imported into the United States (9 CFR 327.4, 381.197, and 590.915). The regulations provide for four foreign product inspection certificates—a fresh meat and meat byproducts certificate, a meat food product certificate, a poultry product certificate, and an egg products certificate.

The regulations also prescribe a narrative statement and format, certifying that the product was derived from livestock and poultry that received ante-mortem and post-mortem veterinary inspections at the time of slaughter in establishments certified for importation of their products into the

United States, is not adulterated, and is in compliance with requirements equivalent to domestic requirements. The egg products inspection certificate must certify that the product was produced under the approved regulations, requirements, and continuous government inspection of the exporting country.

In addition, the regulations require specific information about the product, including the kind of product, the consignor and consignee (for meat and poultry product certificates), the importer and exporter (for egg product certificates), the weight, the identification marks on the product, the establishment number, the number of containers, and the shipping marks. The certificates must also include the date of certification and the name, title, and signature of the foreign official authorized to issue inspection certificates. Each foreign meat inspection certificate must be both in English and the language of the foreign country and bear the official seal of the national government agency responsible for the inspection of the product. The meat and poultry products foreign inspection certificate is required to be in the form illustrated in 9 CFR 327.4(a) and (b) and 381.197(b).

Import Inspection Application

The FSIS meat, poultry, and egg products import regulations require importers to apply for the inspection of imported product (9 CFR 327.5, 381.198, and 590.920).

Prior to the PHIS Import Component implementation, applicants submitting paper-based applications completed FSIS Form 9540–1, ''Import Inspection Application and Report,'' for meat and poultry products and, for egg products, FSIS Form 5200–8, ''Import Request Egg Products.'' The import inspection application forms were submitted to FSIS import inspection program personnel.

Prior Notification of Imported Product

The meat, poultry, and egg products import regulations require that the importer apply for the inspection of imported product as long as possible in advance of the anticipated arrival of each consignment (9 CFR 327.5(b), 381.198(a), and 590.920). Prior to the PHIS Import Component implementation, meat and poultry products applications (FSIS Form 9540–1) were submitted to import inspection personnel when the product was presented for reinspection at an official import inspection establishment. For egg products, applicants submitted the import inspection application (FSIS Form 5200–8) to FSIS electronically by facsimile or email prior to the product entering the country.

Streamlined Inspection Procedures for Canadian Products

The meat and poultry product import regulations require that products be reinspected before they are allowed entry into the United States (9 CFR 327.6 and 381.199). The regulations require that every lot of imported product be given a visual inspection for appearance and condition, proper certification, and labeling compliance (9 CFR 327.6(a)(2) and 381.199(a)(2)). Reinspection levels and procedures are computer generated based on established sampling plans, or established sampling plans and established product and plant history (9 CFR 327.6(a)(3) and 381.199(a)(3)).

For participating Canadian establishments, the meat and poultry import regulations provide ''streamlined'' inspection procedures on a voluntary basis (9 CFR 327.5 (d) and 381.199(b)). Under these streamlined procedures, Canadian officials contact FSIS import offices directly for reinspection assignments. If the shipment is not designated for reinspection, it can proceed to the consignee for further distribution. If the shipment is designated for reinspection, Canadian officials select the samples according to USDA sampling tables and identify and place the samples in the vehicle for easy removal and reinspection by an FSIS import inspector. These streamlined procedures were provided in January 1989 to further the goal of the 1988 U.S.-Canada Free Trade Agreement to reduce trade restrictions between the United States and Canada.

Sanitation Standard Operating Procedures (SOPs) Requirements for Official Import Inspection Establishments

FSIS meat import regulations require that all imported products be inspected only at an official establishment or at an official import inspection establishment (9 CFR 327.6(b)). Owners or operators of establishments where imported product is inspected must furnish adequate sanitary facilities and equipment for examining the product and, as a condition for approval, must comply with the provisions of the sanitation regulations, 9 CFR 416.1 through 416.6 (9 CFR 327.6(e)). However, 9 CFR 327.6(e) does not require that official import inspection establishments comply with the Sanitation SOP requirements provided in 9 CFR 416.11 through 416.17.

FSIS poultry and egg products import regulations do not require product inspection only at an official establishment or official import inspection establishment. However, in practice, imported poultry and egg products are inspected only at official establishments or official import inspection establishments.

PHIS Import Component

FSIS launched the PHIS Import Component on May 29, 2012. The PHIS Import Component replaced the Agency's Automated Import Inspection System (AIIS) and integrated and automated its paper-based business processes into one comprehensive and automated data-driven import inspection system. The PHIS enables U.S. importers to file for FSIS inspection in advance of arrival of shipments destined to the United States. The PHIS also enables the receipt of electronic foreign health certificate information that provides a secure and timely advance notice of a foreign shipment certified by a foreign government.

Information on implementation of the PHIS Import Component is provided on the FSIS Web site at *http://www.fsis.usda.gov/regulations_&_policies/PHIS_Import_Component/index.asp.* FSIS is also coordinating with foreign countries to enable the electronic submission of the foreign establishment and foreign inspection certifications. Any updated information will be posted on the Agency's PHIS Import Component Web site.

PHIS and the Automated Commercial Environment (ACE) Interface

FSIS has actively participated in the development of the International Trade Data System (ITDS), a government-wide project to build an electronic ''single-window'' for collecting and sharing trade data for reporting imports and exports among federal agencies. The goal of the ITDS is to eliminate the redundant reporting of data, replacing multiple filings, many of which are on paper, with a single electronic filing. The U.S. Customs and Border Protection (CBP) has developed the Automated Commercial Environment (ACE), a U.S. commercial trade processing system that automates border processing of products. The ACE system connects the trade community and participating government agencies by providing a single, centralized, online access point. When applicants file entries with the CBP through ACE, relevant data is electronically distributed to appropriate government agencies.

The PHIS interfaces with the ACE, permitting the direct electronic transfer of imported meat, poultry, and egg products data directly into the PHIS Import Component. FSIS considers any electronic data transferred from ACE into the PHIS Import Component as certified by the applicant. In addition, FSIS considers any electronic records, digital images, data, or information from a foreign government for foreign inspection and foreign establishment certification to be equivalent to paper records and certified by the foreign government.

When developing, procuring, maintaining, or using electronic and information technology (EIT), federal agencies are required by Section 508(a)(1)(a) of the Rehabilitation Act of 1973 (29 U.S.C. 794d) to ensure that EIT is accessible to people with disabilities, including employees and members of the public. The PHIS Import Component meets these requirements.

Proposed Amendments

Foreign Establishment Certification

As discussed above, FSIS meat and poultry import inspection regulations require an official of the foreign government to determine and certify the foreign establishments that are eligible to export their products into the United States. The regulations require a prescriptive narrative statement certifying that the establishments fully meet the requirement of 9 CFR 327.2(a)(2)(i) and (ii) and 381.196(a)(2)(i) and (ii). The establishment certificate must also include: the date; the foreign country; the foreign establishment's name, address, and control number (the foreign establishment's number assigned by the foreign country); and the foreign official's title and signature.

FSIS is proposing to amend 9 CFR 327.2(a)(3) and 381.196(a)(3) to provide concise regulatory language, delete the prescriptive narrative statement on the certificate, and require (in addition to information listed above): the type of operations conducted at the foreign establishment (e.g., slaughter, processing, storage, exporting warehouse), and the establishment's eligibility status (i.e., identify establishments that have been added or delisted and subsequently relisted since the last annual certification). In addition, for slaughter and processing establishments, the Agency is proposing to require the species and type of products produced and the process category. This information is necessary to ensure that FSIS has complete information on the types of products produced and the types of operations conducted in each foreign establishment.

Because the foreign establishment certification regulations are currently paper-based, FSIS is proposing to provide for the electronic transmittal of foreign establishment certifications to FSIS from foreign governments. FSIS will continue to require that foreign establishment certifications be renewed on an annual basis and that, consistent with current procedures, paper certificates, if used, be submitted to FSIS Headquarters.

As discussed above, the egg products import regulations provide for foreign country (not establishment) certification to export to the United States. FSIS is not proposing foreign establishment eligibility requirements for imported egg products at this time. The Agency will propose foreign establishment certification in a separate proposed rule, currently under development.

Imported Product Foreign Inspection Certificates

As discussed above, the foreign product inspection certificate regulations provide four types of certificates—a fresh meat and meat byproducts certificate, a meat food product certificate, a poultry product certificate, and an egg products certificate. The meat and poultry certificates contain a form with a prescriptive narrative statement certifying that the products listed on the certificate are in compliance with equivalent U.S requirements in the Acts and regulations. The imported egg products foreign inspection certificate regulation specifies the required information.

To clarify and simplify the foreign inspection certificate requirement, FSIS is proposing to require the same information for meat, poultry, and egg products and delete the prescriptive narrative and format requirements for meat and poultry foreign inspection certificates. The meat and poultry products foreign inspection certificate's narrative statement reiterates the requirements in 9 CFR 327.2 and 381.196 with respect to ante-mortem and post-mortem inspection, establishment certification, sanitary handling of product, and requirements equivalent to those in Acts and relevant regulations, and therefore, is unnecessary. The prescriptive formatting requirements (i.e., certificate title, headings, lines) for meat and poultry foreign inspection certificates are also unnecessary.

The Agency is also proposing to delete the requirement that the meat foreign inspection certificates bear the official seal of the government agency responsible for the inspection of the product and be in the language of the foreign country of origin (9 CFR 327.4(c) and (d)). The certificates must in English so they can be read by U.S. import inspectors, and the seal has no purpose. In addition, the Agency is proposing to delete the requirement that the meat and poultry inspection certificate identify the foreign city. The foreign establishment number provides sufficient information to identify the foreign city.

The egg products foreign inspection certificate requires the name and address of the importer and the exporter, but not the name and address of the consignee and the consignor. The meat and poultry products foreign inspection certificate requires the consignor and consignee addresses, but not the importer and exporter addresses. The ''exporter'' is the party in the foreign country that sold the product. The ''importer'' is the party in the United States to whom the overseas shipper sold the imported product. The ''consignee'' is the party that holds the product for sale or for delivery. The ''consignor'' is the party that delivers the product to the consignee. The Agency is proposing to amend its regulations to require the identity and address of the consignee, consignor, exporter, and importer and is proposing that this information be provided for meat, poultry, and egg product inspection certificates. The Agency is also proposing to delete the product ''destination'' requirement since it will be replaced with the ''consignee address.'' This information provides additional contact information concerning who owns or is responsible for the product, where the product is coming from, and its destination.

In addition to the current required information, the Agency is proposing to require: the source country and foreign establishment number for the source material when the source materials originate from a country other than the exporting country; and the product's description, including the process category, the product category, and the product group.

The product's source information is needed to verify that the source materials are from countries and establishments eligible to export products to the United States, and that the product itself is eligible to be imported into the United States. The product description information, including the process category, the product category, and the product group provides further information about the

product and assists in accurately assigning product reinspections and laboratory testing. FSIS also collects this information in PHIS for domestic plants. Examples of process categories include: raw product (non-intact)—ground; raw product (intact)—not ground; thermally processed (commercially sterile); not heat treated (shelf stable); heat treated (shelf stable); fully cooked (not shelf stable); and heat treated but not fully cooked (not shelf stable). Within these process categories are the product categories, e.g., raw ground, comminuted, or otherwise non-intact (species); raw intact (species); not ready-to-eat otherwise processed (species); ready-to-eat dried meat; and ready-to-eat fully cooked (species). Within the product categories are the product groups, e.g., ground beef, hamburger, carcass, primals, sausage, ham, soups. FSIS will issue guidelines to assist foreign governments in completing the process category, product category, and product group portion of the foreign inspection certificate.

Because the foreign inspection certification regulations are currently paper-based, FSIS is proposing to amend the foreign product inspection certificate regulations to provide for the electronic transmittal of foreign inspection certifications. For electronic foreign inspection certifications, foreign governments will transmit data, which will serve as the certification that the product meets the FSIS regulatory requirements.

In addition, FSIS is proposing that the Administrator may specifically request any additional information necessary to determine whether the product is eligible to be imported into the United States. Such information may include, when appropriate, production date information. Production date information will be requested when restrictions have been placed on the country, the foreign establishment, or its products, to determine whether the product was produced in the foreign establishment during an eligible or ineligible timeframe. Import inspection personnel will notify the importer or the foreign official when additional information is required.

Import Inspection Application

The Agency has revised FSIS Form 9540–1, Import Inspection Application, to include egg products and additional information the Agency needs to accurately assign reinspection tasks and sampling of the product. FSIS will ensure that copies of this revised application are available to applicants in paper format.

FSIS is proposing to amend the imported product inspection application regulations (9 CFR 327.5, 381.198, and 590.920) to require that applicants submit FSIS Form 9540–1, Import Inspection Application, to import inspection personnel for the inspection of any product offered for entry into the United States. The Agency is also proposing to provide the option of submitting the application electronically or in paper.

As discussed above, the PHIS Import Component interfaces with the ACE, permitting the direct electronic transfer of relevant data from imported meat, poultry, and egg products entries submitted through ACE into the PHIS. Applicants that are filing at ports that are not under CBP control (e.g., American Samoa, Guam) can continue to submit paper import inspection applications to FSIS inspection personnel at an official import inspection establishment.

Prior Notification of Imported Product

As discussed above, FSIS requires importers to provide advance notice, as long in advance as possible, before the anticipated arrival of each consignment (9 CFR 327.5, 381.198, and 590.920). FSIS will continue to require advance notification but is proposing to revise the regulations to make clear that applicants must submit electronic or paper import inspection applications to FSIS in advance of the shipment's arrival but no later than when the entry is filed with CBP. Paper applications must be submitted to the official import establishment where the reinspection is to be performed.

Streamlined Inspection Procedures for Canadian Products

As discussed above, the meat and poultry import regulations provide streamlined inspection procedures for products imported from Canada (9 CFR 327.5 and 381.198). The Canadian streamlined procedures became effective January 1989.

In response to a congressional request, the General Accounting Office (now known as the Government Accountability Office, or GAO) reviewed, among other things, how the streamlined inspection procedures differed from past procedures, and how the procedures affected the imported product rejection rate between 1988 and 1989. The GAO issued its findings in July 1990.[1]

[1] ''Food Safety—Issues USDA Should Address Before Ending Canadian Meat Inspections,'' United States General Accounting Office Report to Congressional Requestors AO/RCED–90–176, July 1990.

In response to how the streamlined procedures differed from past procedures, the GAO reported that under the new procedures, Canadian shipments were no longer unloaded at a border inspection facility and given the routine visual inspection for general condition and labeling compliance. Canadian government inspectors called FSIS field offices to determine whether a shipment would be subject to comprehensive inspection. Shipments not assigned inspection could proceed directly to their delivery point. If the shipment was selected for a random comprehensive inspection, a Canadian inspector would select the sample, following FSIS instructions, and place it in an accessible location in the back of the truck, eliminating the need for unloading the entire vehicle. After passing through U.S. Customs, the shipment went to an import inspection facility where the selected samples were examined by an FSIS inspector. The GAO expressed concern that FSIS had no control procedure to ensure that samples were pulled in accordance with FSIS instructions. The FSIS inspectors union expressed concern about this procedure because it reduced the control its members had over the inspection process.

In response to how the streamlined procedures affected the rejection rates, GAO reported that the rates were higher in 1989 (the year the streamlined procedures were in effect) than in 1988. However, neither FSIS nor GAO could determine the cause and significance of the increased rejection rate. Because of issues raised in the GAO report, in 1992, the Agency suspended using the streamlined inspection procedures for Canadian product.

FSIS is proposing to delete the discontinued streamlined procedures provided in 9 CFR 327.5(d) and 381.198(b). The Agency is also proposing to amend 9 CFR 327.1 and 381.195, to revise paragraph designations and to remove specific references to ''for product from eligible countries other than Canada'' (9 CFR 327.1(a)(2) and 381.195(a)(2)) and delete paragraphs 9 CFR 327.1(a)(3) and 381.195(a)(3), that provide specific definitions for ''product from Canada.''

Sanitation Standard Operating Procedures (SOPs) Requirements for Official Import Inspection Establishments

As discussed above, 9 CFR 327.6(e) requires that official import inspection establishments, as a condition of approval, meet the sanitation requirements in 9 CFR 416.1 through 416.6. However, the requirements do

not include the Sanitation SOPs in 9 CFR 416.11 through 416.17. Sanitation SOPs are written procedures official establishments are required to develop, implement, and maintain to prevent the direct contamination or adulteration of meat or poultry products.

FSIS is proposing to amend 9 CFR 327.6 (e) to require that an official import inspection establishment must, in order to receive grant of inspection, meet the Sanitation SOPs requirements in 9 CFR 416.11 through 416.17. If this proposed amendment is finalized, official import inspection establishments operating under a grant of inspection must develop and implement written Sanitation SOPs within 60 days after of the publication of the final rule.

In addition, the Agency is proposing to amend the poultry products regulations (9 CFR 381.199) to parallel the meat import regulations requiring that all imported poultry products be inspected only at an official establishment or at an official import inspection establishment approved by the Administrator and the requirements for the conditions of approval (9 CFR 327.6(b), (c), (d), (f), (g), and (h)). Imported poultry products are currently reinspected at an official establishment or import inspection establishment, and this amendment is intended to clarify this requirement.

The Agency is also amending 9 CFR 381.1, ''Definitions'' to include the definition of ''Official Import Inspection Establishment,'' to parallel the definition in 9 CFR 301.2.

In addition, FSIS is proposing to amend the ''Conditions for receiving inspection'' regulations (9 CFR 304.3(a) and 381.22(a)) to clarify that before being granted federal inspection, establishments and official import inspection establishments, must develop written sanitation Standard Operating Procedures(9 CFR 416.12 through 416.7).

Imported egg products are also inspected at official establishments or official import establishments. FSIS is not proposing amendments to the egg products import regulations at this time. The Sanitation SOP requirements for egg products are included in a separate proposed rule, currently under development.

Other Proposed Amendments

FSIS is proposing to amend the poultry products import regulations (9 CFR 381.195(a)(2)(ii)) to replace the meat import regulation citation (9 CFR 327.6) with the correct poultry products regulation citation (9 CFR 381.204), ''Marking of poultry products offered for entry; official import inspection marks and devices.''

Discontinued Import Practice and Enforcement Notification

In addition to the proposed regulatory amendments outlined above, FSIS is announcing that it will end two practices involving imported meat, poultry, and egg products, as discussed below. FSIS is providing 60 days for comment on the changes to these practices.

30-Day Guarantee Foreign Inspection Certificate Replacement

As discussed above, meat, poultry and egg products imported into the United States must be accompanied by foreign inspection certificates (9 CFR 327.4, 381.197, and 590.915). Currently, when an official foreign inspection certificate is lost in transit or contains errors (e.g., wrong product name, species, or quantity of contents, missing foreign official signature), FSIS allows importers (applicants) to request that the foreign country replace the certificate. The foreign country can guarantee the replacement of the certificate within 30 days of the importer's (applicant's) request. When FSIS receives the foreign government's guarantee to replace the certificate, the Agency proceeds with reinspection and permits accepted imported product to enter U.S. commerce.

FSIS is announcing its intention to discontinue the practice of reinspecting imported product based on the foreign government's guarantee to replace the lost or incorrect foreign inspection certificate. If certifications are lost or contain mistakes, they can easily be replaced within a short timeframe. A replacement certificate can be sent to FSIS in a Portable Document Format (PDF) by email (*importinspection@fsis.usda.gov*) or by an expedited mail service, or it can be transmitted electronically through the PHIS. When the regulatory amendments in this proposal are finalized, FSIS will end its practice of reinspecting imported product based on the foreign government's guarantee to replace the foreign inspection certificate. FSIS will only reinspect imported product upon receipt of the foreign inspection certificate.

Failure To Present (FTP) Imported Product for Reinspection

Imported product destined for FSIS import reinspection may sometimes bypass reinspection and enter commerce, where it may be further processed into other products or be offered for sale to the consumer. This bypassing of FSIS reinspection constitutes a ''failure to present'' (FTP) and violates the Acts.

Through the PHIS Import Component, FSIS is able to more effectively and efficiently monitor the movement of imported product. Therefore, when a shipment has been identified as FTP, FSIS will request, through the CBP, a re-delivery and appropriate penalties. If FSIS finds FTP product in distribution channels, the Agency will control the product (e.g., retain or detain the product) or request a recall of the product. If FSIS finds FTP product in an official establishment that is being used in further processed product, FSIS will condemn the FTP product and any further processed product that contains the FTP product. The FTP product that is contained intact in the original cartons from the foreign country can return to an official import inspection establishment, where the FSIS import inspection personnel will stamp the product as ''refused entry.''

Executive Order 12866 and Executive Order 13563

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

Benefits and Costs of the Proposed Rule

The changes under this proposed rule are necessary to provide for the Agency's PHIS Import Component. The PHIS Import Component facilitates trade with foreign countries by providing the electronic exchange of import data and documentation. The PHIS Import Component interfaces with the ACE to provide the automatic transfer of all import-related data among FSIS and other government agencies that regulate trade, such as the CBP. This transfer of data creates new safety standards and strengthens existing ones.

The PHIS Import Component enables FSIS import inspection personnel to verify import shipments using electronic data. The Agency estimates that electronic imported product

information reduces the data-entry time for import inspectors by 50 to 60 percent. This does not mean that the Agency is going to reduce the number of import inspectors based on enhanced PHIS-related efficiencies. This proposed rule streamlines existing import documentation requirements by making the foreign inspection certificate consistent among meat, poultry, and egg products. In addition, the proposed rule updates the required information on applications and certificates to fortify the effectiveness of import inspection regulations. For example, for the import inspection application (FSIS Form 9540–1), the Agency is proposing to require the source country and establishment number when the source materials originate from a country other than the exporting country and the product's production dates. The additional information would help verify that source products are from countries and establishments eligible to export products to the United States, and that the product itself is eligible for importation. The additional information will also assist inspection and enforcement personnel in tracing, retrieving, and controlling product in the event of a recall.

Several changes under this proposed rule may have a cost impact on the industry. Should this proposed rule become final, the Agency believes the impacts will be very small, if any. The impacts would be as follows:

(1) *The electronic foreign inspection and foreign establishment certificates and the electronic import inspection application.* Under this proposed rule, the industry would have the option of filing import inspection applications electronically, and foreign governments would have the option of submitting electronic inspection and foreign establishment certifications and data. Since the electronic option is voluntary, applicants and the foreign countries would choose to file electronically only if it is beneficial to do so.

(2) *Additional information entry.* This proposed rule, if finalized, requires additional information for the import inspection application, which will increase the amount of time to fill out the application. The time needed to provide the additional information will depend on (1) the number of lots, and (2) how the information is entered.

Some of the information required on the new import inspection application is data that are required by other government agencies, such as CBP, and are entered by the applicant into the ACE system. The ACE electronically transmits data elements into PHIS, eliminating the need for entering all of the data requested on the electronic form.

For applicants that submit a paper-based import inspection application, FSIS estimates that it will take 6 more minutes to complete the new application, based on a comparison between the old and the new paper-based application. FSIS also estimates that electronically filing the import inspection application will take, on average, an additional minute per application in comparison with the old paper-based application.[2] Agency data show that there are, on average, a total of 44,480 applications per year that will be filed electronically using the ACE, and that 2,317 applications per year will be completed manually.[3] Therefore, the total additional time for electronically filing the application will be 741 hours (44,480 * 1/60 = 741) and the additional time for completing the new paper-based application will be 232 hours (2,317 * 6/60 = 232). Monetizing these hours by $37 per hour,[4] the estimated cost to complete the new application would be about $36,000 ($37 * (232 + 741)) per year.

(3) Sanitation Standard Operating Procedures (SOPs) as a condition of approval for official import inspection establishments. The proposed rule will clarify that official import inspection establishments must have developed written Sanitation SOPs before being granted approval. If this proposed amendment is finalized, official import inspection establishments will be given 60 days after the publication of the final rule to develop and implement written Sanitation SOPs. Since, in practice, many official import inspection establishments maintain sanitation SOPs during the reinspection of imported products, the proposed amendment requiring sanitation SOPs will have little cost impact (including recordkeeping cost impact) on the industry.

The proposed rule will remove the regulatory provisions for the streamlined import inspection system for Canadian product. Since the procedures have been obsolete since 1992, removing the regulatory provisions will have no significant economic impact.

[2] Time estimate from International Policy Division, Office of Policy and Program Development, FSIS, USDA.

[3] Number of applications from International Policy Division, Office of Policy and Program Development, FSIS, USDA.

[4] Bureau of Labor Statistics ''Occupational Employment & Wages'' Database, May 2010. Animal Production Managers, all other $51.54 @ 47.6% time; General and Operations Managers $33.08 @ 26.2% time; Food scientists and technologists $14.49 @ 26.2% time = $37.00 Managerial Median hourly wage.

Regulatory Flexibility Analysis

The FSIS Administrator has made a preliminary determination that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601–602) this proposed rule would not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act. If small entities are unable to meet the requirements necessary to use the electronic import system, FSIS would continue to accept paper applications. Similarly, the other changes proposed in the rule would not result in significant costs to industry and, therefore, would not have a significant impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this proposed rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no retroactive proceedings will be required before parties may file suit in court challenging this rule.

Executive Order 13175

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection requirement included in this proposed rule concerning the Import Inspection Application (FSIS Form 9540–1) was submitted to OMB for approval as part of the Public Health Information System (PHIS) information collection request. At that time, FSIS anticipated the changes to the Import Inspection Application that it is now proposing and described them in the PHIS information collection request to OMB, which approved the information collection and assigned it OMB control number 0583–0153.

In addition, FSIS has submitted an information collection to OMB for the new information collection associated with the proposed rule.

Title: Electronic Import Inspection

Type of Collection: New

Abstract: Under this proposed rule, FSIS is proposing to require foreign governments to submit additional information when submitting both the foreign establishment certificate and the foreign inspection certificate to FSIS in order for foreign establishments to be permitted to import product to the United States. The current information collection associated with these two certificates is approved under OMB control number 0583–0094.

FSIS is also proposing to require official import inspection establishments to develop, implement, and maintain written Sanitation Standard Operating Procedures (SSOPs), as provided in 9 CFR 416.11 through 416.17.[5]

Estimate of Burden: FSIS estimates that it will take 27.8 hours per foreign government (foreign establishment and foreign inspection certificates) and 157.6 hours per official import inspection establishment (SSOP requirements).

Respondents: Foreign governments (foreign establishment and foreign inspection certificates) and official import inspection establishments (SSOP requirements).

Estimated Number of Respondents: 30 foreign governments and 120 official import inspection establishments.

Estimated Number of Responses per Respondent: 556 responses per foreign government and 523 responses per official import inspection establishments annually.

Estimated Total Annual Burden on Respondents: 834 hours for foreign governments and 18,920 hours for official import inspection establishments for a total of 19,754 hours.

Copies of this information collection assessment can be obtained from John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6083, South Building, Washington, DC 20250–3700.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to both John O'Connell, Paperwork Reduction Act Coordinator, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253. To be most effective, comments should be sent to OMB within 60 days of the publication date of this proposed rule.

[5] The ''Benefits and costs of the proposed rule'' section (above) did not include Sanitation Standard Operating Procedures (Sanitation SOPs) costs. While not currently required, in practice, Import Inspection Establishments maintain Sanitation SOPs; therefore, the proposed rule would not be adding any further costs to import inspection establishments. However, incorporating the Sanitation SOPs into FSIS's regulations requires OMB approval of the associated information collection burden. The cost analysis also did not address the expanded questions addressed to foreign governments because the costs would be experienced by foreign entities.

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Additional Public Notification

FSIS will announce this rule online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/*.

Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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List of Subjects

9 CFR Part 304

Application for inspection; Grant of inspection

9 CFR Part 327

Imported products

9 CFR Part 381

Poultry products inspection regulations

9 CFR Part 590

Inspection of eggs and egg products (Egg Products Inspection Act)

For the reasons set discussed in the preamble, FSIS proposes to amend 9 CFR Chapter III as follows:

PART 304—APPLICATION FOR INSPECTION; GRANT OF INSPECTION

1. The authority citation for Part 304 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. In § 304.3, revise paragraph (a) to read as follows:

§ 304.3 Conditions for receiving inspection.

(a) Before being granted Federal inspection, an official establishment or an official import inspection establishment must have developed written Sanitation Standard Operating

Procedures, as required by part 416 of this chapter.

* * * * *

PART 327—IMPORTED PRODUCTS

3. The authority citation for Part 327 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

4. In § 327.1, revise paragraph (a) to read as follows:

§ 327.1 Definitions; application of provisions.

(a) When used in this part, the following terms are defined to mean:

(1) *Import (imported).* To bring within the territorial limits of the United States whether that arrival is accomplished by land, air, or water.

(2) *Offer(ed) for entry.* The point at which the importer presents the imported product for reinspection.

(3) *Entry (entered).* The point at which imported product offered for entry receives reinspection and is marked with the official mark of inspection, as required by § 327.26.

* * * * *

5. In § 327.2, revise paragraph (a)(3) to read as follows:

§ 327.2 Eligibility of foreign countries for importation of products into the United States.

(a) * * *

(3) Only those establishments that are determined and certified to the Agency by a responsible official of the foreign meat inspection system as fully meeting the requirements of paragraphs (a)(2)(i) and (ii) of this section are eligible to have their products imported into the United States. Establishment eligibility is subject to review by the Agency (including observations of the establishments by Program representatives at times prearranged with the foreign meat inspection system officials). Foreign establishment certifications must be renewed annually. Notwithstanding certification by a foreign official, the Administrator may terminate the eligibility of any foreign establishment for the importation of its products into the United States if it does not comply with the requirements listed in paragraphs (a)(2)(i) and (ii) of this section, or if current establishment information cannot be obtained. The Administrator will provide reasonable notice to the foreign government of the proposed termination of any foreign establishment, unless a delay in terminating its eligibility could result in the importation of adulterated or misbranded product. The electronic foreign establishment certification or paper certificate must contain: the date; the foreign country; the foreign establishment's name, address, and foreign establishment number; the foreign official's title; the foreign official's signature (for paper certificate only); the type of operation(s) conducted at the establishment (e.g., slaughter, processing, storage, exporting warehouse); and the establishment's eligibility status (e.g., new or relisted (if previously delisted)). Slaughter and processing establishment certifications must address the species and type of product(s) produced at the establishment and the process category.

* * * * *

6. Revise § 327.4 to read as follows:

§ 327.4 Foreign inspection certificate requirements.

(a) Except as provided in § 327.16, each consignment imported into the United States must have an electronic foreign inspection certification or a paper foreign inspection certificate issued by an official of the foreign government agency responsible for the inspection and certification of the product.

(b) An official of the foreign government must certify that any product described on any official certificate was produced in accordance with the regulatory requirements in § 327.2.

(c) The electronic foreign inspection certification must be in English, be transmitted directly to FSIS before the product's arrival at the official import inspection establishment, and be available to import inspection personnel.

(d) The paper foreign inspection certificate must accompany each consignment, be submitted to import inspection personnel at the official import inspection establishment, be in English, and bear the signature of the official authorized to issue inspection certificates for products imported to the U.S.

(e) The electronic foreign inspection certification and paper foreign inspection certificate must contain:

(1) The date, name, and title of the official authorized to issue inspection certificates for products imported into the U.S.;

(2) The foreign country of export and the producing foreign establishment number;

(3) The species used to produce the product and the source country and foreign establishment number, if the source materials originate from a country other than the exporting country;

(4) The product's description, including the process category, the product category, and the product group;

(5) The name and address of the consignor;

(6) The name and address of the exporter;

(7) The name and address of the consignee;

(8) The name and address of the importer;

(9) The number of units (pieces or containers) and the shipping or identification mark on the units;

(10) The net weight of each lot; and

(11) Any additional information the Administrator requests to determine whether the product is eligible to be imported into the U.S.

7. Revise § 327.5 to read as follows:

§ 327.5 Import inspection application.

(a) Applicants must submit FSIS Form 9540–1, Import Inspection Application, to apply for the inspection of any product offered for entry. Applicants may apply for inspection using a paper or electronic application.

(b) Import inspection applications for each consignment must be submitted (electronically or paper) to FSIS in advance of the shipment's arrival at the official import establishment where the product will be reinspected, but no later than when the entry is filed with U.S. Customs and Border Protection.

(c) The provisions of this section do not apply to products that are exempted from inspection by §§ 327.16 and 327.17.

8. In § 327.6, revise paragraphs (a) and (e) to read as follows:

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers.

(a)(1) Except as provided in *§§ 327.16 and 327.17, all products offered for entry from any foreign country shall be reinspected by a Program inspector before they shall be allowed entry into the United States.*

(2) Every lot of product shall routinely be given visual inpsection by a Program import inpsector for appearance and condition, and checked for certification and label compliance.

(3) The Public Health Information System (PHIS) shall be consulted for reinspection instructions. The PHIS will assign reinspection levels and procedures based on established sampling plans and established product and plant history.

(4) When the inpsector deems it necessary, the inpsector may sample and inspect lots not designated by PHIS.

* * * * *

(e) Owners or operators of official import inspection establishments must furnish adequate sanitary facilities and equipment for examination of such product. The requirements of §§ 304.2, 307.1, 307.2(b), (d), (f), (h), (k), and (l), and part 416 of this chapter shall apply as conditions for approval of establishments as official import inspection establishments to the same extent and in the same manner as they apply with respect to official establishments.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

9. The authority citation for Part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.7, 2.18, 2.53.

10. In § 381.1, in paragraph (b), add a definition for *Official establishment* in alphabetical order to read as follows:

§ 381.1 Definitions.

* * * * *

(b) * * *

Official import inspection establishment. This term means any establishment, other than an official establishment as defined in this paragraph where inspections are authorized to be conducted as prescribed in § 381.199.

* * * * *

11. In § 381.22, revise paragraph (a) to read as follows:

§ 381.22 Conditions for receiving inspection.

(a) Before being granted Federal inspection, an official establishments or an official import inspection establishment, must have developed written Sanitation Standard Operating Procedures, as required by part 416 of this chapter.

* * * * *

12. In § 381.195, revise paragraph (a) to read as follows:

§ 381.195 Definitions; requirements for importation into the United States.

(a) When used in this part, the following terms are defined to mean:

(1) *Import (imported).* To bring within the territorial limits of the United States whether that arrival is accomplished by land, air, or water.

(2) *Offer(ed) for entry.* The point at which the importer presents the imported product for reinspection.

(3) *Entry (entered).* The point at which imported product offered for entry receives reinspection and is marked with the official mark of inspection, as required by § 381.204.

* * * * *

13. In § 381.196, revise paragraph (a)(3) to read as follows:

§ 381.196 Eligibility of foreign countries for importation of poultry products into the United States.

(a) * * *

(3) Only those establishments that are determined and certified to the Agency by a responsible official of the foreign poultry inspection system as fully meeting the requirements of paragraphs (a)(2)(i) and (ii) of this section are eligible to have their products imported into the United States. Establishment eligibility is subject to review by the Agency (including observations of the establishments by Program representatives at times prearranged with the foreign meat inspection system officials). Foreign establishment certifications must be renewed annually. Notwithstanding certification by a foreign official, the Administrator may terminate the eligibility of any foreign establishment for the importation of its products into the United States if it does not comply with the requirements listed in paragraphs (a)(2)(i) and (ii) of this section, or if current establishment information cannot be obtained. The Administrator will provide reasonable notice to the foreign government of the proposed termination of any foreign establishment, unless a delay in terminating its eligibility could result in the importation of adulterated or misbranded product. The electronic foreign establishment certification or paper certificate must contain: the date; the foreign country; the foreign establishment's name, address, and foreign establishment number; the foreign official's title; the foreign official's signature (for paper certificate only); the type of operation(s) conducted at the establishment (e.g., slaughter, processing, storage, exporting warehouse); and the establishment's eligibility status (e.g., new or relisted (if previously delisted)). Slaughter and processing establishment certifications must address the species and type of product(s) produced at the establishment and the process category.

* * * * *

14. Revise § 381.197 to read as follows:

§ 381.197 Foreign inspection certificate requirements.

(a) Except as provided in §§ 381.207 and 381.209, each consignment imported into the United States must have an electronic foreign inspection certification or a paper foreign inspection certificate issued by an official of the foreign government agency responsible for the inspection and certification of the product.

(b) An official of the foreign government must certify that any product described on any official certificate was produced in accordance with the regulatory requirements in § 381.196.

(c) The electronic foreign inspection certification must be in English, be transmitted directly to FSIS before the product's arrival at the official import inspection establishment, and be available to import inspection personnel.

(d) The paper foreign inspection certificate must accompany each consignment, be submitted to import inspection personnel at the official import inspection establishment, be in English, and bear the signature of the official authorized to issue inspection certificates for products imported to the U.S.

(e) The electronic foreign inspection certification and paper foreign inspection certificate must contain:

(1) The date, name, and title of the official authorized to issue inspection certificates for products imported into the U.S.;

(2) The foreign country of export and the producing foreign establishment number;

(3) The species used to produce the product and the source country and foreign establishment number, if the source materials originate from a country other than the exporting country;

(4) The product's description, including the process category, the product category, and the product group;

(5) The name and address of the consignor;

(6) The name and address of the exporter;

(7) The name and address of the consignee;

(8) The name and address of the importer;

(9) The number of units (pieces or containers) and the shipping or identification mark on the units;

(10) The net weight of each lot; and

(11) Any additional information the Administrator requests to determine whether the product is eligible to be imported into the U.S.

15. Revise § 381.198 to read as follows:

§ 381.198 Import inspection application.

(a) Applicants must submit FSIS Form 9540–1, Import Inspection Application, to apply for the inspection of any product offered for entry. Applicants may apply for inspection using a paper or electronic application.

(b) Import inspection applications for each consignment must be submitted (electronically or paper) to FSIS in advance of the shipment's arrival at the official import establishment where the product will be reinspected, but no later than when the entry is filed with U.S. Customs and Border Protection.

(c) The provisions of this section do not apply to products that are exempted from inspection by §§ 381.207 and 381.209.

16. In § 381.199, revise paragraph (a) and add paragraphs (e) through (k) to read as follows:

§ 381.199 Inspection of poultry products offered for entry.

(a)(1) Except as provided in *§ 381.209 and paragraph (c) of this section, all slaughtered poultry and poultry products offered for entry from any foreign country shall be reinspeced by a Program import inspector before they shall be allowed entry into the United States.*

(2) Every lot of product shall routinely be given visual inspection for appearance and condition, and checked for certification and label compliance.

(3) The Public Health Information System (PHIS) shall be consulted for reinspection instructions. The PHIS will assign reinspection levels and procedures based on established sampling plans and established product and plant history.

(4) When the inpsector deems it necessary, the inpsector may sample and inspect lots not designated by PHIS.

* * * * *

(e) All products, required by this part to be inspected, shall be inspected only at an official establishment or at an official import inspection establishment approved by the Administrator as provided in this section. Such approved official import inspection establishments will be listed in the Directory of Meat and Poultry Inspection Program Establishments, Circuits and Officials, published by the Food Safety and Inspection Service. The listing will categorize the kind or kinds of product which may be inspected at each official import inspection establishment, based on the adequacy of the facilities for making such inspections and handling such products in a sanitary manner.

(f) Owners or operators of establishments, other than official establishments, who want to have import inspections made at their establishments, shall apply to the Administrator for approval of their establishments for such purpose. Application shall be made on a form furnished by the Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC, and shall include all information called for by that form.

(g) Approval for Federal import inspection shall be in accordance with subpart D of part 381.

(h) Owners or operators of establishments at which import inspections of product are to be made shall furnish adequate sanitary facilities and equipment for examination of such product. The requirements of §§ 381.21 and 381.36, and part 416 of this chapter shall apply as conditions for approval of establishments as official import inspection establishments to the same extent and in the same manner as they apply with respect to official establishments.

(i) The Administrator is authorized to approve any establishment as an official import inspection establishment provided that an application has been filed and drawings have been submitted in accordance with the requirements of paragraphs (c) and (d) of this section and he determines that such establishment meets the requirements under paragraph (e) of this section. Any application for inspection under this section may be denied or refused in accordance with the rules of practice in part 500 of this chapter.

(j) Approval of an official import inspection establishment may be withdrawn in accordance with applicable rules of practice if it is determined that the sanitary conditions are such that the product is rendered adulterated, that such action is authorized by section 21(b) of the Federal Water Pollution Control Act, as amended (84 Stat. 91), or that the requirements of paragraph (e) of this section were not complied with. Approval may also be withdrawn in accordance with section 401 of the Act and applicable rules of practice.

(k) A special official number shall be assigned to each official import inspection establishment. Such number shall be used to identify all products inspected and passed for entry at the establishment.

PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

17. The authority citation for part 590 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

18. Revise § 590.915 to read as follows:

§ 590.915 Foreign inspection certificate requirements.

(a) Except as provided in § 590.960, each consignment imported into the United States must have an electronic foreign inspection certification or a paper foreign inspection certificate issued by an official of the foreign government agency responsible for the inspection and certification of the product.

(b) An official of the foreign government agency must certify that any product described on any official certificate was produced in accordance with the regulatory requirements § 590.910.

(c) The electronic foreign inspection certification must be in English, be transmitted directly to FSIS before the product's arrival at the official import inspection establishment, and be available to import inspection personnel.

(d) The paper foreign inspection certificate must accompany each consignment, be submitted to import inspection personnel at the official import inspection establishment, be in English, and bear the signature of the official authorized to issue the inspection certificates for products imported into the U.S.

(e) The electronic foreign inspection certification and paper foreign inspection certificate must contain:

(1) The date, name, and title of the official authorized to issue inspection certificates for products imported into the U.S.;

(2) The foreign country of export and the producing foreign establishment number;

(3) The species used to produce the product and the source country and foreign establishment number, if the source materials originate from a country other than the exporting country;

(4) The product's description including the process category, the product category, and the product group;

(5) The name and address of the consignor;

(6) The name and address of the exporter;

(7) The name and address of the consignee;

(8) The name and address of the importer;

(9) The number of units (pieces or containers) and the shipping or identification mark on the units;

(10) The net weight of each lot; and

(11) Any additional information the Administrator requests to determine whether the product is eligible to be imported into the U.S.

19. Revise § 590.920 to read as follows:

§ 590.920 Import inspection application.

(a) Applicants must submit FSIS Form 9450–1, Import Inspection Application, to apply for the inspection of any product offered for entry. Applicants may apply for inspection using a paper or electronic application.

(b) Import inspection applications for each consignment must be submitted (electronically or paper) to FSIS in advance of the shipment's arrival at the official import establishment where the product will be reinspected, but no later than when the entry is filed with U.S. Customs and Border Protection.

(c) The provisions of this section do not apply to products that are exempted from inspection by §§ 590.960 and 590.965.

Done at Washington, DC, on: October 25, 2012

Alfred V. Almanza,

Administrator.

[FR Doc. 2012–28751 Filed 11–26–12; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. FSIS–2012–0019]

RIN 0583–AD49

Eligibility of the Republic of Korea To Export Poultry Products to the United States

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to add the Republic of Korea (Korea) to the list of countries eligible to export poultry products to the United States. Reviews by FSIS of Korea's laws, regulations, and inspection implementation show that its poultry inspection system requirements are equivalent to the Poultry Products Inspection Act (PPIA) and its implementing regulations. Under this proposal, slaughtered poultry or parts or other products thereof processed in certified Korean establishments would be eligible for export to the United States. All such products would be subject to re-inspection at United States ports-of-entry by FSIS inspectors.

DATES: Comments must be received on or before January 28, 2013.

ADDRESSES: FSIS invites interested persons to submit comments on this proposed rule. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E. Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2012–0019. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Andreas Keller, Director, International Equivalence Staff, Office of International Affairs; telephone (202) 690–5646.

SUPPLEMENTARY INFORMATION:

Background

FSIS is proposing to amend its poultry products inspection regulations to add Korea to the list of countries eligible to export poultry products to the United States (9 CFR 381.196(b)). Korea is not currently listed as eligible to export such products to the United States.

Statutory Basis for Proposed Action

Section 17 of the PPIA (21 U.S.C. 466) prohibits importation into the United States of slaughtered poultry, or parts or products thereof, of any kind unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient that renders them unhealthful, unwholesome, adulterated, or unfit for human food. Under the PPIA and the regulations that implement it, poultry products imported into the United States must be produced under standards for safety, wholesomeness, and labeling accuracy that are equivalent to those of the United States. Section 381.196 of Title 9 of the Code of Federal Regulations (CFR) sets out the procedures by which foreign countries may become eligible to export poultry and poultry products to the United States.

Section 381.196(a) requires a foreign country's poultry inspection system to include standards equivalent to those of the United States and to provide legal authority for the inspection system and its implementing regulations that is equivalent to that of the United States. Specifically, a country's legal authority and regulations must impose requirements equivalent to those of the United States with respect to: (1) Ante-mortem and post-mortem inspection by, or under the direct supervision of, a veterinarian; (2) official controls by the national government over establishment construction, facilities, and equipment; (3) direct and continuous official supervision of slaughtering of poultry and processing of poultry products by inspectors to ensure that product is not adulterated or misbranded; (4) complete separation of establishments certified to export from those not certified; (5) maintenance of a single standard of inspection and sanitation throughout certified establishments; (6) requirements for sanitation and for sanitary handling of product at establishments certified to export; (7) official controls over condemned product; (8) a Hazard Analysis and Critical Control Point (HACCP) system; and (9) any other requirements found in the PPIA and its implementing regulations (9 CFR 381.196(a)(2)(ii)).

In addition to a foreign country's legal authority and regulations, the program itself must be equivalent to the United States. Specifically, the program organized and administered by the national government must impose requirements equivalent to those of the United States with respect to: (1) Organizational structure and staffing, so as to ensure uniform enforcement of the requisite laws and regulations in all certified establishments; (2) ultimate control and supervision by the national government over the official activities of

employees or licensees; (3) qualified inspectors; (4) enforcement and certification authority; (5) administrative and technical support; (6) inspection, sanitation, quality, species verification and residue standards; and (7) any other inspection requirements (9 CFR 381.196(a)(2)(i)).

The foreign country's inspection system must ensure that establishments preparing poultry or poultry products for export to the United States, and their products, comply with requirements equivalent to those of the PPIA and the regulations promulgated by FSIS under the authority of that statute. The foreign country certifies the appropriate establishments as having met the required standards and advises FSIS of those establishments that are certified or removed from certification. Before FSIS will grant approval to the country to export poultry or poultry products to the United States, FSIS must first determine that reliance can be placed on the certification of establishments by the foreign country.

As indicated above, a foreign country's inspection system must be evaluated by FSIS before eligibility to export poultry products to the United States can be granted. This evaluation consists of two processes: a document review and an on-site review. The document review is an evaluation of the laws, regulations, and other written materials used by the country to effect its inspection program. To help the country in organizing its material, FSIS provides the country with a series of questions asking for detailed information about the country's inspection practices and procedures in six areas or equivalence components: (1) Government Oversight, (2) Statutory Authority and Food Safety Regulations, (3) Sanitation, (4) Hazard Analysis and Critical Control Point (HACCP) Systems, (5) Chemical Residue Testing Programs, and (6) Microbiological Testing Programs. FSIS evaluates the information submitted to verify that the critical points in the six equivalence components are addressed satisfactorily with respect to standards, activities, resources, and enforcement. If the document review is satisfactory, an on-site review is scheduled using a multi-disciplinary team to evaluate all aspects of the country's inspection program. This comprehensive process is described more fully on the FSIS Web site at *http://www.fsis.usda.gov/Regulations_&_Policies/equivalence_process/index.asp.*

The PPIA and implementing regulations require that foreign countries be listed in the CFR as eligible to import poultry products into the United States. FSIS must engage in rulemaking to list a country as eligible. Countries found eligible to import poultry or poultry products into the United States are listed in the poultry inspection regulations at 9 CFR 381.196(b). Once listed, it is the responsibility of the eligible country to certify that establishments meet the requirements to export poultry or poultry products to the United States and to ensure that products from these establishments are safe, wholesome, and not misbranded. To verify that products imported into the United States are safe, wholesome, and properly labeled and packaged, FSIS re-inspects and randomly samples those products before they enter the United States commerce.

Evaluation of the Korean Poultry Inspection System

In 2005, the government of Korea requested approval to export poultry products to the United States. If approved, Korea stated its immediate intention to export two types of ginseng chicken stew products to the U.S.:

- Jeukseok Samgyetang (instant ginseng chicken stew). Instant ginseng chicken stew is packed in a retort pouch, heat pasteurized, and stored and transported as a frozen poultry product. This is a ready-to-eat (RTE) poultry product.
- Gohyang Samgyetang (hometown ginseng chicken stew). Hometown ginseng chicken stew is a sterilized retort product, which is shelf-stable. This is a RTE poultry product.

The ginseng used for the production of both poultry products, is an Oriental ginseng (*Panax ginseng*) and is added as a whole food and not as an extract. Therefore, it is not subject to premarket approval by the United States Food and Drug Administration (FDA).

FSIS conducted a review of Korea's poultry (slaughter and processing) inspection system to determine whether it is equivalent to the United States' poultry inspection system. As indicated above, once a foreign country's system is determined equivalent to that of the United States, that country is eligible to import into the United States any poultry product. That is, a country is not then limited to importing a certain type of product, in this case, ginseng chicken stew.

In October 2008, FSIS conducted the first on-site audit of Korea's poultry inspection system to evaluate the performance of the government of Korea with respect to the establishments it is proposing to certify as eligible to export poultry products to the United States. The audit resulted in the identification of systemic deficiencies within the following five equivalence components (as identified by component number): (1) Government Oversight, (3) Sanitation, (4) HACCP, (5) Chemical Residue Testing Programs, and (6) Microbiological Testing Programs. The audit findings stated that with regard to Component 1, Government Oversight, the central competent authority (CCA) did not have adequate government oversight and administrative controls over the inspection system. Inspection activities were being conducted by non-government employees who were paid by the establishment, and the CCA did not provide evidence to demonstrate direct and continuous official supervision by the assigned government inspectors of processing activities for poultry products to ensure that adulterated or misbranded poultry products are not prepared for export to the United States. Regarding Component 3, Sanitation, there was a failure to implement and verify sanitation programs within the system. Likewise, for Component 4, HACCP, there was a failure to implement and verify HACCP requirements within the system. Lastly, with regard to Components 5 and 6 on Chemical Residue Testing Programs and Microbiological Testing Programs, the FSIS auditors were unable to visit any of Korea's official laboratories that conducted chemical or microbiological analyses of poultry products.

Following the 2008 on-site audit, Korea provided a corrective action plan addressing the findings identified during the 2008 on-site audit. FSIS reviewed the corrective action plan and concluded that Korea had not satisfactorily addressed all the audit findings.

In November 2010, FSIS conducted a second on-site audit, which was more comprehensive then the audit conducted in 2008, which did not include a review of Korean laboratories. The 2010 audit was conducted to verify that Korea had satisfactorily implemented all the laws, regulations, and other issuances that FSIS found to be equivalent during the document analysis and to verify that the outstanding issues identified during the previous audit had been resolved. The 2010 audit resulted in the identification of systemic deficiencies within the equivalence components of: (2) Statutory Authority and Food Safety Regulations, (5) Chemical Residue Testing Programs, and (6) Microbiological Testing Programs. Specifically, the 2010 audit findings stated that with regard to Component 2, Statutory Authority and Food Safety Regulations, the CCA did not provide adequate control of establishment

facilities for post-mortem inspection. With regard to Component 5, Chemical Residue Testing Programs, the CCA did not provide adequate control over the implementation of laboratory quality systems within its National Residue Program. Finally, with regard to Component 6, Microbiological Testing Programs, the CCA did not provide adequate controls over the implementation of laboratory quality systems associated with microbiological testing of product which is intended for export to the U.S.

Following the 2010 on-site audit, Korea provided a comprehensive corrective action plan that addressed the findings identified during the 2010 on-site audit. FSIS reviewed Korea's corrective action plan and concluded that Korea had satisfactorily addressed all audit findings. In addition, the November 2010 audit and the subsequent corrective action plan satisfactorily addressed all the findings of the October 2008 and November 2010 audits.

In summary, FSIS has completed the document review, on-site audits, and verification of corrective actions as part of the equivalence process, and all outstanding issues have been resolved. FSIS has determined that, as implemented, Korea's poultry inspection system (slaughter and processing) is equivalent to the United States' poultry inspection system. The full report on Korea's poultry inspection system (slaughter and processing) can be found on the FSIS Web site at: *http://www.fsis.usda.gov/regulations/foreign_audit_reports/index.asp.*

Should this rule become final, the government of Korea must certify to FSIS those establishments that wish to export poultry products to the United States and that operate in accordance with requirements equivalent to that of the United States. FSIS will verify that the establishments certified by Korea's government are meeting the United States requirements through verification audits of Korea's poultry inspection system.

Although a foreign country may be listed in FSIS regulations as eligible to export poultry to the United States, the exporting country's products must also comply with all other applicable requirements of the United States. These requirements include restrictions under 9 CFR part 94 of the United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) regulations, which also regulate the exportation of poultry products from foreign countries to the United States.

If this proposed rule is adopted, all slaughtered poultry, or parts and products thereof, exported to the United States from Korea will be subject to re-inspection at the U.S. ports-of-entry for, but not limited to, transportation damage, product and container defects, labeling, proper certification, general condition, and accurate count.

In addition, FSIS will conduct other types of re-inspection activities, such as incubation of canned products to ensure product safety and taking product samples for laboratory analysis for the detection of drug and chemical residues, pathogens, species, and product composition. Products that pass re-inspection will be stamped with the official United States mark of inspection and allowed to enter United States commerce. If they do not meet United States requirements, they will be refused entry and within 45 days must be exported to the country of origin, destroyed, or converted to animal food (subject to approval of FDA), depending on the violation. The import re-inspection activities can be found on the FSIS Web site at *http://www.fsis.usda.gov/regulations_&_policies/fsis_import_reinspection/index.asp*

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866 by the Office of Management and Budget (OMB) and has been determined to be not significant for purposes of E.O. 12866.

Economic Impact Analysis

This proposed rule would add Korea to the list of countries eligible to export poultry products into the United States. Korea is seeking to export two types of ginseng chicken stew products to the United States. Given the limited market in the United States for this product, and the projected export volume of this product from Korea, the impact on the United States economy is likely to be very small. According to data from Korea, only two Korean establishments are interested in exporting ginseng chicken stew to the United States. The average combined annual production of these two establishments is 3.2 million pounds (2006–2010 average), and their projected total export to the United States will be about 380,000 pounds in year one (the first year of exporting to the United States), gradually increasing to about 2.25 millions pounds in year five, based on data from Korea.

Ginseng chicken stew is sold commercially in frozen pouches. The United States market for ginseng chicken stew is so small that no data on domestic production, consumption, or importation could be found. Using label application data, FSIS identified two official establishments that produce and sell ginseng chicken stew. Based on information from these establishments, FSIS believes (1) they are very likely the only two establishments that are producing ginseng chicken stew in the United States, (2) the market for ginseng chicken stew is limited, (3) the annual production is about 18,000 pouches for one establishment and 10,000 pouches for the other, and (4) each pouch weighs about two pounds. Therefore, the combined production of these two establishments is about 56,000 pounds per year $((18{,}000 + 10{,}000) \times 2)$. The special flavor and taste make ginseng chicken stew unlikely to be a substitute for other kinds of chicken stew in the United States. Therefore, although this rule may affect these two U.S. establishments, the impact to the United States economy is likely to be insignificant.

Expected benefits from this proposed rule will accrue primarily to consumers in the form of more choices in the marketplace. As mentioned above, the volume of trade stimulated by the proposed rule is likely be so small as to have little effect on supply and prices. Another potential benefit of this proposed rule would come from efficiency gains. The United States producers could become more efficient with increased competition from Korea.

The cost of this rule would be incurred by domestic producers in the form of competition from Korea. Indeed, should this rule become final, the two establishments that are currently producing ginseng chicken stew are likely to encounter competition pressure, for the projected import volume in year one is already 6.8 times the combined production volume of these two establishments. The imported volume, however, is likely to have little impact on the overall United States economy. Also, these two establishments may change their production mix if they find it difficult to compete with imports.

Effect on Small Entities

The FSIS Administrator has made a preliminary determination that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). As mentioned above, the expected trade volume will be very small, and the effect will be on only two very small establishments that produce ginseng chicken stew domestically.

Potential Long-Term Effect

When foreign countries apply for equivalence of their meat, poultry, or egg product inspection systems, FSIS determines whether their inspection systems are equivalent to the system maintained by the United States. FSIS does not make equivalence determinations on the basis of particular products; rather, the equivalence decision is based on the evaluation of the foreign countries' inspection systems.

Although Korea indicates that it intends to export two types of ginseng chicken stew products for now, it would not be precluded from exporting other poultry products in the future if the products meet all Animal and Plant Health Inspection Service (APHIS) requirements and any applicable FSIS regulations for those products. Therefore, the long-term economic impact could be larger and more complex than can be assessed now.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted:

(1) All State and local laws and regulations that are inconsistent with this rule will be preempted;

(2) no retroactive effect will be given to this rule; and

(3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

No new paperwork requirements are associated with this proposed rule. Foreign countries wanting to export poultry and poultry products to the United States are required to provide information to FSIS certifying that their inspection system provides standards equivalent to those of the United States, and that the legal authority for the system and their implementing regulations are equivalent to those of the United States. FSIS provided Korea with questionnaires asking for detailed information about the country's inspection practices and procedures to assist that country in organizing its materials. This information collection was approved under OMB number 0583–0094. The proposed rule contains no other paperwork requirements.

E-Government Act

FSIS and the U.S. Department of Agriculture (USDA) are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Additional Public Notification

FSIS will officially notify the World Trade Organization's Committee on Sanitary and Phytosanitary Measures (WTO/SPS Committee) in Geneva, Switzerland, of this proposal and will announce it on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is communicated via Listserv, a free email subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The Update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/.* Options range from recalls, export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call 202–720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

List of Subjects in 9 CFR Part 381

Imported products.

For the reasons set out in the preamble, FSIS is proposing to amend 9 CFR part 381 as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.7, 2.18, 2.53.

§ 381.196 [Amended]

2. Section 381.196 is amended in paragraph (b) by adding ''Republic of Korea'' in alphabetical order to the list of countries.

Done at Washington, DC, on: November 21, 2012.

Alfred V. Almanza,

Administrator.

[FR Doc. 2012–28746 Filed 11–26–12; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R9–ES–2012–0025; 450 003 0115]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the African Lion Subspecies as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the African lion (*Panthera leo leo*) as endangered under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing this subspecies may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the subspecies to determine if listing the African lion is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding this subspecies. Based on the status review, we will issue a 12-month finding on the

petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before January 28, 2013. The deadline for submitting an electronic comment using the Federal eRulemaking Portal (see **ADDRESSES** section, below) is 11:59 p.m. Eastern Time on this date. After January 28, 2013, you must submit information directly to the Branch of Foreign Species (see **FOR FURTHER INFORMATION CONTACT** section, below). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit information by one of the following methods:

- Electronically: Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search field, enter Docket No. FWS–R9–ES–2012–0025, which is the docket number for this action. Then click on the Search button. You may submit a comment by clicking on ''Comment Now!'' If your comments will fit in the provided comment box, please use this feature of *http://www.regulations.gov*, as it is most compatible with our comment review procedures. If you attach your comments as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.
- By hard copy: U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS–R9–ES–2012–0025, Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will not accept comments by email or fax. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Information Requested section, below, for more information).

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703–358–2171. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Requested

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (conduct a status review). For the status review (also called a ''12-month finding'') to be complete, and based on the best available scientific and commercial information, we request information on the African lion from governmental agencies, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species and its habitat.

(2) The factors that are the basis for making a listing determination for a species under section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; and

(e) Other natural or manmade factors affecting its continued existence.

(3) Data that support or refute:

(a) Panmixia (having one, well-mixed breeding population), including evidence of genetic differentiation that may result in traits such as selective growth, sex ratios, increased vulnerability to threats, or habitat preferences;

(b) Existence of population structure to the degree that a threat could have differentiating effects on portions of the population and not on the whole species; and

(c) Statistically significant long-term African lion population declines.

(4) Information on the correlation between climate change and African lion population dynamics, including, but not limited to:

(a) Climate change predictions as they relate to drought, desertification, and African lion food availability, either directly or indirectly through changes in regional climate; and

(b) Quantitative research on the relationship of food availability to the survival of the species.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your information concerning this status review by one of the methods listed in **ADDRESSES**. If you submit information via *http://www.regulations.gov*, your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and supporting documentation that we received and used in preparing this finding is available for you to review at *http://www.regulations.gov*, or by appointment during normal business hours at the U.S. Fish and Wildlife Service, Branch of Foreign Species, Endangered Species Program, Arlington, VA (see **FOR FURTHER INFORMATION CONTACT**).

Evaluation of Information for a 90-Day Finding on a Petition

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR part 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In making this 90-day finding, we evaluated whether information regarding threats to the African lion, as presented in the petition and other

information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly initiate a species status review, which we subsequently summarize in our 12-month finding.

Petition History

On March 1, 2011, we received a petition dated March 1, 2011, from the International Fund for Animal Welfare, the Humane Society of the United States, Humane Society International, the Born Free Foundation/Born Free USA, Defenders of Wildlife, and the Fund for Animals, requesting that the African lion subspecies be listed as endangered under the Act. The petition clearly identified itself as such, and included the requisite identification information, as required by 50 CFR 424.14(a). We acknowledged receipt of the petition in a letter to Mr. Jeff Flocken dated July 17, 2011. This finding addresses the petition.

Previous Federal Action(s)

Although the Asiatic lion (*Panthera leo persica*) has been listed as endangered under the Act since 1970, the African lion (*Panthera leo leo*), is not listed as either endangered or threatened under the Act. The African lion is listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). A discussion of its listing with respect to CITES can be found under the Conservation Status section below.

Species Information

The African lion belongs to the class Mammalia in the family Felidae. There are two recognized subspecies of lion: Asiatic lion (*Panthera leo persica*) (Meyer 1826) and the African lion (*P. leo leo*) (Linnaeus 1758).

The African lion subspecies is a habitat generalist, which historically excluded it only from areas such as rainforest and the arid interior of the Sahara (Ray *et al.* 2005, p. 66; Nowell and Jackson 1996, p. 19). They live in groups called prides, which usually contain between 5 and 9 adult females (Petition, p. 17). This species inhabits arid habitats such as the Kalahari Desert and the Kunene region of northwest Namibia; however pride sizes are typically smaller in arid regions (Stander & Hannsen 2001 in Ray *et al.* 2005, p. 66; Haas *et al.* 2005, p. 5). Lions typically hunt in groups, are opportunistic carnivores, and are primarily active at night (Haas *et al.* 2005, p. 5).

Lions are sexually dimorphic (differences in size, coloration, or body structure between the sexes); males weigh between 20 and 27 percent more than females (Petition, p. 17). Adult males have been recorded to weigh an average of 181 kilograms (kg) (399 pounds), and adult females were observed to weigh an average of 126 kg (278 pounds) (Smuts 1976 in Nowell and Jackson 1996, p. 17). Researchers observed females eating an average of 8.7 kg (19.2 pounds) per day during the dry season, and 14 kg (31 pounds) per day in the wet season (Haas *et al.* 2005, p. 5). Males were observed to eat up to twice as much as females.

Lions have no fixed breeding season, and they give birth to between 1 and 4 cubs (Petition, p. 17). Females may give birth beginning at 4 years of age (Petition, p. 17), and female reproduction begins to decline between 11 and 15 years of age (Nowell and Jackson 1996, p. 19). Often the females in the pride give birth at the same time, which may add to the reproductive success of the pride as a whole (Nowell and Jackson 1996, p. 18). Each pride requires a home range of between 20 and 500 square kilometers (km^2) (8 and 193 square miles (mi^2)). In the wild, males live between 12 and 16 years but have been reported to live up to 30 years (Shoemaker and Pfaff 1997 in Haas *et al.* 2005, p. 5; Guggisberg 1975 in Nowell and Jackson 1996, p. 19).

Population Estimates

The most quantitative estimate of the historic size of the African lion population resulted from a modeling exercise by Bauer *et al.* (2008) that predicted there were 75,800 African lions in 1980 (Bauer *et al.* 2008, p. 1). As of 2008, the International Union for Conservation of Nature (IUCN) estimated that the population declined 30 percent over the past 20 years (Petition, p. 6). Currently African lion experts estimate that the population size is fewer than 40,000, with an estimated population between 23,000 and 39,000 individuals (Petition, p. 6; Bauer *et al.* 2008, p. 1). This is based on the results of two separate assessments. Bauer and Van Der Merwe estimated the African lion population is between 16,500 and 30,000 individuals (2004, p. 26); Chardonnet (2002, Chapter 2, p. 32) estimated the population is between 28,854 and 47,132 individuals. In 2004, the estimate for West and Central Africa combined was 1,800 individuals, with all populations being small and fragmented (Bauer and Van Der Merwe 2004, p. 27). The petition notes that although subpopulations of interbreeding lions in West Africa have been grouped differently (Bauer and Nowell 2004; Chardonnet 2002), there is acknowledgment that the overall population is likely small and declining.

Various researchers and entities, such as the African Lion Working Group (ALWG), describe groups of lions as being organized into subpopulations, and the degree to which these groups interbreed is unclear (Bauer and Van Der Merwe 2004, pp. 27–30). In research conducted by Chardonnet *et al.,* three subpopulations were described as consisting of 18 groups, between which there may be some interchange of individuals, although the amount of interchange is unknown. The size of the largest population in West Africa is also unclear. For example, the ALWG, an organization dedicated to the conservation, research, and management of free-ranging lion populations in Africa, estimates there are 100 lions in Burkina Faso's Arly-Singou ecosystem (Bauer and Van Der Merwe 2004, p. 28), while Chardonnet (2002) estimates 404 individuals in the same area (Chapter 2, Table 12, p. 39). However, both surveys found that only 5 percent of West African lion population estimates met scientific statistical standards. The remainder of the estimates was believed to be less reliable (Bauer and Nowell 2004, p. 2).

Range

Researchers believe that the African lion now occupies a range of less than 4,500,000 km² (1,737,460 mi²), which is 22 percent of the subspecies' historic distribution (Bauer *et al.* 2008, pp. 1–2). One-half of the total African lion population now likely exists in Tanzania, while viable smaller populations remain in Kenya, South Africa, Mozambique, Botswana, Zimbabwe, Zambia, and Namibia (Frank *et al.* 2006, p. 1). The population estimate for East Africa was 11,000 individuals as of 2004 (Bauer and Van Der Merwe 2004, p. 27). These authors noted that the two largest populations were in the Serengeti and Selous ecosystems of Tanzania (Bauer and Van Der Merwe 2004, p. 27). For southern Africa, the population estimate was 10,000 individuals, with the majority being in Botswana and South Africa (p. 27). Most lions in the Central African region are found in the Sahel savannah belt (Bauer and Van Der Merwe 2004, p. 30). The petition indicates that viable populations of African lions existing in protected areas occur in only about 5 percent of the subspecies' currently occupied range, and 1 percent of the subspecies' historical continent-wide range.

The petitioners indicate that since 2002, several African lion populations that have been studied have either declined or disappeared altogether (Henschel *et al.* 2010, pp. 34, 39). The petitioners assert that the latest available information suggests the African lion exists in 27 countries (Petition, p. 7; Henschel *et al.* 2010, p. 34), which is a rapid decrease from its reported existence in 30 countries in 2008 (Bauer *et al.* 2008, p. 1). This subspecies may no longer exist in Congo, Côte d'Ivoire, or Ghana (Henschel *et al.* 2010, p. 34).

Conservation Status

The petition indicates that in the 2008 IUCN Red List of Threatened Species, the IUCN classified the African lion as ''Vulnerable'' with a declining population trend, which means it is considered to be facing a high risk of extinction in the wild (Bauer *et al.* 2008, p. 1). This classification is based on a suspected reduction in population of approximately 30 percent over the past two decades (Bauer *et al.* 2008, p. 1). Because there are believed to be fewer than 1,500 lions remaining in West Africa, lion populations in this region as of 2005 were classified by the IUCN as ''Regionally Endangered'' (Petition, p. 11; Bauer and Nowell 2004, p. 35). Bauer and Nowell indicated that the lion population of West Africa is geographically isolated from the lion populations in Central Africa, and there is little to no exchange of breeding individuals (Bauer and Van Der Merwe 2004; Chardonnet 2002). However, it should be noted that IUCN rankings do not confer any actual protection or management.

CITES

The African lion is listed in Appendix II of CITES. CITES is a multinational agreement through which countries work together to ensure that international trade in CITES-listed species is legal and not detrimental to the survival of the species. There are currently 175 CITES Parties (CITES signatory countries), including the United States. To ensure sustainable use, Parties regulate and monitor international trade in CITES-listed species—that is, their import, export, and re-export—through a system of permits and certificates. CITES lists species in one of three appendices—Appendix I, II, or III. Species such as the African lion that are listed in Appendix II of CITES may be commercially traded. CITES Appendix II includes species that ''although not necessarily now threatened with extinction may become so, unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival.'' The status of the African lion with respect to CITES and how it is affected by trade is discussed below under the Evaluation of Factors section.

CITES Periodic Review of Felidae

Although we are not considering this information in this 90-day finding in accordance with section 4(b)(3)(A) of the Act, the African lion is currently under a periodic review of the CITES Appendices being conducted by the CITES Animals Committee, led by two range countries for the African lion, Kenya and Namibia. This periodic review is based on a recommendation by a Working Group at the 25th meeting of the CITES Animals Committee (AC25) held in July 2011, which recommended that the African lion be considered for inclusion in the Periodic Review of *Felidae,* as part of the Periodic Review of the Appendices (AC25 Doc. 15.2.1). The Animals Committee adopted this recommendation at AC25. The decisions and working documents can be located on the CITES Web site at *http://www.cites.org/eng/com/ac/index.php.* Our status review under the Act will consider the results of the review being conducted through the CITES process. During the status review, the Branch of Foreign Species will consult with the U.S. Division of Scientific Authority, an office within the Fish and Wildlife Service that is directly involved in the work of the CITES Animals Committee, including the Periodic Review of the African lion. Additional information about CITES may be found on the CITES Web site at *http://www.cites.org.*

Evaluation of Petition

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The petition (p. 7) asserts that the African lion now occupies less than an estimated 4,500,000 km² (1,737,460 mi²), which is only 22 percent of the subspecies' historic distribution (Bauer *et al.* 2008, p. 1). Recent research suggests the African lion exists in 27 countries (Henschel *et al.* 2010, p. 34), while just a few years ago in 2008, it was believed to exist in approximately 30 countries (IUCN 2008, Bauer *et al.* 2008, p. 4), indicating that the populations of the African lion continue to decline.

The petitioner states that the loss of habitat and corresponding loss of prey are serious threats to the survival of the African lion (Ray *et al.* 2005, pp. 66–67). The petition points to a study (Ray *et al.* 2005), led by the Wildlife Conservation Society (WCS), that indicates habitat loss is principally driven by the conversion of lion habitat to agriculture and grazing as well as human settlement (Ray *et al.* 2005, pp. 66–67); however, desertification is also indicated to be a factor (Petition, p. 21; United Nations Economic Commission for Africa [UN ECA] 2008, pp. 4–5; Bied-Charreton 2008, p. 1). Desertification, defined as a process of land degradation in arid, semi-arid, and dry, sub-humid areas, is also affecting this species' habitat (UN ECA 2008, p. 3). Ray *et al.* note that where ''protection [for the lion] is poor, particularly outside protected areas, range loss and population decreases can be significant.'' Researchers further note that African lion population declines have been the most severe in West and Central Africa, with only small, isolated populations remaining scattered chiefly through the Sahel area. Lions are declining even in some protected areas and, with the exception of southern Chad and northern Central African Republic, are virtually absent from unprotected areas (Ray *et al.* 2005, p. 67; Bauer 2003, p. S113).

The 2005 WCS study found that most lion populations in protected areas of East and southern Africa have been essentially stable over the last three

decades (Ray *et al.* 2005, pp. 67, 69). However, sub-Saharan Africa experienced a 25 percent increase in the amount of land allocated to agriculture between 1970 and 2000 (Chardonnet *et al.* 2010, p. 24). The significance of the increase in the land being used for agriculture is that there is a higher human population density, and there is a negative correlation between lion density and human density (Chardonnet *et al.* 2002 in Chardonnet *et al.* 2010, p. 24). This species' habitat has decreased in part due to the conversion of wild habitats into areas suitable for livestock farming, which causes environmental degradation and the loss of plant and animal biodiversity (Chardonnet *et al.* 2010, p. 25). Ray *et al.* note that although the African lion has a wide tolerance, African lions are sensitive to loss of cover or prey, and the African lion's way of life and habitat needs are generally incompatible with human activities. Habitat conversion, especially for agriculture, has encroached heavily upon lion habitat throughout the species' range (Ray *et al.* 2005, p. 69). This has resulted in widespread extirpation, fragmentation, and reduced densities of lion populations (Bauer & Van der Merwe 2004 in Ray *et al.* 2005, p. 69; Nowell & Jackson 1996). The increase in conflict is primarily due to the intense persecution of lions in areas as a result of depredation on livestock (Ray *et al.* 2005, p. 68). The petition provides additional citations and information about historical and current impacts to habitat from current or future threats due to these practices within the subspecies' range as supporting information (Petition, pp. 21–22). In summary, we find that the information presented in the petition, as well as the information available in our files, indicates that the African lion may be impacted by the present or threatened destruction, modification, or curtailment of its habitat or range.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petition asserts that the African lion is overutilized to a great extent for trophy hunting (Petition, pp. 22–23; Packer *et al.* 2009, p. 2). The overall effect of trophy hunting on African lion populations is currently unclear. Submitted with the petition, a report prepared by WCS in 2005, noted that Creel and Creel (1997) found little evidence that the decrease in populations due to hunting altered the density of lions in Selous Game Reserve, Tanzania (Ray *et al.* 2005, p. 70). The petition asserts that between 1999 and 2008, 21,914 African lion specimens (lions, dead or alive, and their parts and derivatives), representing a minimum of 7,445 lions, were traded internationally for all purposes (pp. 7, 23; Appendix A). It should be noted that a specimen could be a whole animal, or multiple products made from one animal. The World Conservation Monitoring Centre of the United Nations Environment Programme (UNEP–WCMC) maintains a database on international trade of wildlife taxa that are included in the CITES appendices on behalf of the CITES Secretariat. This trade database, referenced in Appendix A of the Petition, is based on trade reports from the CITES Parties and is available to the public at *http://www.unep-wcmc.org/citestrade.* Each Party to CITES is responsible for compiling and submitting annual reports to the CITES Secretariat regarding their country's international trade in species protected under CITES. Of the trade described in the petition, the United States reportedly imported 13,484 lion specimens coded as being from a wild source between 1999 and 2008 (62 percent of the total). The petition also notes (p. 23) that the number of trophies traded internationally in 2008 (1,140) was larger than any other year in the decade studied and more than twice the number in 1999, which was 518 trophies.

In addition to the trade described above, the petition (pp. 24–25) indicates that, between 1999 and 2008, 3,102 lion specimens, equivalent to likely at least 1,328 lions (which includes trophies, skins, live animals, and bodies), were traded internationally via CITES permits for commercial purposes (Petition, Appendix A).

The petition reports that, for commercial purposes, the most common lion specimens traded were claws (number = 764), trophies (508), skins (442), live animals (3,208), skulls (144), and bodies (58). The petition also indicates that, of this trade, 1,846 lion specimens were imported into the United States, and suggests this may be equivalent to at least 401 lions. The petition notes that other significant importers other than the United States were South Africa, Spain, France, and Germany (Petition, p. 23). The petition also notes that the primary exporting countries of lion parts for commercial purposes were Zimbabwe (914 specimens), South Africa (867), and Botswana (816) (Petition, Appendix A). The petition concludes that these three countries accounted for 83.7 percent of all specimens in commercial trade (Petition, pp. 24–25, Table A9).

Hunting of lions for trophies does occur regularly and provides revenue for many countries in the African lion's range. This practice allows for conservation measures to be implemented for this subspecies. Some countries have implemented measures to mitigate the decrease in lion population numbers based on the effects of trophy hunting on African lion populations (Packer *et al.* 2009, p. 2). Countries have instituted moratoriums on hunting lions for trophies (Botswana in 2001–2004, Zambia in 2000–2001, and western Zimbabwe in 2005–2008), and have implemented measures such as banning the hunting of female lions from the hunting quota (for example in Zimbabwe, starting in 2005) (Packer *et al.* 2009, p. 2). However, lion populations appear to continue to decline (see discussion under *Population Estimates,* above). Additionally, the petition claims that, in some cases, lions are being killed by bushmeat poachers to ensure easier hunting and less competition for bushmeat species because lions compete for species favored by bushmeat hunters (Joubert and Joubert, pers. comm. 2010 in Petition, p. 21).

In addition to the removal of lions from the population due to trophy hunting, there is concern that the use of lion body parts is contributing to the decline in African lion populations. Lion bones are being exported to Asia for use in traditional Chinese medicine, in part as a replacement for tiger parts, which have been more strictly regulated within the recent past (Nowell and Ling 2007, pp. 30–32). Body parts from the African lion are also used for traditional purposes in Africa as well as in Asia. For example, body parts of lions, including fat, skin, organs, and hair, are highly valued for treatment of a variety of different ailments in Nigeria, with lion fat being the most highly valued (Morris undated [n.d.], pp. 1–2). A household questionnaire distributed in rural communities within the range of the African lion found that 62 percent of respondents reported using lion fat in medicine, with just over half of those respondents reporting to have used it in the last 3 years (Morris, n.d., p. 6). The putative medicinal benefits are the healing of fractured and broken bones, and the alleviation of back pain and rheumatism (Morris, n.d., pp. 5–7). The petition claims that, in some African countries such as Guinea-Bissau and parts of Guinea, hunting African lions for their skins for use in traditional ceremonies is considered to be the primary threat to lions, and cited Brugiere *et al.* 2005. The use of lions in traditional African medicine also occurs in East Africa, although it is not well

documented in this region. For example, in May 2010, it was reported that five lions killed close to Queen Elizabeth National Park in Uganda were poisoned for their skin and medicinal value (Karugaba 2010, p. 1). Lion fat is also used in traditional medicine in Tanzania (Petition, p. 41; Baldus 2004, p. 15).

In summary, we find that the information presented in the petition and in our files indicates that overutilization may be occurring with respect to the African lion.

C. Disease or Predation

The petition (p. 9) states that diseases such as canine distemper virus (CDV), feline immunodeficiency virus (FIV), and bovine tuberculosis are viewed by experts as threats to the African lion (Roelke *et al.* 2009, pp. 1–4; Cleaveland *et al.* 2007, p. 613; Michel *et al.* 2006, p. 92). In addition to long-standing ambient diseases that occur in the African lion subspecies, the growth and expansion of the human population may be exposing African lions to new diseases (IUCN Species Survival Commission Cat Specialist Group, 2006b, p. 19) to which African lions may have little or no immunity. For example, CDV, which is normally associated with domesticated dogs, has affected some lion populations (Cleaveland *et al.* 2007, p. 613). In 1994, the Serengeti lion population experienced a 30 percent mortality rate due to a CDV epidemic (Roelke-Parker *et al.* 1996 in Roelke *et al.* 2009, p. 8). In 2001, in Tanzania, mortality occurred in approximately one third of the Ngorongoro Crater lion population, also primarily due to CDV (Munson *et al.* 2008, p. e2545). With respect to FIV, there are several strains which apparently are highly divergent. However, the extent to which FIV negatively affects the African lion in the wild is unclear (Packer pers. comm. in Baldus 2004, p. 58).

Bovine tuberculosis (bTB) is a disease believed to have been caused by the importation of cattle from Europe (Michel *et al.* 2006, p. 92) and is caused by the bacterium *Mycobacterium bovis.* This is significant because in many areas, buffalo are the primary prey of lions. The petition indicates that during one study conducted in Kruger National Park in South Africa, more than 80 percent of lions were found to be infected by bTB and cites Renwick *et al.* 2007. Lions affected with this bacterium experienced respiratory problems, emaciation, lameness, and blindness (Petition, p. 44; Renwick *et al.* 2007, p. 533). Another study found that approximately 20 percent of infected lions did not show evidence of the disease, and 80 percent became infectious (i.e., diseased and contagious) within a 5-year period (Keet *et al.* 2009, pp. 5, 13, 34). However, despite the high prevalence of lions infected with this bacterium, the Kruger lion population has remained stable during the past 20 years (Ferreira and Funston 2010, p. 195).

Given the high level of mortality due to diseases that occur in African lions, particularly newly introduced diseases and the potential pathways for exposure, we find that the information provided in the petition indicates that the African lion may be impacted by disease.

The petition does not present information to indicate that listing the African lion may be warranted due to predation, nor do we have information in our files suggesting that predation to African lions impacts the subspecies, although infanticide is discussed under Factor E, below.

D. The Inadequacy of Existing Regulatory Mechanisms

The petition asserts that there are several existing regulatory mechanisms that are inadequate with respect to the African lion (Petition, pp. 45–53). Some of the regulatory mechanisms cited by the petitioners as being inadequate include: The Rotterdam Convention; the African Union Conventions (Petition, pp. 47–48); the Southern African Development Community (SADC) Protocol on Wildlife Conservation and Law Enforcement; the Lusaka Agreement; the U.S. Endangered Species Act (Act); the U.S. Lacey Act (Petition, pp. 49–50); the U.S. Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); and domestic laws within the African lion's range countries (Petition, pp. 51–52). Some of the impacts that may occur due to inadequate existing regulatory mechanisms are discussed in the other factors, such as the loss of habitat (Factor A), overutilization for the international wildlife trade (Factor B), and effects of inappropriate use of pesticides (Factor E) (Petition, p. 7). Due to the numerous regulatory mechanisms involved, in part because the African lion's range spans approximately 30 countries, we will not evaluate this factor in depth at this 90-day finding stage. We acknowledge that information regarding this factor was submitted with the petition. Based on the interrelationship between regulatory mechanisms and the other factors, we find that the information provided in the petition and in our files indicates that existing regulatory mechanisms may be inadequate in reducing or removing effects associated with certain factors identified in the Petition.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Other Sources of African Lion Mortality

Infanticide

The petition asserts that a secondary, related effect of removing lions through trophy hunting on the African lion occurs due to the behavior of infanticide by adult male lions (Petition, pp. 23–24; Davidson *et al.* 2011, p. 114). When male lions take over a pride, they often kill the lion cubs. The petition asserts that this is significant because trophy hunters preferentially seek adult male lions, which has cascading effects on a pride. When an adult male lion associated with a pride is killed by a trophy hunter, surviving males who form the pride's coalition may become vulnerable to takeover by other male coalitions, and this often results in injury or death to the defeated males within the pride. Replacement males that take over a pride will also usually kill all cubs that are less than 9 months of age in the pride (Whitman *et al.* 2004, p. 175; Nowell and Jackson 1996, p. 18). This practice of killing lion cubs sired by other males is common in this species (Nowell and Jackson 1996, p. 18). Because this behavior is common, the removal of the dominant males in prides through trophy hunting has the effect of not only removing one or two older males, but rather several individuals including the younger cubs from the pride.

Human-Lion Conflict

Retaliatory killing, even with respect to other predatory species, affects lions (Petition, p. 53). Killing of lions because the lions kill livestock has been indicated to be the most serious threat to these large carnivores (Chardonnet *et al.* 2010, p. 11; Baldus 2004, p. 59). Local communities often retaliate against livestock-killing lions (Petition, pp. 53–54; Packer *et al.* 2011, p. 150; Chardonnet *et al.* 2010, p. 11; Kissui 2008, p. 422). WCS found that between 1997 and 2001, approximately 3 percent (number = 93) of the lion population was killed on farm land adjacent to the Kgalagadi Transfrontier Park, Botswana (Frank *et al.* 2006, p. 1; Castley *et al.* 2002 in Ray *et al.* 2005, p. 68). Lions in Amboseli National Park were exterminated in the early 1990s, and three-fourths of the lions in Nairobi Park were speared by local tribesmen within the period of a year (Packer pers comm. in Baldus 2004, p. 59). Because humans are now moving into land formerly

dominated by wildlife, there is more conflict between predators such as lions and humans. Adding to the potential incidences in human-lion conflict, the human population is expected to increase significantly in the next 40 years, particularly in the range of the lion (Petition, p. 20; United Nations, Department of Economic and Social Affairs [UN DESA] 2009, unpaginated). In addition to deliberate killing of lions, lions are killed inadvertently. For example, in northern Serengeti National Park, lions were almost entirely extirpated in the 1980s by poachers setting snares for herbivores (Packer *et al.* 2011, p. 149; Sinclair *et al.* 2003, p. 289).

Compromised [Genetic] Viability

The petition indicates that the African lion is increasingly restricted to small and disconnected populations, which may increase the threat of inbreeding (Petition, p. 54). The petition claims that large lion populations with 50 to 100 prides are necessary to avoid the negative consequences of inbreeding and cites Bjorklund 2003, pp. 515–523. The petition avers that population connectivity is essential in order to allow males to travel to other areas in order to preserve genetic variation. The petition suggests that the lions in Ngorongoro Crater, Tanzania, may be inbred, and subsequently their vulnerability to disease may be increased. Compared with many other mammal species, the population resilience of the lion is high (Chardonnet *et al.* 2010, p. 10). The African lion is capable of producing many young each year, and its reproductive cycle is not limited to a particular season, so the species is able to rapidly recover from losses to its population (Chardonnet *et al.* 2010, p. 10).

The information contained in the petition and in our files indicates that there are several other natural or manmade factors such as human-lion conflict and infanticide by African lions that may result in negative impacts on the African lion.

Finding

On the basis of our review under section 4(b)(3)(A) of the Act, we determine that the petition presents substantial scientific or commercial information indicating that listing the African lion as endangered throughout its range may be warranted. This finding is based on information provided under the present or threatened destruction, modification, or curtailment of its habitat or range (Factor A); overutilization for commercial, recreational, scientific, or educational purposes (Factor B); disease (Factor C); the inadequacy of existing regulatory mechanisms (Factor D); and other natural or manmade factors affecting the subspecies' continued existence (Factor E). The petition does not present substantial information to indicate that listing the African lion may be warranted due to predation, nor do we have information in our files suggesting that predation to African lions impacts the subspecies. The African lion's range spans approximately 30 countries and the factors affecting this species are complex and interrelated. The petition asserts that the subspecies no longer exists in 78 percent of its historic distribution (Bauer *et al.* 2008). Although there is insufficient information in the petition to substantiate that lions may warrant listing as endangered due to compromised genetic viability, we will evaluate this factor in conjunction with other potential threats during the status review. Because we have found that the petition presents substantial information indicating that listing the African lion may be warranted, we are initiating a status review to determine whether listing the African lion under the Act as endangered is warranted.

The ''substantial information'' standard for a 90-day finding differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

References Cited

A complete list of all references cited in this 90-day finding is available on the Internet at *http://www.regulations.gov* or upon request from the Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

Author

The primary author of this finding is Amy Brisendine, Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 23, 2012.

Dan Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2012–28310 Filed 11–26–12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 121025586–2603–01]

RIN 0648–XC326

Listing Endangered or Threatened Species: 90-Day Finding on a Petition To Delist the Southern Resident Killer Whale; Request for Information

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

ACTION: Notice of finding; request for information.

SUMMARY: We, the National Marine Fisheries Service (NMFS), announce a 90-day finding on a petition to delist the Southern Resident killer whale (*Orcinus orca*) Distinct Population Segment (DPS) under the Endangered Species Act (ESA). The Southern Resident killer whale DPS was listed as endangered under the ESA in 2005. We find that the petition viewed in the context of information readily available in our files presents substantial scientific information indicating the petitioned action may be warranted. We are hereby initiating a status review of Southern Resident killer whales to determine whether the petitioned action is warranted and to examine the application of the DPS policy. To ensure the status review is comprehensive, we are soliciting scientific and commercial information pertaining to this species.

DATES: Scientific and commercial information pertinent to the petitioned action and DPS review must be received by January 28, 2013.

ADDRESSES: You may submit information or data by any of the following methods. Electronic Submissions: Submit all electronic information via the Federal eRulemaking Portal *http://www.regulations.gov.* To submit information via the e-Rulemaking Portal, first click the ''submit a

comment'' icon, then enter ''NOAA–NMFS–'' in the keyword search. Locate the document you wish to provide information on from the resulting list and click on the ''Submit a Comment'' icon to the right of that line.

Mail or hand-delivery: Protected Resources Division, NMFS, Northwest Region, Protected Resources Division, 7600 Sand Point Way NE. Attention—Donna Darm, Assistant Regional Administrator.

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. We 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, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Lynne Barre, NMFS Northwest Region, (206) 526–4745; Marta Nammack, NMFS Office of Protected Resources, (301) 427–8469.

SUPPLEMENTARY INFORMATION:

ESA Statutory Provisions and Policy Considerations

On August 2, 2012, we received a petition submitted by the Pacific Legal Foundation on behalf of the Center for Environmental Science Accuracy and Reliability, Empresas Del Bosque, and Coburn Ranch to delist the endangered Southern Resident killer whale DPS under the ESA. Copies of the petition are available upon request (see **ADDRESSES**, above).

In accordance with section 4(b)(3)(A) of the ESA, to the maximum extent practicable within 90 days of receipt of a petition to list or delist a species as threatened or endangered, the Secretary of Commerce is required to make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish such finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition indicates that the petitioned action may be warranted, as is the case here, we are required to promptly commence a review of the status of the species concerned, during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, within 12 months of receipt of the petition we conclude the review with a determination that the petitioned action is not warranted, or a proposed determination that the action is warranted. Under specific facts, we may also issue a determination that the action is warranted but precluded. Because the finding at the 12-month stage is based on a comprehensive review of all best available information, as compared to the more limited scope of review at the 90-day stage, which focuses on information set forth in the petition and information readily available in our files, this 90-day finding does not prejudge the outcome of the status review.

Under the ESA, the term ''species'' means a species, a subspecies, or a DPS of a vertebrate species (16 U.S.C. 1532(16)). A joint NMFS–USFWS policy clarifies the Services' interpretation of the phrase ''Distinct Population Segment,'' or DPS (61 FR 4722; February 7, 1996). The DPS Policy requires the consideration of two elements when evaluating whether a vertebrate population segment qualifies as a DPS under the ESA: Discreteness of the population segment in relation to the remainder of the species, and, if discrete, the significance of the population segment to the species.

A species is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively, 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether a species is threatened or endangered based on any one or a combination of the following section 4(a)(1) factors: (1) The present or threatened destruction, modification, or curtailment of habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; and (5) any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

Under section 4(a)(1) of the ESA and the implementing regulations at 50 CFR 424.11(d), a species shall be removed from the list if the Secretary of Commerce determines, based on the best scientific and commercial data available after conducting a review of the species' status, that the species is no longer threatened or endangered because of one or a combination of the section 4(a)(1) factors. A species may be delisted only if such data substantiate that it is neither endangered nor threatened for one or more of the following reasons:

(1) *Extinction.* Unless all individuals of the listed species had been previously identified and located, and were later found to be extirpated from their previous range, a sufficient period of time must be allowed before delisting to indicate clearly that the species is extinct.

(2) *Recovery.* The principal goal of the Services is to return listed species to a point at which protection under the ESA is no longer required. A species may be delisted on the basis of recovery only if the best scientific and commercial data available indicate that it is no longer endangered or threatened.

(3) *Original data for classification in error.* Subsequent investigations may show that the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error (50 CFR 424.11(d)).

ESA implementing regulations issued jointly by the Services (50 CFR 424.14(b)) define ''substantial information,'' in the context of reviewing a petition to list, delist, or reclassify a species, as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In evaluating whether substantial information is contained in a petition, the Secretary must consider whether the petition (1) clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

Judicial decisions have clarified the appropriate scope and limitations of the Services' review of petitions at the 90-day finding stage, in making a determination that a petitioned action may be warranted. As a general matter, these decisions hold that a petition need not establish a ''strong likelihood'' or a ''high probability'' that a species is or is

not either threatened or endangered to support a positive 90-day finding.

To make a 90-day finding on a petition to list, delist, or reclassify a species, we evaluate whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, including its references and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioners' sources and characterizations of the information presented if they appear to be based on accepted scientific principles (such as citing published and peer reviewed articles and studies done in accordance with valid methodologies), unless we have specific information in our files that indicates that the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be disregarded at the 90-day finding stage, so long as it is reliable and provides basis for us to find that a reasonable person would conclude it supports the petitioners' assertions. In other words, conclusive information indicating that the species may meet the ESA's requirements for delisting is not required to make a positive 90-day finding.

Background

After receiving a petition to list Southern Resident killer whales as threatened or endangered under the ESA in 2001 (CBD, 2001), we formed a Biological Review Team (BRT) to assist with a status review (NMFS, 2002). After conducting the status review, we determined that listing Southern Resident killer whales as a threatened or endangered species was not warranted because Southern Resident killer whales did not constitute a species as defined by the ESA (67 FR 44133; July 1, 2002). Because of the uncertainties regarding killer whale taxonomy (i.e., whether killer whales globally should be considered as one species or as multiple species and/or subspecies), we announced we would reconsider the taxonomy of killer whales within 4 years. Following the determination, the Center for Biological Diversity, and other plaintiffs, challenged our ''not warranted'' finding under the ESA in U.S. District Court. The U.S. District Court for the Western District of Washington issued an order on December 17, 2003, which set aside our ''not warranted'' finding and remanded the matter to us for redetermination of whether the Southern Resident killer whales should be listed under the ESA (*Center for Biological Diversity* v. *Lohn,* 296 F. Supp. 2d. 1223 (W.D. Wash. 2003)). The court found that where there is ''compelling evidence that the global *Orcinus orca* taxon is inaccurate,'' the agency may not rely on ''a lack of consensus in the field of taxonomy regarding the precise, formal taxonomic redefinition of killer whales.'' As a result of the court's order, we co-sponsored a Cetacean Taxonomy workshop in 2004, which included a special session on killer whales, and reconvened a BRT to prepare an updated status review document for Southern Resident killer whales (NMFS, 2004).

The BRT agreed that the Southern Resident killer whale population likely belongs to an unnamed subspecies of resident killer whales in the North Pacific, which includes the Southern and Northern Residents, as well as the resident killer whales of Southeast Alaska, Prince William Sound, Kodiak Island, the Bering Sea and Russia (but not transients or offshores). The BRT concluded that the Southern Resident killer whale population is discrete and significant with respect to the North Pacific resident taxon and therefore should be considered a DPS. In addition, the BRT conducted a population viability analysis which modeled the probability of species extinction under a range of assumptions. Based on the findings of the status review and an evaluation of the factors affecting the DPS, we published a proposed rule to list Southern Resident killer whales as threatened on December 22, 2004 (69 FR 76673). After considering public comments on the proposed rule and other available information, we reconsidered the status of the Southern Resident killer whale DPS and issued a final rule to list the Southern Resident killer whale DPS as endangered on November 18, 2005 (70 FR 69903).

Following the listing, we designated critical habitat, completed a recovery plan, and conducted a 5-year review for Southern Resident killer whales. We issued a final rule designating critical habitat for the Southern Resident killer whales November 29, 2006 (71 FR 69055). The designation includes three specific areas: (1) the Summer Core Area in Haro Strait and waters around the San Juan Islands; (2) Puget Sound; and (3) the Strait of Juan de Fuca, which comprise approximately 2,560 square miles (square km) of Puget Sound. The designation excludes areas with water less than 20 feet (m) deep relative to extreme high water. After engaging stakeholders and providing multiple drafts for public comment, we announced the Final Recovery Plan for Southern Resident killer whales on January 24, 2008 (73 FR 4176). We have continued working with partners to implement actions in the recovery plan. In March 2011, we completed a five-year review of the ESA status of Southern Residents killer whales concluding that no change was needed in their listing status, and that the Southern Resident killer whale DPS would remain listed as endangered (NMFS 2011).

Petition Finding

On August 2, 2012, we received a petition submitted by the Pacific Legal Foundation on behalf of the Center for Environmental Science Accuracy and Reliability, Empresas Del Bosque, and Coburn Ranch to delist the endangered Southern Resident killer whale DPS under the ESA. The petitioners contend that the killer whale DPS does not constitute a listable unit under the ESA because NMFS is without authority to list a DPS of a subspecies. The petitioners also contend that there is no scientific basis for the designation of the unnamed North Pacific Resident subspecies of which the Southern Resident killer whales are a purported DPS. They conclude that the listing of the Southern Resident killer whale DPS is illegal, and therefore, that NMFS should delist the DPS.

The petition focuses entirely on the DPS issue and does not include any information regarding the five section 4(a)(1) factors or status of population. The petitioners provide both a legal argument regarding the DPS determination under the ESA and also a scientific argument regarding the biological basis for the DPS determination. There is no information presented regarding past and present numbers and distribution of the species, the threats faced by the species, or the status of the species over all or a significant portion of its range.

The petition does present new information regarding genetic samples and data analysis pertinent to the question of discreteness and the DPS determination. The source of the new information comes primarily from a scientific peer reviewed journal article published subsequent to the listing (Pilot *et al.,* 2010) which includes information regarding breeding between different ecotypes of killer whales (i.e., offshores and transients). The petitioners also cite new articles regarding killer whale vocalizations,

and review different types of information considered by the BRT and presented in the status review (NMFS, 2004).

As described above, the standard for determination of whether a petition includes substantial information is whether the amount of information presented provides a basis for us to find that it would lead a reasonable person to believe that the measure proposed in the petition may be warranted. We find the analysis of additional genetic samples and publication of new peer reviewed scientific journal articles regarding the taxonomy of killer whales meets this standard, based on the information presented and referenced in the petition, as well as all other information readily available in our files. Because the petition presents substantial scientific evidence indicating that the petition may be warranted we do not address petitioner's legal argument now but rather will do so as appropriate at the 12 month determination.

We note that information and results, similar to those presented in Pilot *et al.* (2010), were available at the time of the Status Review (NMFS, 2004), Cetacean Taxonomy Workshop (Reeves *et al.,* 2004), DPS determination, and listing decision. In addition to the information presented in the petition, we have data from new genetic samples and peer reviewed scientific journal articles (e.g., Morin *et al.,* 2010, Ford *et al.,* 2011) readily available in our files regarding taxonomy and breeding behavior of killer whales that address the discreteness question and the DPS determination. We are also soliciting any new information available to inform the status review. We will consider all of the available information in our determination of whether the delisting of the Southern Resident killer whale DPS is warranted.

Information Solicited

To ensure that our status review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the Southern Resident killer whale DPS. The petition focuses on both the legal and biological aspects of the DPS determination, and the status review will also focus on the DPS determination. We are therefore soliciting new information relevant to the factors considered in the DPS determination.

References Cited

The complete citations for the references used in this document can be obtained by contacting NMFS (See **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**) or on our Web page at:

Authority: 16 U.S.C. 1531 *et seq.*

Dated: November 20, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs.

[FR Doc. 2012–28762 Filed 11–26–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 77, No. 228
Tuesday, November 27, 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 COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC366

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Groundfish Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday, December 19, 2012 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300; fax: (781) 245–0842.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

The Groundfish Oversight Committee will meet to finalize recommendations for Framework Adjustment 48 (FW 48) to the Northeast Multispecies Fishery Management Plan. FW 48 will establish acceptable biological catch and annual catch limits for FY 2013 and beyond, will consider modifying management measures for sector vessels (including measures related to at-sea and dockside monitoring of sector trips), may provide an opportunity for sector vessels to access parts of the year-round closed areas, will consider modifying accountability measures for commercial and recreational vessels, may adopt gear requirements for small-mesh bottom trawl vessels fishing on Georges Bank, and several other issues. The Committee will review the draft framework and may develop recommendations for preferred alternatives for all measures. The Committee may also discuss issues related to monitoring a proposed sector exemption for fishing for redfish. Other business may also be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: November 21, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–28744 Filed 11–26–12; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received On or Before: 12/27/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 USC 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

November 20, 2012

Group 3, 4, 5 Spices

NSN: 8950–01–E60–9321—Spice, Pepper, White, Ground, 6/18 oz. Containers.
NSN: 8950–01–E61–0660—Spice, Oregano, Ground, 6/12 oz. Containers.
NSN: 8950–01–E62–0111—Spice, Cumin, Ground, 6/16 oz. Containers.
NSN: 8950–01–E62–0148—Spice, Bay Leaf, Whole, 3/8 oz. Containers.
NPA: CDS Monarch, Webster, NY.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.
NSN: 6135–01–414–8831—Battery, Non-Rechargeable, 3V, Lithium/Manganese Dioxide.
NSN: 6135–01–447–0949—Battery, Non-Rechargeable, 9V, Alkaline.
NSN: 6135–01–524–7621—Battery, 3.6V, A, Lithium.
NSN: 6140–01–032–1326—Battery, Storage, 12V, Lead Acid, Wet Charged.
NSN: 6140–01–505–1940—Battery, Storage, 12V, Lead Acid, Wet Charged.
NSN: 6140–01–528–2975—Battery, Storage,

12V, Lead Acid, Wet Charged.
NPA: Eastern Carolina Vocational Center, Inc., Greenville, NC.
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH.
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Land and Maritime, Columbus, OH.

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. 2012–28688 Filed 11–26–12; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 12/27/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 9/28/2012 (77 FR 59596–59597), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agency to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the products to the Government.

2. The action will result in authorizing a small entity to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

PRODUCTS:

NSN: CBFF0001—Shirt, Navy Fire Fighters, Unisex, Short Sleeve Polo, Small thru XXX-Large
NSN: CBFF0002—Shirt, Navy Fire Fighters, Unisex, Short Sleeve Polo, Beyond XXX-Large
NSN: CBFF0003—Shirt, Polo, Navy Fire Fighters, Unisex, Long Sleeve, Small thru XXX-Large
NSN: CBFF0004—Shirt, Polo, Navy Fire Fighters, Unisex, Long Sleeve, Beyond XXX-Large
NSN: CBFF0005—Shirt, Navy Fire Fighters, Unisex, Short Sleeve, Neck 14 ½″ thru 19″
NSN: CBFF0006—Shirt, Navy Fire Fighters, Unisex, Short Sleeve, Neck beyond 19″
NSN: CBFF0007—Shirt, Navy Fire Fighters, Unisex, Neck size 14 ½″ to 19″, Long Sleeve, 33″ to 37″
NSN: CBFF0008—Shirt, Navy Fire Fighters, Unisex, Long Sleeve, Neck beyond 19″, Sleeve beyond 37″
NSN: CBFF0009—Pants, Navy Fire Fighters, Women's, Tactical, 6oz., 4 thru 20
NSN: CBFF0010—Pants, Navy Fire Fighters, Women's, Tactical, 6oz., 22 thru 24
NSN: CBFF0011—Pants, Navy Fire Fighters, Women's, Tactical, 6oz., beyond 24
NSN: CBFF0012—Pants, Navy Fire Fighters, Men's, Tactical, 6oz., Waist 30″ thru 48″
NSN: CBFF0013—Pants, Navy Fire Fighters, Men's, Tactical, 6oz., Waist 50″ thru 56″
NSN: CBFF0014—Pants, Navy Fire Fighters, Men's, Tactical, 6oz., Waist beyond 56″
NSN: CBFF0015—Pants, Navy Fire Fighters, Women's, Tactical, 7.5oz., 4 thru 20
NSN: CBFF0016—Pants, Navy Fire Fighters, Women's, Tactical, 7.5oz., 22 thru 24
NSN: CBFF0017—Pants, Navy Fire Fighters, Women's, Tactical, 7.5oz., beyond 24
NSN: CBFF0018—Pants, Navy Fire Fighters Men's, Tactical, 7.5oz., Waist 30″ thru 48″
NSN: CBFF0019—Pants, Navy Fire Fighters, Men's, Tactical, 7.5oz., Waist 50″ thru 56″
NSN: CBFF0020—Pants, Navy Fire Fighters, Men's, Tactical, 7.5oz., Waist beyond 56″
NSN: CBFF0021—Shorts, Navy Fire Fighters, Men's, Tactical, 6oz., Waist 30″ thru 48″
NSN: CBFF0022—Shorts, Navy Fire Fighters, Men's, Tactical, 6oz., Waist 50″ thru 56″
NSN: CBFF0023—Shorts, Navy Fire Fighters, Men's, Tactical, 6oz., Waist beyond 56″
NSN: CBFF0024—T-Shirt, Navy Fire Fighters, Small thru X-Large
NSN: CBFF0024XXL—T-Shirt, Navy Fire Fighters, XX-Large
NSN: CBFF0024XXXL—T-Shirt, Navy Fire Fighters, XXX-Large
NSN: CBFF0024XXXXL—T-Shirt, Navy Fire Fighters, XXXX-large
NSN: CBFF0025—Shirt, Navy Fire Fighters, Men's, Workstation, Small thru X-Large
NSN: CBFF0025XXL—Shirt, Navy Fire Fighters, Men's, Workstation, XX-Large
NSN: CBFF0025XXXL—Shirt, Navy Fire Fighters, Men's, Workstation, XXX-Large
NSN: CBFF0025XXXXL—Shirt, Navy Fire Fighters, Men's, Workstation, XXXX-Large
NSN: CBFF0025XXXXXL—Shirt, Navy Fire Fighters, Men's, Workstation, XXXXX-Large
NSN: CBFF0026—Pants, Navy Fire Fighters, Women's, Uniform, 4 thru 20
NSN: CBFF0027—Pants, Navy Fire Fighters, Women's, Uniform, 22 thru 24
NSN: CBFF0028—Pants, Navy Fire Fighters, Women's, Uniform, Beyond 24
NSN: CBFF0029—Pants, Navy Fire Fighters, Men's, Uniform, Waist 28″ thru 48″
NSN: CBFF0030—Pants, Navy Fire Fighters, Men's, Uniform, Waist 50″ thru 56″
NSN: CBFF0031—Pants, Navy Fire Fighters, Men's, Uniform, Waist beyond 56″
NSN: CBFF0032—Pants, Navy Fire Fighters, Women's, EMS, 4 thru 20
NSN: CBFF0033—Pants, Navy Fire Fighters, Women's, EMS, size 22 thru 24
NSN: CBFF0034—Pants, Navy Fire Fighters, Women's, EMS, beyond 24
NSN: CBFF0035—Pants, Navy Fire Fighters, Men's, EMS, Waist 28″ thru 48″
NSN: CBFF0036—Pants, Navy Fire Fighters, Men's, EMS, Waist 50″ thru 56″
NSN: CBFF0037—Pants, Navy Fire Fighters, Men's, EMS, Waist beyond 56″
NSN: CBFF0038—Belt, Navy Fire Fighters, Leather w/o Buckle, Waist 28″ thru 40″
NSN: CBFF0039—Belt, Navy Fire Fighters, Leather w/o Buckle, Waist 42″ thru 56″
NSN: CBFF0040—Belt, Navy Fire Fighters, Leather w/o Buckle, Waist 58″ thru 62″
NSN: CBFF0041—Belt, Navy Fire Fighters, Leather w/Chrome Buckle, Waist 28″ thru 40″
NSN: CBFF0042—Belt, Navy Fire Fighters, Leather w/Chrome Buckle, Waist 42″ thru 56″
NSN: CBFF0043—Belt, Navy Fire Fighters, Leather w/Chrome Buckle, Waist 58″ thru 62″
NSN: CBFF0044—Belt, Navy Fire Fighters, Leather w/Gold Buckle, Waist 28″ thru 40″
NSN: CBFF0045—Belt, Navy Fire Fighters, Leather w/Gold Buckle, Waist 42″ thru 56″
NSN: CBFF0046—Belt, Navy Fire Fighters, Leather w/Gold Buckle, Waist 58″ thru 62″
NSN: CBFF0047—Belt, Navy Fire Fighters TDU, w/Plastic Buckle, Waist 28″ thru 40″
NSN: CBFF0048—Belt, Navy Fire Fighters TDU, w/Plastic Buckle, Waist 42″ thru 56″
NSN: CBFF0049—Belt, Navy Fire Fighters

TDU, w/Plastic Buckle, Waist 58″ thru 62″
NSN: CBFF0050—Tie Clip, Navy Fire Fighters, Plastic
NSN: CBFF0051—Tie Clip, Navy Fire Fighters, Metal
NSN: CBFF0053—Nameplate, Navy Fire Fighters, 2 Line, Metal
NSN: CBFF0054—Collar, Brass, Navy Fire Fighters, Metal
NSN: CBFF0055—Shorts, Navy Fire Fighters, Physical Training, Small thru X-Large
NSN: CBFF0055XXL—Shorts, Navy Fire Fighters, Physical Training, XX-Large
NSN: CBFF0055XXXL—Shorts, Navy Fire Fighters, Physical Training, XXX-Large
NSN: CBFF0055XXXXL—Shorts, Navy Fire Fighters, Physical Training, XXXX-Large
NSN: CBFF0056—T-Shirt, Navy Fire Fighters, Physical Training, Short Sleeve Small thru X-Large
NSN: CBFF0056XXL—T-Shirt, Navy Fire Fighters, Physical Training, Short Sleeve XX-Large
NSN: CBFF0056XXXL—T-Shirt, Navy Fire Fighters, Physical Training, Short Sleeve, XXX-Large
NSN: CBFF0056XXXXL—T-Shirt, Navy Fire Fighters, Physical Training, Short Sleeve, XXXX-Large
NSN: CBFF0057—Sweat Pants, Navy Fire Fighters, Physical Training, Small thru X-Large
NSN: CBFF0057XXL—Sweat Pants, Navy Fire Fighters, Physical Training, XX-Large
NSN: CBFF0057XXXL—Sweat Pants, Navy Fire Fighters, Physical Training, XXX-Large
NSN: CBFF0057XXXXL—Sweat Pants, Navy Fire Fighters, Physical Training, XXXX-Large
NSN: CBFF0058—Sweat Shirt, Navy Fire Fighters, Physical Training, Small thru X-Large
NSN: CBFF0058XXL—Sweat Shirt, Navy Fire Fighters, Physical Training, XX-Large
NSN: CBFF0058XXXL—Sweat Shirt, Navy Fire Fighters, Physical Training, XXX-Large
NSN: CBFF0058XXXXL—Sweat Shirt, Navy Fire Fighters, Physical Training, XXXX-Large
NSN: CBFF0059—Coveralls, Navy Fire Fighters, Long Sleeve, 34″ to 48″
NSN: CBFF0060—Coveralls, Navy Fire Fighters, Long Sleeve, 50″ to 60″
NSN: CBFF0061—Coveralls, Navy Fire Fighters, Long Sleeve, Beyond 60″
NSN: CBFF0062—Coveralls, Navy Fire Fighters, Short Sleeve, 34″ thru 48″
NSN: CBFF0063—Coveralls, Navy Fire Fighters, Short Sleeve, 50″ thru 60″
NSN: CBFF0064—Coveralls, Navy Fire Fighters, Short Sleeve, Beyond 60″
NSN: CBFF0065—Sweater, Navy Fire Fighters, Unisex, Navy Small thru X-Large
NSN: CBFF0066—Sweater, Navy Fire Fighters, Unisex, Navy, XX-Large thru XXX-Large
NSN: CBFF0067—Sweater, Navy Fire Fighters, Unisex, Navy, Small thru X-Large
NSN: CBFF0068—Sweater, Navy Fire Fighters, Unisex, Navy, XX-Large thru XXX-Large
NSN: CBFF0069—Shirt, Navy Fire Fighters, Short Sleeve, White, Neck 14″ thru 18.5″
NSN: CBFF0070—Shirt, Navy Fire Fighters, Short Sleeve, White, Neck beyond 18.5″
NSN: CBFF0071—Shirt, Navy Fire Fighters, Short Sleeve, White, neck 14″ thru 18.5″, Long Body
NSN: CBFF0072—Shirt, Navy Fire Fighters, Long Sleeve, White, Neck 14.5″ to 18.5″, Sleeve 33″ to 37″
NSN: CBFF0073—Shirt, Navy Fire Fighters, Long Sleeve, White, Neck 19″ and above, Sleeve 33″ to 37″
NSN: CBFF0074—Shirt, Navy Fire Fighters, Long Sleeve, White, Neck 14.5″ to 18.5″ Sleeve Beyond 37″
NSN: CBFF0075—Shirt, Navy Fire Fighters, Long Sleeve, White, Neck 14.5″ to 18.5″ w/Long Body
NSN: CBFF0076—Jacket, Navy Fire Fighters, Cyclone, X-Small thru XXXX-Large
NSN: CBFF0077—Ball Cap, Navy Fire Fighters, Elastic, One Size Fits All
NSN: CBFF0078—Baseball Cap, Navy Fire Fighters, Velcro, One Size Fits All
NSN: CBFF0079—Watch Cap, Navy Fire Fighters, One Size Fits All
NSN: CBFF0080—Watch Cap, Navy Fire Fighters, One Size Fits All
NPA: Oswego Industries, Inc., Fulton, NY
Contracting Activity: DEPT OF THE NAVY, NAVSUP FLT LOG CTR, JACKSONVILLE, FL
COVERAGE: C-List for 100% of the requirement of the Naval Supply Systems Command (NAVSUP) Fleet Logistics Center, Jacksonville, FL, as aggregated by the Naval Supply Systems Command (NAVSUP) Fleet Logistics Center, Jacksonville, FL.

The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) has the statutory responsibility to identify products and services that are suitable for procurement by the Government which are produced or provided by qualified nonprofit agencies employing people who are blind or severely disabled. This responsibility applies whether the project is a new requirement, or is currently performed by a commercial contractor or some other provider, such as FPI. The subject requirement was not strategically sourced from any one contractor in the past. Prior to adding any project to the PL, the Committee conducts a suitability review to ensure that the project has employment potential for people who are blind or severely disabled, that the designated nonprofit agency is qualified and capable of meeting the requirement and any level of impact on the current contractor is not severe. Accordingly, after fully reviewing this project, the Committee has determined that it is a suitable project to be added to the Procurement List.

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. 2012–28689 Filed 11–26–12; 8:45 am]

BILLING CODE 6353–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed Senior Corps Independent Living Evaluation Survey. Senior Corps will require a sample of Senior Companion clients and caregivers to complete the survey. JBS International, Inc., an independent evaluator, will administer the survey, analyze the data, and report the results to CNCS.

Copies of the information collection request can be obtained by contacting the office listed in the addresses section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by January 28, 2013.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Senior Corps; Attention: Zach Rhein, Program Officer, Room 9408–A; 1201 New York Avenue NW., Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) By fax to: (202) 606–3475, Attention: Zach Rhein, Program Officer.

(4) Electronically through *www.regulations.gov.* Individuals who use a telecommunications device for the

deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Zach Rhein, (202) 606–6693, or by email at *zrhein@cns.gov.*

SUPPLEMENTARY INFORMATION: CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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 expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Background

The proposed instrument will collect information from a sample of Senior Companion clients and caregivers. The purpose of the survey is to assess the feasibility of conducting a longitudinal, quasi-experimental evaluation of the impact of independent living and respite services on clients' social ties and perceived social support. The information will be collected by trained interviewers using multi-modal formats including paper, online, or telephone survey. The results of the survey may also be used to inform the feasibility of using a similar instrument to measure client and caregiver outcomes for an evaluation of RSVP.

The instrument uses items from the Health and Retirement Study (HRS), an ongoing study funded by the National Institute on Aging/NIH (NIA U01AG009740) and Social Security Administration.

Current Action

This is a new information collection request.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Senior Corps Independent Living Evaluation Survey.

OMB Number: None.

Agency Number: None.

Affected Public: Recipients of Senior Companion Independent Living services.

Total Respondents: 1400.

Frequency: Once per year.

Average Time Per Response: Averages 40 minutes each.

Estimated Total Burden Hours: 933.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 20, 2012.

Erwin Tan,

Director, Senior Corps.

[FR Doc. 2012–28763 Filed 11–26–12; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Department of Defense Military Family Readiness Council (MFRC); Cancellation of Meeting and Rescheduling of Meeting

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Notice of meeting cancellation; rescheduling of meeting.

SUMMARY: On October 17, 2012 (77 FR 63805–63806), the Department of Defense Military Family Readiness Council (MFRC) announced a meeting to be held on Tuesday, December 11, 2012, from 1:00 p.m. to 4:00 p.m. at Pentagon Conference Center B6. The meeting on December 11 has been cancelled. The meeting is rescheduled for January 31, 2013, from 1:00 p.m. to 3:00 p.m. at Pentagon Conference Center B6.

DATES: The meeting is rescheduled for January 31, 2013, from 1:00 p.m. to 3:00 p.m.

ADDRESSES: Pentagon Conference Center B6.

FOR FURTHER INFORMATION CONTACT: Ms. Melody McDonald or Ms. Betsy Graham, Office of the Deputy Under Secretary (Military Community & Family Policy), 4800 Mark Center Drive, Alexandria, VA 22350–2300, Room 3G15. Telephones (571) 372–0880; (571) 372–0881 and/or email: *FamilyReadinessCouncil@osd.mil.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a), Public Law 92–463, as amended, the Department of Defense announces that this meeting is rescheduled to occur on January 31, 2013, due to scheduling issues. The purpose of the Council meeting is to review the military family programs and finalize the Council recommendations that will appear in the Council's Annual Report.

The meeting is open to the public, subject to the availability of space. Persons desiring to attend may contact Ms. Melody McDonald at 571–372–0880 or email *FamilyReadinessCouncil@osd.mil* no later than 5:00 p.m. on Tuesday, January 22, 2013 to arrange for parking and escort into the conference room inside the Pentagon. Interested persons may submit a written statement for consideration by the Council. Persons desiring to submit a written statement to the Council must notify the point of contact listed in **FOR FURTHER INFORMATION CONTACT** no later than 5:00 p.m., Tuesday, January 8, 2013.

Dated: November 21, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–28756 Filed 11–26–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2012–ICCD–0060]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Federal Family Educational Loan Program—Servicemembers Civil Relief Act (SCRA)

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before December 27, 2012.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2012–ICCD–0060 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments

submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 2E117, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Family Educational Loan Program—Servicemembers Civil Relief Act (SCRA)

OMB Control Number: 1845–0093

Type of Review: Extension of an existing information collection

Respondents/Affected Public: Individuals or households; Private Sector (Not-for-profit institutions), State, Local, or Tribal Government

Total Estimated Number of Annual Responses: 4,952

Total Estimated Number of Annual Burden Hours: 817

Abstract: This is a request for an extension of the approved recordkeeping requirements contained in the regulations related to the administrative requirements of the Federal Family Education Loan (FFEL) program. Effective August 14, 2008, upon a holder's receipt of a written request from a borrower and a copy of the borrower's military orders, the regulations at 34 CFR 682.202(a)(8) provide that the maximum interest (as defined in 50 U.S.C. 527, App. Section 207(d)) that may be charged on FFEL loans made prior to the borrower entering active duty status is six percent while the borrower is on active duty status.

Dated: November 21, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–28724 Filed 11–26–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

U.S. Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), U.S. Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: EIA has submitted a request to the Office of Management and Budget (OMB) to revise a currently-approved data collection under the provisions of the Paperwork Reduction Act of 1995. EIA proposes the following changes to Form EIA–886, *Annual Survey of Alternative Fueled Vehicles,* data collection: (1) The addition of a new vehicle classification code to allow EIA to capture data on plug-in hybrid electric vehicles (PHEVs), which are new to the alternative fuel industry, and (2) the redesign of the questionnaire for the purposes of improving data quality and reducing reporting burdens on respondents to the data collection.

The Form EIA–886 data are collected from suppliers and users of alternative-fueled vehicles (AFVs). EIA uses data from these groups as a basis for estimating total AFV and alternative transportation fuel (ATF) use in the U.S. These data serve as market analysis tools for federal/state agencies, AFV suppliers, vehicle fleet managers, and other interested organizations and persons. The data are used to satisfy the annual reporting requirements to Congress by providing statistical measures on the extent to which the objectives of the Energy Policy Act of 1992 are being achieved. These data are also needed to satisfy numerous public requests for detailed information on AFVs and ATFs (in particular, the number of AFVs distributed by state, as well as the amount and location of the ATFs being consumed).

DATES: Comments regarding this collection must be received on or before December 27, 2012. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718 or contacted by email at *chad_s_whiteman@omb.eop.gov.*

ADDRESSES: Written comments should be sent to the:

DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503,

and to

Cynthia Amezcua, U.S. Energy Information Administration, EI–22, 1000 Independence Avenue SW., Washington, DC 20585, Fax 202–586–9753, *cynthia.amezcua@eia.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Cynthia Amezcua by phone at 202–586–1658 or by email at the address listed, above. The collection instrument and instructions are also available on the Internet at:

Purpose & Instructions	*https://eiaweb.inl.gov/clearance2012/eiaweb-frm886Inst.png*
Part 1: Identification	*https://eiaweb.inl.gov/clearance2012/eiaweb-frm886P1.png*
Part 2: Data from Users	*https://eiaweb.inl.gov/clearance2012/eiaweb-frm886P2.png*
Part 2: Data from Users (with fuel type drop down)	*https://eiaweb.inl.gov/clearance2012/eiaweb-frm886P2-wFuelConfigs.png*
Part 3: Data from Suppliers	*https://eiaweb.inl.gov/clearance2012/eiaweb-frm886P3.png*
Part 3: Data from Suppliers (with fuel type drop down)	*https://eiaweb.inl.gov/clearance2012/eiaweb-frm886P3-wFTypeConfig.png*
Code Reference Sheet	*https://eiaweb.inl.gov/clearance2012/eiaweb-frm886CodeRef.png*

Definitions	*https://eiaweb.inl.gov/clearance2012/eiaweb-frm886Defs.png*
Sanctions, Burden & Confidentiality	*https://eiaweb.inl.gov/clearance2012/eiaweb-frm886Info.png*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) OMB No. 1905–0191;

(2) *Information Collection Request Title:* Annual Survey of Alternative Fueled Vehicles;

(3) *Type of Request:* Revision of currently approved collection;

(4a) *Purpose:* Form EIA–886 is an annual survey that collects information on the number and type of AFVs and other advanced technology vehicles that vehicle suppliers made available in the previous calendar year and plan to make available in the following calendar year; the number, type and geographic distribution of AFVs in use in the previous calendar year; and the amount and distribution of each type of ATF consumed in the previous calendar year. Form EIA–886 data are collected from suppliers and users of AFVs.

EIA uses data from these groups as a basis for estimating total AFV and ATF use in the U.S. These data are needed by federal and state agencies, fuel suppliers, transit agencies and other fleets to determine if sufficient quantities of AFVs are available for purchase and to provide Congress with a measure of the extent to which the objectives of the Energy Policy Act of 1992 are being achieved. These data satisfy the reporting requirements to Congress under Section 503(b)(2) of the Energy Policy Act of 1992 and serve as market analysis tools for federal/state agencies, AFV suppliers, vehicle fleet managers, and other interested organizations and persons. These data are also needed to satisfy numerous public requests for detailed information on AFVs and ATFs (in particular, the number of AFVs distributed by State, as well as the amount and location of the ATFs being consumed).

EIA publishes summary information from the Form EIA–886 database in an annual *Alternative Fuel Vehicle Data* report on EIA's Web site (*http://www.eia.gov/renewable/afv/*). This report covers historical and projected supplies of AFVs, AFV usage by selected user groups, and estimates of total U.S. AFV counts and U.S. consumption of ATFs. These data provide baseline inputs for DOE's transportation sector energy models and the energy consumption measures for ATFs in EIA's State Energy Data System. For example, EIA's National Energy Modeling System (NEMS) has a component model that forecasts transportation sector energy consumption and provides a framework for AFV policy and technology analysis. The data obtained from Form EIA–886 are used to improve the explanatory power of the NEMS Transportation Demand Model by allowing for greater detail in representing AFV types and characteristics;

(4b) *Proposed Changes to Information Collection:* EIA proposes to modify the drop-down selection menus under Form EIA–886 Parts 2 and 3 to include the fuel type/engine configuration code ''EVC–PH'' to capture data on plug-in hybrid electric vehicles (PHEV). PHEVs are considered alternative fueled vehicles under the Energy Policy Act of 1992 definition of an alternative fueled vehicle because their primary fuel source is electricity; however, PHEVs differ from straight battery-powered electric vehicles because they use the electric battery as the primary energy source, relying on battery power for propulsion for a limited range (15–40 miles) before switching to internal combustion propulsion. Currently, EIA collects data on electric battery-powered vehicles with the code ''EVC BP.'' Adding the code ''EVC PH'' will differentiate between straight battery-powered AFVs and PHEVs.

EIA also proposes reformatting the Form EIA–886 to better use visual design to reduce the respondent's burden, while not changing the existing constructs being measured on the form. For example, instructions will be placed next to the questions where they are needed, and dense paragraphs will be broken up into bullet-pointed lists. Survey methodology literature and empirical evidence from cognitive testing of other forms suggests these changes, along with formatting edits, should allow respondents to read and more easily process the information.

(5) *Type of Respondents:* Suppliers of alternative-fueled vehicles are required to report;

(6) *Annual Estimated Number of Respondents:* 2,050;

(7) *Annual Estimated Number of Total Responses:* 2,050;

(8) *Annual Estimated Number of Burden Hours:* 8,215;

(9) *Annual Estimated Reporting and Recordkeeping Cost Burden:* No additional costs beyond burden hours are anticipated from the proposed collection instrument revision.

Statutory Authority

The legal authority for this data collection effort is provided by the following provisions: Section 13(b) of the Federal Energy Administration Act of 1974, Public Law 93–275, (FEA Act), and codified at 15 U.S.C. § 772 (b), and Section 503(b)(2) of the Energy Policy Act of 1992, Public Law 102–486 (EPACT92) codified at 42 U.S.C. 13253.

Issued in Washington, DC, on November 20, 2012.

Stephanie Brown,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2012–28700 Filed 11–26–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

U.S. Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Notice and Request for Office of Management and Budget (OMB) Review and Comment.

SUMMARY: EIA has submitted, under the provisions of the Paperwork Reduction Act of 1995, an information collection request to the OMB for a three-year extension, with changes, of its Petroleum Supply Reporting System (PSRS) information collection (OMB 1905–0165). The Petroleum Supply Reporting System consists of weekly and monthly petroleum and biofuels supply surveys and an annual refinery survey of capacity, crude oil receipts, and fuels consumed.

EIA proposes the following changes to several Petroleum Supply Reporting System surveys: (1) Move to site level weekly reporting of all bulk terminal activity on an expanded version of Form EIA–805, ''Weekly Bulk Terminal and Blender Report;'' (2) discontinue weekly reporting on Form EIA–801, ''Weekly Bulk Terminal Report;'' (3) discontinue reporting the maximum sustainable fuel ethanol capacity on Form EIA–819, ''Monthly Oxygenate Report;'' (4) include the Form EIA–22M in the PSRS data collection, (5) change the data protections for specific data elements on Forms EIA–810, EIA–819 and EIA–22M and publicly release these data elements in identifiable form (a) monthly atmospheric crude oil distillation reported on Form EIA–810, ''Monthly Refinery Report;'' (b) ethanol nameplate

production capacity reported on Form EIA–819, ''Monthly Oxygenate Report;'' and (c) biodiesel production capacity reported on Form EIA–22M, ''Monthly Biodiesel Production Survey;'' and (6) discontinue application of disclosure avoidance procedures to U.S. and regional biodiesel production and stocks data reported on Form EIA–22M. This change will make the data protection policy for biodiesel production and stocks consistent with the policy applied to all other data released in the Petroleum Supply Monthly and Petroleum Supply Annual reports.

DATES: Comments regarding this collection must be received on or before December 27, 2012. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–4718 or contacted by email at *Chad_S_Whiteman@omb.eop.gov*.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503. And to Sylvia Norris, EI–25, U.S. Energy Information Administration, 1000 Independence Ave. SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Sylvia Norris, EI–25, U.S. Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, fax: (202) 586–3873, email: *sylvia.norris@eia.gov,* phone: (202) 586–6106.

The collection instrument and instructions are also available on the Internet, at: *http://www.eia.gov/survey/#petroleum*.

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.:* 1905–0165;

(2) *Information Collection Request Title:* Petroleum Supply Reporting System. The survey forms included in this system are:

Form EIA–22M, ''Monthly Biodiesel Production Survey''
Form EIA–800, ''Weekly Refinery Report''
Form EIA–801, ''Weekly Bulk Terminal Report'' (to be discontinued in this proposal)
Form EIA–802, ''Weekly Product Pipeline Report''
Form EIA–803, ''Weekly Crude Oil Report''
Form EIA–804, ''Weekly Import Report''
Form EIA–805, ''Weekly Bulk Terminal and Blender Report''
Form EIA–809, ''Weekly Oxygenate Report''
Form EIA–810, ''Monthly Refinery Report''
Form EIA–812, ''Monthly Product Pipeline Report''
Form EIA–813, ''Monthly Crude Oil Report''
Form EIA–814, ''Monthly Import Report''
Form EIA–815, ''Monthly Bulk Terminal and Blender Report''
Form EIA–816, ''Monthly Natural Gas Plant Liquids Report''
Form EIA–817, ''Monthly Tanker and Barge Movements Report''
Form EIA–819, ''Monthly Oxygenate Report''
Form EIA–820, ''Annual Refinery Report;''

(3) *Type of Request:* Three-year extension with changes;

(4) *Purpose:*

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 et seq.) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 et seq.) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer-term domestic demands. Furthermore, Section 1508 of the Energy Policy Act of 2005 (EPACT 2005) (42 U.S.C. § 7135(m)) requires the EIA to conduct a survey that collects the quantity of renewable fuels produced, blended, imported, and demanded as well as market price data on a monthly basis. Form EIA–22M collects these data in order to fulfill this mandate.

Weekly petroleum and biofuels supply surveys (Forms EIA–800, 802, 803, 804, 805, and 809) are used to gather data on petroleum refinery operations, blending, biofuels production, inventory levels, and imports of crude oil, petroleum products, and biofuels from a sample of operating companies. Data from weekly surveys appear in EIA reports including the following:

- *Weekly Petroleum Status Report, http://www.eia.gov/oil_gas/petroleum/data_publications/weekly_petroleum_status_report/wpsr.html;*
- *Short-Term Energy Outlook, http://www.eia.gov/forecasts/steo/;*
- *This Week in Petroleum, http://www.eia.gov/oog/info/twip/twip.asp;* and
- *Monthly Energy Review, http://www.eia.gov/totalenergy/data/monthly/*.

Monthly petroleum and biofuels supply surveys (Forms EIA–810, 812, 813, 814, 815, 816, 817, 819, and 22M) are used to gather data on petroleum refinery operations, blending, biofuels production, natural gas plant liquids production, inventory levels, imports, inter-regional movements, and storage capacity for crude oil, petroleum products, and biofuels. Crude oil production data and petroleum and biofuels export data from the U.S. Census Bureau are integrated with data from EIA petroleum supply surveys to create a comprehensive statistical view of U.S. petroleum supplies that is unavailable from any other source.

Monthly petroleum and biofuels supply surveys support weekly surveys by providing a complete set of in-scope petroleum and biofuels supply data from which weekly survey samples are drawn. In addition, monthly surveys include data elements that are not collected on weekly reports such as production of natural gas plant liquids and refinery processing gain. Data from monthly petroleum and biofuels supply surveys appear in EIA reports, including the following:

- *Petroleum Supply Monthly, http://www.eia.gov/petroleum/supply/monthly/;*
- *Petroleum Supply Annual, http://www.eia.gov/petroleum/supply/annual/volume1/;*
- *Monthly Biodiesel Report, http://www.eia.gov/biofuels/biodiesel/production/;*
- *Monthly Energy Review, http://www.eia.gov/mer/;*
- *Annual Energy Review, http://www.eia.gov/totalenergy/data/annual/;*
- *Short-Term Energy Outlook, http://www.eia.gov/forecasts/steo/;* and
- *Annual Energy Outlook, http://www.eia.gov/forecasts/aeo/*.

These monthly survey data provide input for reports in the EIA State Energy Data System and included as U.S. data submitted to the International Energy Agency.

Form EIA–820, ''Annual Refinery Report,'' provides plant-level data on refinery capacities as well as national and regional data on fuels consumed by refineries, natural gas consumed as hydrogen feedstock, and crude oil receipts by method of transportation for operating and idle petroleum refineries (including new refineries under construction) and refineries shutdown

during the previous year. The information collected appears in the *Refinery Capacity Report, http://www.eia.gov/petroleum/refinerycapacity/; Annual Energy Review, http://www.eia.gov/totalenergy/data/annual/,* and other reports available electronically from the EIA Web site at *http://www.eia.gov;*

(4a) *Proposed Changes to Information Collection:*

EIA proposes to discontinue Form EIA–801 ''Weekly Bulk Terminal Report'' and collect that same information by adding data elements to Form EIA–805, ''Weekly Bulk Terminal and Blender Report,'' so that Form EIA–805 will be used to collect bulk terminal inventory data that were collected on Form EIA–801 as well as gasoline and other blending operations data. The following are proposed modifications to Form EIA–805:

- Add stocks of total natural gas plant liquids (NGPL) and liquefied refinery gases (LRG)
- Add stocks of propane and propylene (a subset of total NGPL and LRG)
- Add stocks of nonfuel propylene (a subset of propane/propylene stocks)
- Add stocks of residual fuel oil
- Add stocks of unfinished oils
- Add stocks of products currently listed on Form EIA–805 including:

—Fuel ethanol
—Finished Motor Gasoline, Reformulated, blended with Fuel Ethanol
—Finished Motor Gasoline, Reformulated, Other
—Finished Motor Gasoline, Conventional, blended with Fuel Ethanol, Ed55 and lower
—Finished Motor Gasoline, Conventional, blended with Fuel Ethanol, Greater than Ed55
—Finished Motor Gasoline, Conventional, Other
—Motor Gasoline Blending Components, Reformulated Blendstock for Oxygenate Blending (RBOB)
—Motor Gasoline Blending Components, Conventional Blendstock for Oxygenate Blending (CBOB)
—Motor Gasoline Blending Components, Gasoline Treated as Blendstock (GTAB)
—Motor Gasoline Blending Components, All Other
—Kerosene-Type Jet Fuel
—Distillate Fuel Oil by Sulfur Category (15 ppm sulfur and under, Greater than 15 ppm to 500 ppm sulfur, and Greater than 500 ppm sulfur)

EIA also proposes to change the data protection policy regarding monthly atmospheric crude oil distillation capacity reported on Form EIA–810, ''Monthly Refinery Report,'' to no longer protect monthly atmospheric crude oil distillation reported on Form EIA–810 because atmospheric crude oil distillation capacity data is reported annually on Form EIA–820 and has been publicly released in identifiable form for over twenty years.

In addition, EIA proposes to discontinue collection of maximum sustainable fuel ethanol production capacity and change the data protection policy on Form EIA–819 to treat all information reported on fuel ethanol nameplate production capacity on Form EIA–819 as public information and release this information on EIA's Web site. The proposed policy change is consistent with past EIA practices and will improve the utility of the data by permitting comparisons of the growth in capacity at the state level over the past twenty years. Also, this type of information is currently publicly available from other exogenous sources through the Internet.

Also, EIA proposes to include the Form EIA–22M in the PSRS data collection and treat all information reported on biodiesel production capacity on Form EIA–22M as public information that may be released on EIA's Web site. Information on biodiesel production capacities by plant is currently publicly available from the National Biodiesel Board Web site at *http://www.nbb.org/about-us/member-plants/nbb-member-plant-lists*.

This change also provides a consistent policy for biodiesel production capacity data, oil refinery capacity, and fuel ethanol production capacity.

Finally, EIA proposes to further modify the data protection policy for monthly biodiesel production data reported on Form EIA–22M by not applying any disclosure limitation methodology to the published statistical aggregates for quantities of biodiesel production and ending stocks at the Petroleum Administration for Defense District (PADD) level. The change in data protection policy for production and stocks of biodiesel is necessary, as EIA has incorporated biodiesel production and stocks in petroleum supply and disposition balance tables (with data for the U.S. and PADDs) published in the *Petroleum Supply Monthly* and *Petroleum Supply Annual,* and disclosure limitation procedures are not applied to data in these reports. EIA is not proposing to explicitly report biodiesel production in company identifiable form, but only to discontinue application of disclosure limitation procedures to U.S. and PADD level biodiesel production and stocks totals calculated from data reported on Form EIA–22M. Applying statistical disclosure limitation procedures to biodiesel production and stocks data would potentially prevent EIA from accurately reporting data on distillate fuel oil supply, disposition, and demand including biodiesel, especially at the PADD level. Disclosure limitation procedures will continue to be applied to the other data reported on Form EIA–22M not addressed in this notice.

(5) *Estimated Number of Survey Respondents:*

Weekly Survey Forms:

EIA–800: 141 Respondents; EIA–802: 51 Respondents; EIA–803: 57 Respondents; EIA–804, 104 Respondents; EIA–805, 750 Respondents; EIA–809, 142 Respondents;

Monthly Survey Forms:

EIA–22M: 150 Respondents; EIA–810: 153 Respondents; EIA–812: 80 Respondents; EIA–813: 167 Respondents; EIA–814: 391 Respondents; EIA–815: 1,476 Respondents; EIA–816: 451 Respondents; EIA–817: 34 Respondents; EIA–819: 203 Respondents;

Annual Survey Forms:

EIA–820: 148 Respondents.

Total respondents for Petroleum Supply Reporting System: 4,491 respondents. (Many respondents report on multiple surveys and are counted for each survey they report. For example, the 104 respondents on the weekly Form EIA–804 are also included as a subset of the 391 respondents reporting on the monthly Form EIA–814, so that the two surveys contribute a total of 495 respondents.);

(6) *Annual Estimated Number of Total Responses:*

Weekly Survey Forms (Respondents x 52):

EIA–800: 7,332 Responses; EIA–802: 2,652 Responses; EIA–803:2,964 Responses; EIA–804: 5,408 Responses; EIA–805: 39,000 Responses; EIA–809: 7,384 Responses;

Monthly Survey Forms (Respondents x 12):

EIA–22M: 1,800 Responses; EIA–810: 1,800 Responses; EIA–812: 960 Responses; EIA–813: 2,004 Responses; EIA–814: 4,692 Responses; EIA–815: 17,712 Responses; EIA–816: 5,412 Responses; EIA–817: 408 Responses; EIA–819: 2,436 Responses;

Annual Survey Forms (Respondents x 1):

EIA–820: 144 Responses.

Total annual responses for the Petroleum Supply Reporting System: 102,108 responses;

(7) *Annual Estimated Number of Burden Hours:*

Weekly Survey Forms:

EIA–800: 11,585 hours; EIA–802: 2,519 hours; EIA–803: 1,482 hours; EIA–804: 9,464 hours; EIA–805: 62,400 hours; EIA–809: 7,384 hours;

Monthly Survey Forms:

EIA–22M: 5,400 hours; EIA–810: 9,360 hours; EIA–812: 3,360 hours; EIA–813: 4,008 hours; EIA–814: 11,965 hours; EIA–815: 74,390 hours; EIA–816: 5,141 hours; EIA–817: 918 hours; EIA–819: 3,898 hours;

Annual Survey Forms:

EIA–820: 288 hours;

Total annual response burden for the Petroleum Supply Reporting System: 213,562 hours;

(8) Annual Estimated Reporting and Recordkeeping Cost Burden: EIA estimates that there are not any additional costs to respondents associated with the surveys other than the costs associated with the burden hours.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, P.L. 93–275, codified at 15 U.S.C. 772(b), and the DOE Organization Act of 1977, Public Law 95–91, codified at 42 U.S.C. 7101 et seq.

Issued in Washington, DC, November, 20, 2012.

Stephanie Brown,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2012–28712 Filed 11–26–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

U.S. Energy Information Administration

Proposed Change to Data Protection

AGENCY: U.S. Energy Information Administration (EIA), U.S. Department of Energy (DOE).

ACTION: Notice and Request for Review and Comment.

SUMMARY: This notice pertains to Forms EIA–3, the Quarterly Coal Consumption and Quality Report—Manufacturing and Transformation/Processing Coal Plants and Commercial and Institutional Coal Users; EIA–5, the Quarterly Coal Consumption and Quality Report—Coke Plants; EIA–7A, the Coal Production and Preparation Report—Coal Mines and Preparation Plants; and EIA–8A, the Coal Stocks Report—Traders and Brokers. DOE's proposed changes will release or publish data received from mandatory respondents that is not company identifiable, and does not satisfy the criteria for an exemption under the Freedom of Information Act or satisfy the requirements of the Trade Secrets Act.

No changes are proposed for the standby surveys Forms: EIA–1, Weekly Coal Monitoring Report—General Industries and Blast Furnaces; EIA–4, Weekly Coal Monitoring Report—Coke Plants; EIA–6Q, Quarterly Coal Report—Coal Producers and Distributors; and EIA–20, Weekly Coal Monitoring Report of Coal Burning Utilities and Independent Power Producers.

Prior to 2011, data reported on Forms EIA–1, EIA–3, EIA–4, EIA–5, EIA–6Q, EIA–8A, and EIA–20 were protected to the extent it satisfied exemption criteria under the Freedom of Information Act and the Trade Secrets Act. Disclosure limitation procedures were applied to all data. The data protection policy for Form EIA–7A was similar except that the name and address of the responding company, the mine or plant type, and location were considered public information.

Effective January, 2011, EIA changed the data protection policy for Forms EIA–3, EIA–5, EIA–7A and EIA–8A from protecting the data as described above, to release all data reported in company identifiable form with the exception of cost data. Cost data are protected and not released in company identifiable form to the extent it satisfies exemption criteria under the Freedom of Information Act and the Trade Secrets Act. Disclosure limitation procedures (suppression methods) are applied to protect against the identifiability of the reported cost data. No changes were made to the pre-2011 protection policy for Forms EIA–1, EIA–4, EIA–6Q, and EIA–20.

The U.S. Energy Information Administration proposes to change and strengthen the data protection provisions on Forms EIA–3, EIA–5, EIA–7A and EIA–8A. Currently, data reported on these forms are not protected except for certain selected cost and revenue data elements. For Forms EIA–3, EIA–5 and EIA–8A, EIA proposes to protect company information reported on these forms from public release in identifiable form to the extent it satisfies exemption criteria under the Freedom of Information Act and the Trade Secrets Act. However, disclosure limitation procedures will not be applied to the State—and regional-level, statistical, and quantity data published from these surveys. Thus, there may be some statistics that are based on data from fewer than three respondents that may affect the identifiability of reported data. Disclosure limitation procedures will be applied to cost data reported on Forms EIA–3 and EIA–5 and revenue data reported on Forms EIA–7A and EIA–8A. With regards to Form EIA–7A only, the name and address of the responding company, the mine or plant type, and location will continue to be considered public information. These data elements will continue to be released in EIA's public use files and will not be protected from disclosure in identifiable form when releasing statistical aggregate (State-level) information. These data elements are currently released on the EIA Web site in the Form EIA–7A public use file, along with company identifiable MSHA data, which are also not protected. All other information reported on Form EIA–7A will be protected from public release in identifiable form to the extent it satisfies exemption criteria under the Freedom of Information Act and the Trade Secrets Act. All proposed changes to the data protection provisions for Forms EIA–3, EIA–5, EIA–7A and EIA–8A will be retroactive and apply to data reported for calendar years 2011 and 2012. Applying this change retroactively to data reported for 2011 preserves the continuity of certain data series and provides continuity for the main components of EIA's pre-2011 data protection policy.

DATES: Comments regarding this collection must be received on or before December 27, 2012. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the EIA–3 Survey Manager at DOE of your intention to make a submission as soon as possible. The Survey Manager may be telephoned at 202–586–8926 or emailed at *tejasvi.raghuveer@eia.gov.*

ADDRESSES: Written comments should be sent to: Attn: Tejasvi Raghuveer, EIA–3 Survey Manager, U.S. Energy Information Administration, EI–24, 1000 Independence Avenue SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

EIA–3: (1) OMB No. 1905–0167; (2) *Information Collection Request Title:* Quarterly Coal Consumption and Quality Report—Manufacturing and Transformation/Processing Coal Plants and Commercial and Institutional Coal Users; (3) *Type of Request:* Change to respondent-level protection policy and disclosure limitation procedures; (4) *Purpose:* To collect all data elements from Form EIA–3 respondents, to release or publish data that is not company identifiable, and does not satisfy the criteria for an exemption under the Freedom of Information Act or satisfy the requirements of the Trade Secrets Act; (5) *Estimated Number of*

Respondents Quarterly: 498; (6) *Estimated Number of Responses Annually:* 1992; (7) *Estimated Number of Burden Hours Annually:* 2490 hours; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $166,481.40.

EIA–5: (1) OMB No. 1905–0167; (2) *Information Collection Request Title:* Quarterly Coal Consumption and Quality Report—Coke Plants; (3) *Type of Request:* Change to respondent-level protection policy and disclosure limitation procedures; (4) *Purpose:* To collect all data elements from Form EIA–5 respondents, to release or publish data that is not company identifiable, and does not satisfy the criteria for an exemption under the Freedom of Information Act or satisfy the requirements of the Trade Secrets Act; (5) *Estimated Number of Respondents Quarterly:* 19; (6) *Estimated Number of Responses Annually:* 76; (7) *Estimated Number of Burden Hours Annually:* 114 hours; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $7,622.04.

EIA–7A: (1) OMB No. 1905–0167; (2) *Information Collection Request Title:* Coal Production and Preparation Report—Coal Mines and Preparation Plants; (3) *Type of Request:* Change to respondent-level protection policy and disclosure limitation procedures; (4) *Purpose:* To collect all data elements from Form EIA–7A respondents, to release or publish data considered public information (name and address of the responding company, the mine or plant type, and location), and does not satisfy the criteria for an exemption under the Freedom of Information Act or satisfy the requirements of the Trade Secrets Act; (5) *Estimated Number of Respondents Annually:* 1306; (6) *Estimated Number of Responses Annually:* 1306; (7) *Estimated Number of Burden Hours Annually:* 2350.8; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $157,174.49.

EIA–8A: (1) OMB No. 1905–0167; (2) *Information Collection Request Title:* Coal Stocks Report—Traders and Brokers; (3) *Type of Request:* Change to respondent-level protection policy and disclosure limitation procedures; (4) *Purpose:* To collect all data elements from Form EIA–8A respondents, to release or publish data that is not company identifiable, and does not satisfy the criteria for an exemption under the Freedom of Information Act or satisfy the requirements of the Trade Secrets Act; (5) *Estimated Number of Respondents Annually:* 89; (6) *Estimated Number of Responses Annually:* 89; (7) *Estimated Number of Burden Hours Annually:* 89 hours; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $5,950.54.

Statutory Authority: 15 U.S.C. 772(b), Section 13(b) of the Federal Energy Administration Act of 1974 (FEA Act), Pub. L. 93–275.

Issued in Washington, DC, on November 20, 2012.

Stephanie Brown,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 2012–28701 Filed 11–26–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC13–1–000]

Commission Information Collection Activities (FERC–592); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, Standards of Conduct for Transmission Provider; and Marketing Affiliates of Interstate Pipelines.

DATES: Comments on the collection of information are due January 28, 2013.

ADDRESSES: You may submit comments (identified by Docket No. IC13–1–000) by either of the following methods:

- *eFiling at Commission's Web Site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov*, or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov*, telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: *Title:* FERC–592, Standards of Conduct for Transmission Providers; and Marketing Affiliates of Interstate Pipelines.

OMB Control No.: 1 902–0157.

Type of Request: Three-year extension of the FERC–592 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the information maintained and posted by the respondents to monitor the pipeline's transportation, sales, and storage activities for its marketing affiliate to deter undue discrimination by pipeline companies in favor of their marketing affiliates. Non-affiliated shippers and other entities (e.g. state commissions) also use information to determine whether they have been harmed by affiliate preference and to prepare evidence for proceedings following the filing of a complaint.

18 CFR Part 358 (Standards of Conduct)

Respondents maintain and provide the information required by Part 358 on their Internet Web sites. When the Commission requires a pipeline to post information on its Web site following a disclosure of non-public information to its marketing affiliate, non-affiliated shippers obtain comparable access to the non-public transportation information, which allows them to compete with marketing affiliates on a more equal basis.

18 CFR 250.16, and the FERC–592 Log/Format

This form (log/format) provides the electronic formats for maintaining information on discounted transportation transactions and capacity allocation to support monitoring of activities of interstate pipeline marketing affiliates. Commission staff considers discounts given to shippers in litigated rate cases.

Without this information collection:

- The Commission would be unable to effectively monitor whether pipelines are giving discriminatory preference to their marketing affiliates; and
- Non-affiliated shippers and state commissions and others would be unable to determine if they have been harmed by affiliate preference or prepare evidence for proceedings following the filing of a complaint.

Type of Respondents: Natural gas pipelines.

Estimate of Annual Burden [1]*:* The Commission estimates the total Public Reporting Burden for this information collection as:

	Number of respondents	Number of responses per respondent	Total number of responses	Average burden hours per response	Estimated total annual burden
	(A)	(B)	(A) × (B) = (C)	(D)	(C) × (D)
18 CFR 358 18 CFR 250.16 FERC Form No. 592	85	1	85	116.62	9,913

The total estimated annual cost burden to respondents is $684,092 [9,913 hours ÷ 2,080 [2] hours/year = 4.76586 * $143,540/year [3] = $684,092].

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: November 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–28747 Filed 11–26–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–22–000]

PacifiCorp v. *Western Electricity Coordinating Council, Los Angeles Department of Water and Power;* Notice of Complaint

Take notice that on November 16, 2012, pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC or Commission), 18 CFR 385.206 (2012), and 18 CFR 39.7(f) and 39.9(a) (2012); and sections 215(e)(3) and (5) of the Federal Power Act, 16 U.S.C. 824o(e)(3) and (5) (2006), PacifiCorp (Complainant) filed a formal complaint against Western Electricity Coordinating Council and Los Angeles Department of Water and Power (collectively, Respondents) to address ongoing violations of mandatory Reliability Standards.

The Complainant certifies that copies of the complaint were served on the contacts for each of the Respondents as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on December 6, 2012.

Dated: November 20, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–28749 Filed 11–26–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0531; FRL–9524–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Surface Coating of Large Appliances (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. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before December 27, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0531, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of

[1] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[2] 2080 hours/year = 40 hours/week * 52 weeks/year.

[3] Average annual salary per employee in 2012.

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: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@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 47631), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0531, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue 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 Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NSPS for Surface Coating of Large Appliances (Renewal).

ICR Numbers: EPA ICR Number 0659.12, OMB Control Number 2060–0108.

ICR Status: This ICR is scheduled to expire on December 31, 2012. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract

The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the Provisions specified at 40 CFR part 60, subpart SS.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 27 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Facilities that conduct surface coating operations for large appliances.

Estimated Number of Respondents: 72.

Frequency of Response: Occasionally and semiannually.

Estimated Total Annual Hour Burden: 7,659.

Estimated Total Annual Cost: $750,011, which includes $741,611 in labor costs, no capital/startup costs, and $8,400 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden. However, there is an adjustment increase in burden costs for both the respondents and the Agency. The cost increase is due to an adjustment in labor rates. This ICR uses updated labor rates from the Bureau of Labor Statistics to calculate burden costs.

Additionally, there is an increase in the total number of annual responses due to a mathematical correction made in the previous ICR.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–28649 Filed 11–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2009–0022; FRL 9524–4]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Acid Rain Program Under Title IV of the Clean Air Act Amendments (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), Acid Rain Program under Title IV of the Clean Air Act Amendments (Renewal) (EPA ICR No. 1633.16, OMB Control No. 2060–0258) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through November 30, 2012. Public comments were previously requested via the **Federal Register** (77 FR 4066) on July 10, 2012 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before December 27, 2012.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2009–0022, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Karen VanSickle, Clean Air Markets Division, Office of Air and Radiation, (6204J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–343–9220; fax number: 202–343–2361; email address: *vansickle.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The Acid Rain Program was established under Title IV of the 1990 Clean Air Act Amendments. The program calls for major reductions of the pollutants that cause acid rain while establishing a new approach to environmental management. This information collection is necessary to implement the Acid Rain Program. It includes burden hours associated with developing and modifying permits, transferring allowances, obtaining allowances from the conservation and renewable energy reserve, monitoring emissions, participating in the annual auctions, completing annual compliance certifications, participating in the Opt-in program, and complying with NO_X permitting requirements.

Form Numbers: 7610–1, 7610–5, 7610–6, 7610–7A, 7610–8, 7610–11, 7610–16, 7610–19, 7610–20, 7610–26, 7610–27, 7610–28, 7610–29, 7620–4, 7620–8, 7620–9, 7620–10, and 5900–172.

Respondents/affected entities: Electric utilities, Industrial sources, and other persons.

Respondent's obligation to respond: Mandatory and voluntary under provisions of Title IV of the Clean Air Act Amendments that cover:

- Allowance tracking and transfers (section 403);
- Permits (section 408);
- Emissions monitoring (section 412);
- Auctions (section 416);
- Opt-in (section 410 a–g); and
- NO_X permitting (section 407).

Estimated number of respondents: 1700.

Frequency of response: On occasion, quarterly, and annually.

Total estimated burden: 2,123,405 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $302,368,573.05 (per year), includes $152,015,161 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 66,459 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. Most of the change in burden for this collection is due to adjustments. Adjustments stem from actions outside the Agency's control. Adjustments include changes to the number of responses and the time it takes to respond to a particular activity. Some new estimates for the number of responses are based on queries of EPA databases for activities reported in recent years. In addition to adjustments, a portion of the overall increase is due to the incorporation of ARP affection portion of the Protocol Gas Verification Program and Air Emissions Protocol Testing Body ICR requirements from the EPA ICR Number 2203.04, OMB Control Number 2060–0626.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–28651 Filed 11–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2012–0333; FRL 9524–5]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Greenhouse Gas Reporting Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), Greenhouse Gas Reporting Program (Renewal) (EPA ICR No. 2300.10, OMB Control No. 2060–0629) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through November 30, 2012. Public comments were previously requested via the **Federal Register** (77 FR 28376) on May 14, 2012 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before December 27, 2012.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2012–0333, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs, Mail Code 6207J, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReportingRule@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room

3334, 1301 Constitution Ave., NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: The purpose for this ICR is to renew and revise the Mandatory Reporting of Greenhouse Gases Rule (GHG Reporting Rule) ICR to update and consolidate the burdens and costs imposed by all of the current ICRs under the GHG Reporting Rule. In response to the FY2008 Consolidated Appropriations Act (H.R. 2764; Pub. L. 110–161) and under authority of the Clean Air Act, the EPA finalized the GHG Reporting Rule (74 FR 56260; October 30, 2009). The GHG Reporting Rule, which became effective on December 29, 2009, establishes reporting requirements for some direct GHG emitters as well as suppliers of certain products that will emit GHG when released, combusted, or oxidized, industrial gas suppliers, and manufacturers of heavy-duty and off-road vehicles and engines. It does not require control of greenhouse gases. Instead, it requires that sources emitting above certain threshold levels of carbon dioxide equivalent (CO2e) monitor and report emissions.

Subsequent rules provide corrections and clarification on existing requirements; include requirements for additional facilities and suppliers; require reporters to provide information about parent companies, NAICS code(s), and whether emissions are from cogeneration; and finalize confidentiality determinations. Collectively, the GHG Reporting Rule and its associated rulemakings are referred to as the Greenhouse Gas Reporting Program (GHGRP).

Data submitted under the GHGRP that is classified as CBI is protected under the provisions of 40 CFR part 2, subpart B. The EPA is determining through a series of rulemaking actions the data elements that will be eligible for treatment as CBI. However, according to CAA section 114(c), ''emissions data'' cannot be classified as CBI. The EPA has proposed that inputs to emissions equations meet the definition of ''emissions data'' and cannot be afforded the protections of CBI. The EPA has deferred the reporting deadline for data elements that are used as inputs to emissions equations to provide the EPA time needed to fully evaluate and resolve issues regarding the reporting and potential release of these data (76 FR 53057, August 25, 2011).

Form Numbers: EPA Form 5900–211, EPA Form 5900–233.

Respondents/affected entities: Entities potentially affected by this action are suppliers of certain products that will emit GHG when released, combusted, or oxidized, motor vehicle and engine manufacturers, including aircraft engine manufacturers; facilities in certain industrial categories that emit greenhouse gases; and facilities that emit 25,000 metric tons or more of carbon dioxide equivalent (CO2e) per year.

Respondent's obligation to respond: Mandatory. Authority contained in Sections 114 and 208 of the CAA.

Estimated number of respondents: 11,039.

Frequency of response: Annual.

Total estimated burden: 981,032 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $90,847,769 (per year), includes $28,192,763 annualized capital or operation & maintenance costs.

Changes in the Estimates: This renewal consolidates all of the existing Greenhouse Gas Reporting Program ICRs. The increase in burden resulting from consolidating these ICRs will be negated when those ICRs are discontinued following the consolidation. In comparison to the net total estimated respondent burden currently approved by OMB for all of the existing Greenhouse Gas Reporting Program ICRs, there is a decrease of 735,690 hours. This decrease is the result of an adjustment for one-time activities that occurred during the first year of data collection and an adjustment based on the actual number of reporters.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–28653 Filed 11–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0517; FRL–9524–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999 (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. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before December 27, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0517, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue 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: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@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 47631), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0517, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue 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 Reading Room is (202) 566–1744, and the telephone number for the

Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NSPS for Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999 (Renewal).

ICR Numbers: EPA ICR Number 1901.05, OMB Control Number 2060–0424.

ICR Status: This ICR is scheduled to expire on December 31, 2012. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract

These emission guidelines apply to small municipal waste combustors (MWCs) constructed on or before August 30, 1999, that combust greater than 35 tons per day (tpd) but less than 250 tpd of municipal solid waste. The emission guidelines regulate organics (dioxin/furans), metals (cadmium, lead, mercury, and particulate matter), and acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides). The emission guidelines require initial reports, semiannual reports, and annual reports. Owners or operators also are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility or any period during which the monitoring system is inoperative. Owners or operators subject to these regulations are required to maintain records of measurements and reports for at least five years. Reports are also required semiannually.

Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1,709 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously—applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of small municipal waste combustors.

Estimated Number of Respondents: 23.

Frequency of Response: Initially, occasionally, semiannually, and annually.

Estimated Total Annual Hour Burden: 100,854.

Estimated Total Annual Cost: $10,802,579, which includes $9,765,779 in labor costs, no capital/startup costs, and $1,036,800 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is no change in the industry labor hours in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the Emission Guidelines only affect existing sources, so there is no significant change in the overall burden. However, there is an adjustment increase in the total industry and Agency labor costs as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in cost estimates reflects updated labors rates available from the Bureau of Labor Statistics.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–28652 Filed 11–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0528; FRL–9524–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Synthetic Fiber Production Facilities (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. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before December 27, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0528, to: (1) EPA online, using www.regulations.gov (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue 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: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@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* 47631), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0528, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue 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 Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NSPS for Synthetic Fiber Production Facilities (Renewal).

ICR Numbers: EPA ICR Number 1156.12, OMB Control Number 2060–0059.

ICR Status: This ICR is scheduled to expire on December 31, 2012. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract

The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the Provisions specified at 40 CFR part 60, subpart HHH.

Owners or operators of the affected facilities must make an initial notification report, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 34 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously-applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of synthetic fiber production facilities.

Estimated Number of Respondents: 22.

Frequency of Response: Occasionally, quarterly and semiannually.

Estimated Total Annual Hour Burden: 1,860.

Estimated Total Annual Cost: $345,058, which includes $180,058 in labor costs, no capital/startup costs, and $165,000 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is no change in the respondent burden hours in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden. However, there is an increase of one burden hour for the Agency due a correction of rounding error in the previous ICR.

There is an increase in burden costs for both the respondents and the Agency due to an adjustment in labor rates. This ICR uses updated labor rates from the Bureau of Labor Statistics to calculate burden costs.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–28650 Filed 11–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9754–4]

Notice of Decision Regarding Requests for a Waiver of the Renewable Fuel Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Governors of several States requested that EPA waive the national volume requirements for the renewable fuel standard program (RFS or RFS program), pursuant to section 211(o)(7) of the Clean Air Act (the Act), based on the effects of the drought on feedstocks used to produce renewable fuel in 2012–2013. Several other parties submitted similar requests. Based on a thorough review of the record in this case, EPA finds that the evidence and information does not support a determination that implementation of the RFS program during the 2012–2013 time period would severely harm the economy of a State, a region, or the United States. EPA is therefore denying the requests for a waiver.

DATES: Petitions for review must be filed by January 28, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2012–0632. All documents and public comment in the docket are listed on the *www.regulations.gov* Web site. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Docket in EPA Headquarters Library, EPA West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744. The Air and Radiation Docket and Information Center's Web site is *http://www.epa.gov/oar/docket.html.* The electronic mail (email) address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov*, the telephone number is (202) 566–1742, and the Fax number is (202) 566–9744.

FOR FURTHER INFORMATION CONTACT: Dallas Burkholder, Office of Transportation and Air Quality, Environmental Protection Agency, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, MI 48105; telephone number: (734) 214–4766; fax number (734) (214–4050; email address: *burkholder.dallas@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

Governors from several States have requested a waiver of the national volume requirements for the renewable fuel standard program (RFS or RFS program). Broadly summarized, the States requesting a waiver (requesting States) assert that the RFS program is having a negative impact on their respective State economies based on this period of severe drought conditions by diverting corn from other markets to production of ethanol to meet volumes required under the RFS, leading to increased corn prices and resultant negative impacts on the livestock industry and food prices. Other parties requested a waiver on similar grounds. On August 30, 2012, EPA published a **Federal Register** notice inviting public comment on the waiver requests and other matters relevant to EPA's consideration of those requests.

In determining whether these waiver requests should be granted or denied, our decision is based on the relevant criteria for a waiver set forth in CAA Section 211(o)(7)—whether implementation of the RFS volume requirements would severely harm the economy of a State, a region or the United States. In making its determination, EPA took into consideration all comments submitted as well as an analysis of relevant impacts of the drought on the crops that would be used as feedstock in the production of renewable fuel during the 2012/2013 corn marketing year (September 2012 through August 2013). EPA analyzed the impacts with and without a waiver, utilizing an updated version of an Iowa State University (ISU) model that was used in response to a Texas waiver request in 2008 (discussed further below) when analyzing this year's waiver requests. This analysis identified the extent to which, if any, implementation of the RFS volume requirements would affect ethanol production and thereby the price of corn and other products over the relevant time period. EPA also considered other empirical data including historical and current Renewable Identification Number (RIN) credit prices and the available quantity of carryover RINs.[1]

After weighing all of the evidence before it, EPA found that the evidence does not support a determination that implementation of the RFS over the time period in question would severely harm the economy of a State, region, or the United States, the high statutory threshold for a waiver. The body of information shows that it is very likely that the RFS volume requirements will have no impact on ethanol production volumes in the relevant time frame, and therefore will have no impact on corn, food, or fuel prices. In addition, the body of the evidence also indicates that even in the unlikely event that the RFS mandate would have an impact on the corn and other markets during the 2012–2013 time frame, its nature and magnitude would not be characterized as severe. In the small percentage of modeled scenarios where a waiver of the RFS mandate would have any impact on the production of ethanol (11 percent of the cases), the decrease in ethanol production is small and the resulting reduction in corn prices is projected to be limited (on average $0.58 per bushel of corn).[2] These potential impacts from implementation of the RFS program would not be considered as meeting the high statutory threshold of severe harm to the economy set by the statute. It is worth emphasizing that the modeling shows that even this degree of impact is a very unlikely outcome. The most likely outcome is that implementation of the RFS program during this time frame would have no impact at all on ethanol production and corn prices.

EPA also received comment on issues related to, among other topics, the general impact of increased use of biofuels on the economy and global markets, on ethanol's characteristics as a transportation fuel, and on the RFS program in general. EPA recognizes that many parties, both those supporting the waiver and those opposing the waiver, have raised issues of significant concern to them and to others in the nation concerning the role of renewable fuels and the RFS program in our country. In particular, EPA recognizes comments that focus on the severity of the drought and its major impacts on multiple sectors across the country. Many commenters describe the dire economic impact that this year's drought has had on corn crops, corn prices and those industries that rely on corn as an input. EPA and its federal partners recognize the substantial negative economic impacts suffered as a result of this year's historic drought. The drought's impact on U.S corn and other crop production has been well documented and was reflected in increasing corn prices starting early this summer.[3] Crop growing regions across the country were affected, and the impacts of reduced crop production are far-reaching.

However, as was the case in 2008, the issue directly before the Agency is limited given EPA's authority under section 211(o)(7)(A) of the Act. After considering all of the public comments, both those in support of a waiver and those against, and consulting with the Secretaries of Agriculture and Energy, EPA has determined that the waiver requests should be denied because the evidence does not support making a determination that implementation of the RFS volume requirements during this time period would severely harm the economy of a State, region, or the United States.

It is important to note that this and other waiver decisions are based on current circumstances and market conditions. As indicated by EPA's modeling, the impact of the RFS volume requirements is highly dependent on the volumes at issue, the number of RINs carried over from prior years and the relevant market commodity prices, such as corn and crude oil prices, and other factors applicable during the time period analyzed.

II. Overview of the Renewable Fuel Standard (RFS) Program

The Energy Policy Act of 2005 (EPAct) amended the Clean Air Act to establish a Renewable Fuel Standard (RFS) Program and gave EPA responsibility for implementing it. EPAct required EPA to issue regulations ensuring that gasoline sold in the U.S., on an annual average basis, contained a specified volume of ''renewable fuel.'' The Energy Independence and Security Act of 2007 (EISA) amended the RFS program by, among other things, extending the program to cover transportation fuel, not just gasoline, extending the years in which Congress specified the required volume of renewable fuels by ten years, and increasing the required volumes of renewable fuels. EISA set the 2012 and 2013 RFS renewable fuel mandates as 15.2 billion gallons and 16.55 billion gallons respectively, and the mandate rises to 36.0 billion gallons by 2022. EISA also imposed additional requirements for the use of advanced biofuel, biomass-based diesel, and cellulosic biofuel, included within the

[1] A RIN is unique number generated by the producer and assigned to each gallon of a qualifying renewable fuel under the RFS program, and is used by refiners and importers to demonstrate compliance with the volume requirements under the program.

[2] On average, across the 500 cases considered in the ISU analysis, a small $0.07 cent per bushel reduction on corn prices would be expected in the case of a waiver.

[3] See for example the World Agricultural Supply and Demand Estimates, select issues, prepared by the U.S. Department of Agriculture; *http://www.usda.gov/oce/commodity/wasde.*

overall mandate of renewable fuel. As part of EISA, Congress required EPA to determine the life-cycle emissions of greenhouse gases associated with renewable fuels, and required a minimum level of greenhouse gas reduction to qualify as renewable fuel, advanced biofuel, cellulosic biofuel or biomass-based diesel. EPAct had the statutory goal of increasing the volume of renewable fuels that are required to be used in the transportation sector and Congress furthered that goal with the passage of EISA. In this context, implementation of EISA is aimed at reducing dependence on foreign sources of energy, increasing the domestic supply of energy, and reducing greenhouse gas emissions associated with the transportation sector.

EPA published regulations for the RFS program as amended by EISA on March 26, 2010 (75 FR 14670), and the amended RFS program became effective starting July 1, 2010. Since that time more than 36 billion ethanol-equivalent gallons of renewable fuel have been produced under the RFS program.[4] EPA has also continued to update the RFS regulations through rulemaking actions to establish specific required renewable fuel volumes and annual percentage standards, as well as to identify additional qualifying renewable fuel production pathways. New pathways to produce renewable fuel for the RFS program, such as biomass-based diesel produced from canola oil have been approved as qualifying renewable fuels under RFS, and several others, such as ethanol produced from grain sorghum, are currently under evaluation. As new biofuel, feedstock, and fuel production technologies approach commercialization EPA will continue to review potential renewable fuel pathways for inclusion in the RFS program.[5]

In April 2008, EPA received a request from the Governor of the State of Texas for a fifty percent waiver of the national volume requirements for the RFS; we provide more detail on this request here due to the relevance of our response to that request to today's determination. Texas based its request on the assertion that the RFS mandate was having a negative impact on the economy of Texas, specifically in the form of increased corn prices negatively impacting the livestock industry and food prices. After considering all of the public comments, and consulting with the Secretaries of Agriculture and Energy, EPA denied the waiver request.[6] In making this decision, and as discussed in more detail below, EPA interpreted the statutory provisions to require a determination based on the expected impact of the RFS program itself, a generally high degree of confidence that implementation of the RFS program would severely harm the economy of a State, region, or the United States, and a high threshold for the nature and degree of harm. After weighing all of the evidence before it, EPA determined that the evidence in 2008 did not support a finding that implementation of the RFS would severely harm the economy of a State, region, or the United States. First, the evidence indicated that the most likely result was that the RFS would have no impact on ethanol production volumes in the relevant time frame, and therefore no impact on corn, feed, food, or fuel prices. Second, EPA also determined that if the RFS volume requirements were to have an impact on the economy during the 2008/2009 corn marketing year, it would not be of the nature or magnitude that could be characterized as severe. As part of the determination, EPA also provided guidance on what types of information should be submitted in the case of future waiver requests under the same provision of the Act.

III. EPA's Administrative Process

In this section we first provide background information concerning the waiver requests and EPA's public notice of, and solicitation of comment on those requests. We also address comments related to procedural issues concerning our consideration of the waiver requests.

1. Letters Seeking an RFS Waiver and EPA's Request for Comment

Beginning in July 2012, EPA received a number of requests for it to exercise its authority under CAA 211(o)(7) to grant a waiver in whole or in part of the renewable fuel standard requirements. In addition, EPA received a number of petitions seeking the same or similar EPA action from a number of state Governors, including the Governors of Arkansas, North Carolina, New Mexico, Georgia, Texas, Virginia, Maryland, Delaware, Utah, and Wyoming. The Governor of Florida wrote in support of a waiver in an October 16, 2012 letter to the EPA.[7] [8] [9]

All of the letters from State Governors discussed above, as well as the many letters EPA received supporting the waiver requests or asking EPA to waive the RFS volume requirements, cite the negative impact of this year's severe drought conditions, and most discuss the effect the drought has had on corn and feed prices, and the subsequent impacts being felt by the livestock, poultry, and other sectors.[10] Several of the letters claim that the RFS program significantly increases demand for corn, thereby increasing corn prices and harming those sectors that use corn as a production input, such as the livestock and poultry industries. Many of the letters claim that a waiver of the RFS volume requirements would alleviate some of that harm. Though not all of the letters specify a time period for the waiver, many of them request a waiver of the RFS volume requirements in 2012 and 2013. While the contents of the letters described above vary in detail, each letter either requests that the Administrator grant a waiver of required RFS volumes or expresses support for the granting of such a waiver.

On August 30, 2012, EPA published a **Federal Register** Notice providing notice of its receipt of the waiver petitions, letters of support for the waiver petitions, and requests that EPA grant a waiver and invited public input on those requests over a 30-day comment period.[11] EPA stated in the Notice that any similar requests received by EPA after issuance of the Notice would be docketed and considered together with the requests already received (collectively, the ''waiver requests'').

EPA requested comment from the public on any matter that might be

[4] Data from EPA's Moderated Transaction System (EMTS) through September 2012. Retrieved November 8, 2012 from EMTS. See ''RIN Rollover'' memo in the docket for more information or *http://www.epa.gov/otaq/fuels/rfsdata/index.htm.*

[5] A renewable fuel ''pathway'' under the RFS program encompasses a feedstock, process, and fuel combination. For example, ethanol (fuel) produced through a dry-mill process (process) and derived from corn starch (feedstock).

[6] 73 FR 47168 (August 13, 2008).

[7] See, for example, the July 30, 2012 letter submitted by the National Pork Producers Council (NPPC), on behalf of several national regional livestock, poultry, and other organizations (''July 30 NPPC letter'') requesting a waiver, EPA–HQ–OAR–2012–0632–0012.

[8] The Governors' letters requesting a waiver are available at docket number EPA–HQ–OAR–2012–0632.

[9] In an August 9, 2012 letter, the Governors of Delaware and Maryland jointly wrote in support of the July 30 NPPC letter. The Governor of Delaware subsequently wrote in a September 25 letter asking that the August 9 letter ''be formally considered a Petition for Waiver;'' mentioned in EPA–HQ–OAR–2012–0632–1969. The Governor of Maryland also submitted a subsequent letter dated October 11, 2012 requesting a waiver, EPA–HQ–OAR–2012–0632–2259.

[10] This includes several letters EPA received from Members of Congress supporting a waiver, all of which are available in the docket.

[11] 77 FR 52715 (August 30, 2012) (''August 30 Notice'').

relevant to EPA's review of and actions in response to the waiver requests, including but not limited to: (a) Whether compliance with the RFS would severely harm the economy of Arkansas, North Carolina, other States, a region, or the United States; (b) whether the relief requested will remedy the harm; (c) to what extent, if any, a waiver would change demand for ethanol and affect prices of corn, other feedstocks, feed, and food; (d) the amount of ethanol that is likely to be consumed in the U.S. during the relevant time period, based on its value to refiners for octane and other characteristics and other market conditions in the absence of the RFS volume requirements; and (e) if a waiver were appropriate, the amount of renewable fuel volume appropriate to waive, the date on which any waiver should commence and end, and to which compliance years it should apply.

In response to requests for an extension of time for public comment, EPA extended the public comment period by 15 days to October 11, 2012.[12] EPA received in excess of 29,000 comments during the comment period; the majority of the comments were short statements generally in support of the requests for a waiver. EPA also received numerous comments from various trade organizations and businesses, Governors, Members of Congress and other elected officials, researchers, and environmental organizations either supporting or opposing a waiver. Many of the comments referenced various analyses which are discussed below. In addition, EPA received comments that either supported EPA's legal interpretation of section 211(o)(7) as described in the 2008 Texas waiver determination or suggested that different interpretations and applications were appropriate. EPA addresses these and other comments either in the discussion of our process, results and conclusions, or in section VI of this determination.

2. EPA's Treatment of Petitions for a Waiver, Letters in Support of Petitions for a Waiver, Letters Requesting That EPA Act on its Own Authority To Issue a Waiver

Section 211(o)(7)(A) states, in relevant part, that ''The Administrator * * * may waive [the RFS requirements] in whole or in part *on petition by one or more States, by any person subject to the requirements of this subsection, or by the Administrator on his own motion* * * * *(i)* based on a determination * * * that implementation of the requirement would severely harm the economy or environment of a State, a region or the United States, or (ii) based on a determination * * * that there is an inadequate domestic supply.'' (Emphasis added). The statutory criteria that must be met to issue a waiver are the same regardless of whether EPA acts on its own motion or responds to a petition from a State or person subject to the RFS requirements. The only difference the statute draws between the Administrator acting on her own motion or in response to a petition submitted by the listed parties is the 90-day deadline for EPA action in the latter case, set by section 211(o)(7)(B). Therefore, EPA has given all waiver requests, whether received before or after the August 30 Notice, equal consideration. For the reasons described below, EPA is denying all of the waiver requests.

EPA received comment that although EPA sought comment on all the waiver requests, the Administrator need only decide that *one* of the requests meets the statutory requirements of CAA section 211(o)(7) in order to exercise her authority to waive the requirements of CAA section 211(o)(2) in whole or in part. This commenter noted that while EPA may consider the entirety of information and comments submitted on the various waiver requests, it need not decide that all, or several, of the requests have sufficient basis in order to grant a waiver. The commenter suggests that the waiver provision requires the Administrator to make individualized decisions with respect to ''a State,'' or ''a region'' of the United States that may be the subject of an individual request. EPA has considered all of the information and analysis submitted by the petitioners and parties who requested a waiver, as well as that submitted in comments. We have considered all information before us, including an analysis developed by EPA, as discussed below. Our technical analysis is relevant to all of the individual waiver requests. Based on the entire record before it, EPA has determined that each of the petitions and requests should be denied. In this decision EPA addresses each of the requests and petitions it has received to date. Therefore, EPA does not find itself in the situation posited by the commenters where some of the individual petitions are determined to satisfy the criteria for a waiver and other petitions do not. Rather, EPA has determined that each of the petitions should be denied.

3. Other Comments Related to EPA's Administrative Process

As mentioned above, as part of the 2008 waiver determination EPA provided guidance on what types of information and analysis should be submitted with future waiver requests. In response to this year's August 30 Notice, commenters argued that such guidance effectively established ''completeness criteria'' that petitioning States failed to meet, and that EPA failed to apply when initially evaluating the requesting letters.[13] Commenters argue that had EPA applied such criteria, EPA ''would not have even sought comment on the state petitions submitted this year.'' [14] Commenters further argued that because the petitions submitted in 2012 fail to meet the criteria put forth by EPA in 2008, EPA ''may not grant a waiver as the public has been deprived of the opportunity to comment on the basis for granting a waiver'' of the RFS.[15]

EPA takes seriously its responsibility to evaluate whether circumstances warranting a waiver have arisen. EPA also recognizes the need to avoid the uncertainty to the renewable fuel and RIN markets that may be associated with unnecessarily frequent evaluations of whether issuing a waiver is appropriate. To help meet those objectives, EPA provided guidance in 2008 regarding expectations for future waiver requests, and today we repeat that such guidance should be followed in the future. At the same time, we explicitly stated in 2008 that the guidance provided ''is not a rule, and therefore is not binding on the public or EPA. Any final decision on the sufficiency and merit of a petition will be made upon review of a petition by EPA in consultation with USDA and DOE.'' We further stated that EPA would ''review a request for a waiver and first determine whether to proceed with public notice and comment.''

EPA, in consultation with USDA and DOE, reviewed the waiver requests received in July and August. In light of the severe drought affecting much of the country, and the clearly expressed support for a waiver by a number of States, governmental representatives and industry trade groups, it was clearly appropriate to seek public comment on the requests before making a final decision. Such a step would be required before EPA could make a decision to grant a waiver, and it was clearly appropriate to do so in these circumstances involving severe drought

[12] 77 FR 57566 (September 18, 2012).

[13] EPA–HQ–OAR–2012–0632–2357, EPA–HQ–OAR–2012–0632–2218.

[14] EPA–HQ–OAR–2012–0632–2218.

[15] EPA–HQ–OAR–2012–0632–2218.

conditions before making a decision to either grant or deny a waiver. The many important public submissions in response to EPA's solicitation of comment have affirmed the importance of addressing the waiver issue in a prompt and transparent fashion.

IV. Key Interpretive Issues

Section 211(o)(7) of the CAA provides that EPA may waive the mandated national RFS volume requirement in whole or in part based on a determination by the Administrator that: (i) ''implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States,'' or (ii) ''that there is an inadequate domestic supply.'' The 2012 waiver requests are all based on claims of severe economic harm to states, regions and/or the country as a whole associated with implementation of the RFS requirements in light of the drought experienced in large agricultural production areas of the country this summer. Therefore, the relevant statutory provision authorizes a waiver if EPA determines that RFS implementation ''would severely harm the economy of a State, a region or the United States.''

In the August 30 Notice, EPA sought public comment on its interpretation of this provision as discussed in the context of the 2008 Texas waiver determination. EPA's responses to the comments received are set forth in section VI of this determination. For reasons more fully described in that section, EPA continues to interpret this statutory provision as it did in 2008. Thus, it would not be sufficient for EPA to determine that there is severe harm to the economy of a State, region or the United States; rather, EPA must determine that RFS implementation would severely harm the economy. Furthermore, EPA interprets the word ''would'' as requiring a generally high degree of confidence that implementation of the RFS program would severely harm the economy of a State a region, or the United States. EPA interprets ''severely harm'' as specifying a high threshold for the nature and degree of harm. Although there are many factors that affect an economy, the RFS waiver provisions call for EPA to evaluate the impact of the RFS mandate itself. EPA does not evaluate the impact of the RFS volume requirements in isolation, but instead evaluates them in the context of all of the relevant circumstances, including in this case the impact of the drought. However the purpose of this analysis is to characterize the impact of the RFS mandate itself, within this context. Finally, because the statute specifies that EPA ''may'' grant a waiver if it determines that implementation of the RFS requirements would severely harm the economy of a State, a region or the United States, the statute provides EPA with discretion to decline to issue a waiver even if it finds that the severe harm test is satisfied. This discretion allows EPA to take into consideration the possible impacts of issuing a waiver that extend beyond the geographic confines of a particular State or region. EPA believes that such consideration is particularly appropriate in light of the statutory requirement that any RFS waiver be nationwide in scope.[16] To the extent relevant to the waiver requests before it, EPA has applied this interpretation in reaching a decision on the waiver requests.

V. Technical Analysis

To evaluate the impact that implementation of the RFS would have on the amount of ethanol produced and consumed over the relevant time period, and the resulting impacts, if any, on the agricultural and other industries, we applied the same analytical framework EPA used in evaluating the 2008 waiver request. We first assessed what impact implementation of the RFS program would have on ethanol production and consumption, and thus corn prices, by conducting our own analysis using a model developed by Iowa State University. We then evaluated the impacts such changes, if any, would have on a set of key factors, including corn prices, feed prices, food prices, and fuel prices. A number of commenters submitted analyses looking at similar issues, and we reviewed those studies as part of our overall evaluation. Throughout this section we also address various comments we received in response to the August 30 Notice.

1. Methodology

(a) Analytical Model

To assess the impact of implementation of the RFS, EPA evaluated two scenarios: one in which no waiver is granted and another in which a waiver of the total renewable fuel mandate is granted, as discussed below. As we did in evaluating the 2008 Texas waiver request, EPA utilized an economic model developed by researchers at Iowa State University (ISU model). During development of the analytical framework used in 2008, EPA evaluated different models and modeling approaches, and we refer readers to that discussion for more detail.[17]

EPA believes the ISU model continues to be the most appropriate choice for a number of reasons. First, as discussed in 2008, EPA believes it is critical to use a stochastic framework to capture a range of potential outcomes, rather than a point estimate, given potential variation in a number of critical variables associated with ethanol production (e.g., corn yields, gasoline prices). Second, the ISU model captures the interaction between agricultural markets and energy markets, and is able to examine the impacts of uncertainty in variables within both sectors. The ability of the ISU model to account for this variability across both sectors gives the model an advantage over other models that are locked into a single projected fuel price or corn crop estimate. Third, documentation for the ISU model is relatively straightforward and transparent compared to other options, and allows all interested parties to understand the assumptions that drive the results.[18] Fourth, the ISU model was designed to be easily and regularly updated with the most recently available data, such as USDA's World Agricultural Supply and Demand Estimates (WASDE) and the Energy Information Administration's (EIA) Short Term Energy Outlook (STEO) reports, making it useful for analysis looking at fairly short time frames (e.g., within one year into the future).[19, thnsp;20] Finally, we note that the ISU model has been used in analytical work conducted outside EPA; reports based on such work are and have been available in the public domain for review. We are using a model, in other words, that has been subjected to external scrutiny independent of our own analysis. By way of example, many commenters cited a non-EPA study that used the ISU model and same basic approach we adopt here to analyze potential impacts of a waiver in 2012.[21] EPA is not aware

[16] Section 211(o)(7) reads, in relevant part, that the ''Administrator * * * may waive the [RFS] requirements * * * by reducing the *national quantity* of renewable fuel * * *''. Emphasis added.

[17] 73 FR 47173 (August 13, 2008).

[18] For a recent example of this documentation, see: Babcock, B. ''Updated Assessment of the Drought's Impacts on Crop Prices and Biofuel Production.'' (''Babcock-Iowa State.'') Center for Agricultural and Rural Development, CARD Policy Brief 12–PB 8, August 2012, available in the docket and at *http://www.card.iastate.edu/policy_briefs/display.aspx?id=1169*.

[19] *http://www.usda.gov/oce/commodity/wasde/*.

[20] *http://www.eia.gov/forecasts/steo/*.

[21] Babcock-Iowa State.

of any significant technical criticism of the ISU model itself.[22]

The ISU model is a stochastic equilibrium model that projects, among other outputs, the prices of corn, ethanol and blended fuel given uncertainty in six variables: U.S. corn yields, U.S., Brazilian, and Argentinean soybean yields, U.S. wholesale gasoline prices, and Brazilian ethanol production.[23] The analysis simulates 500 scenarios, and for each one the model independently picks a value for each exogenous factor (such as U.S. corn yield) by randomly selecting from a probability distribution curve for that factor. Since the probability of the specific value of a given corn yield is built into the distribution curve for corn yields, the greater the probability of a certain corn yield, the more likely it is that the model will pick that value for any scenario. The result is that the distribution of the random draws for each exogenous factor fairly reflects the probability of the various uncertain variables. For each of the 500 scenarios, the model projects ethanol production and the prices of corn, ethanol, and blended fuel based on the values picked for the exogenous factors for that run. As mentioned above, we ran the model with and without a waiver, modeling 500 different scenarios, to assess the impact of a waiver.

For the results described below, EPA made modifications to the model in preparation for the current analysis. At EPA's request, ISU researchers updated their model with data from the October WASDE and STEO reports. After consultation with DOE, we also modified the demand curve for ethanol to reflect our understanding of flexibility in refinery markets over the next twelve months. A full description of the ethanol demand curve developed in consultation with DOE can be found in the docket.[24] We discuss the issue of refiner flexibility more fully in Section V.1.d below. Further, as detailed in Section V.1.c below, the model utilizes EPA estimates regarding excess, or ''rollover'' RINs, that will be available for use for compliance purposes in the 2012/2013 corn marketing year time period. The time period analyzed is discussed in Section V.1.b below. The estimates of rollover RINs are based on information submitted to EPA related to RIN generation. Additional details on the model changes and assumptions made for EPA's analysis are included in the docket.[25]

(b) Scope of Technical Analysis

To analyze the impact of implementation of the RFS, our technical analysis focused on the volume of renewable fuel representing the difference in volume between the advanced biofuel requirement and the total renewable fuel requirement. This is the portion of the total volume requirement that is currently met almost exclusively with corn ethanol.[26] EPA compared circumstances with and without a waiver to identify the impact properly associated with the use of corn ethanol in the implementation of the RFS program for the 2012/2013 corn marketing year.[27]

We note that several of the States requested a waiver of RFS requirements ''in 2012 and 2013,'' although the various waiver requests were not always specific with respect to the time period for which the waiver was requested. EPA focused its technical analysis on the 2012/2013 corn marketing year (which runs from September 1, 2012, to August 31, 2013) for a number of reasons. All of the petitioners referenced the serious drought conditions as the underlying reason for waiving the RFS volume requirements. The drought primarily affects the 2012/2013 corn marketing year, and the harm claimed by the requesters was the impact of taking corn from the reduced crop affected by the drought and using it to produce ethanol as a transportation fuel. The corn crop at issue is the 2012/2013 corn marketing year crop, and it is ethanol produced from this corn crop that was the overwhelming focus of the waiver requests. Focusing the technical analysis on the production of ethanol during this same 2012/2013 time period focused the analysis on the time period where implementation of the RFS volume requirements was claimed to be the source of the harm. In addition, focusing on the 2012/2013 marketing year is consistent with the petitioners request to waive the RFS requirements ''in 2012 and 2013'' since it would cover portions of both calendar years. Finally, while other time periods are possible to analyze, data is often reported on a marketing year basis, and analysis of commodity markets is frequently done similarly. The WASDE data used in our analysis, as well as all other USDA projections of U.S. corn yields, production, and prices, are done within this same time frame.

EPA received comment that a waiver granted for some or all of 2013 might have impacts on market dynamics in the 2013/2014 corn marketing year, and that EPA is not limited to assessing only a one-year impact.[28] Commenters state that a waiver granted for some or all of the 2013 RFS compliance year would make more RINS available for use in 2014, when the RFS standards are higher, and that such a waiver would provide ''relief'' in 2013/2014. In considering the time frame used for this technical analysis, EPA recognizes that we have discretion in determining the appropriate time period to analyze. In this case, however, and as described above, we focus our analysis on the 2012/2013 corn marketing years as that is the time period where the requesters claim that implementation of the RFS volume requirements would severely harm the economy. Evaluating whether implementation of the RFS volume requirements would severely harm the economy after the end of the 2012/2013 corn marketing year would require a new set of assumptions regarding future crop yields, gasoline costs, refining market behavior, and other parameters, which can be projected but are less certain at this time.[29] EPA believes that evaluating the potential impacts of implementation of the RFS volume requirements in 2013/2014 should take into account information on the 2013/2014 corn crop, as well as updates on other information used in the analysis. While it is possible to look over a longer time period, as some of the studies

[22] The assumptions and inputs used within any model are of critical importance to modeled results, and we explain our selection of key inputs below.

[23] These variables are called exogenous factors, or uncertain variables. The gasoline price put into the model is a ''petroleum only'' price, meaning that it represents a gallon of gasoline that contains no ethanol.

[24] See memo to the docket from the Department of Energy on ethanol demand for further information.

[25] See memos to the docket describing the ISU model (''Description of Iowa State University Stochastic Model'') and detailing EPA modeling results (''EPA Stochastic Modeling Results'') for more information.

[26] Note that the RFS program does not require that this volume of renewable fuel be met through use of corn based ethanol; any other renewable fuel can also satisfy the requirement.

[27] While some of the requests for a waiver do discuss a ''whole or partial'' waiver, our analysis focuses on a waiver of the full amount between the advanced biofuel requirement and the total renewable fuel requirement. Analyzing scenarios with and without the volume requirements in place helps evaluate the full impacts of the RFS program. Because we find that it is unlikely that the RFS requirements are having an impact in the time period analyzed, we do not address the question of a partial waiver. If waiving the entire volume requirement were to have no impact, then we would not expect waiving just a portion of the requirements to have an impact.

[28] For example, see comments submitted by National Pork Producers Council, available at EPA–HQ–OAR–2012–0632–2209, stating that ''benefits of [a] waiver do not need to coincide with waiver period'' at 26.

[29] For example, using gasoline prices for longer-term projections necessarily involves a higher degree of uncertainty. The same goes for projections related to crop yields.

submitted to EPA attempt to do,[30] assessing impacts over a longer time period introduces an additional set of variables that increase the uncertainty of any analytical results.

To the extent parties believe that implementation of the RFS program would severely harm the economy in 2014 because of the production of renewable fuel from corn, then a future waiver request that focuses on the harm in that time period could present analysis and arguments addressing the impact of implementation of the RFS volume requirements during that time period. For example, the availability of rollover RINs in future time frames could be more limited, a fact which could impact the results of such an analysis. However as noted above assessing those issues now would involve a high degree of uncertainty. To the extent parties assert that implementation of the RFS volume requirements would severely harm the economy in 2014 because of market based limits on the volume of ethanol in gasoline (typically referred to as the blendwall, as blends greater than E10 or E15 may only be marketed to flexible fuel vehicles), then a future waiver request that focuses on this issue could present information and analysis addressing the relevant issues. However, it would be more appropriate to consider such issues in a future annual RFS rulemaking setting the volume requirements for years after 2013.

In a related vein, EPA also received comments related to EPA's ability to renew a waiver beyond a one-year time frame.[31] Other commenters suggested that EPA should grant a waiver for two years. The statute provides that a waiver granted under section 211(o)(7) of the Act ''shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.'' EPA interprets this provision to mean that Congress intended the length of time for which a waiver should be granted to be one year, and that EPA may consider, in consultation with USDA and DOE, whether the period should be extended. Such consultation would be in the context of evaluating the economic impacts of the initial waiver as well as whether severe economic harm is still being caused by implementation of the RFS volume requirements. EPA does not need to decide now the scope of its authority for a renewal of a waiver, especially since EPA is denying the waiver requests that are before it. EPA clearly has authority to grant a waiver for a period of one year only, and any renewal would need to be the subject of a separate, if related, action.

For these reasons, with respect to assessing the impact that implementation of the RFS will have on ethanol production levels, and to evaluating the impacts and potential degree of harm from implementation of the RFS on corn prices and other factors, EPA believes that it is appropriate in this case to focus its technical analysis on impacts that occur from the production of ethanol in the 2012/2013 corn marketing year.

EPA's technical analysis focuses on whether the RFS mandate has an effect on corn ethanol production and consumption over the 2012/2013 marketing year. EPA recognizes that the drought affecting much of the nation during 2012 has affected not only corn yields, but also other crops used in the production of renewable fuels, most notably soybeans, which are used as a feedstock in biomass-based diesel (BBD) production. EPA also received comment arguing that a waiver should analyze impacts on all potential feedstocks and volume standards under RFS.[32] EPA chose to focus our technical analysis on conventional ethanol, corn prices, and related impacts primarily because the requesting States and other parties as well as commenters focused the overwhelming majority of their discussion on ethanol production, corn price changes, and subsequent impacts from those increased corn prices on industries that use corn as an input (e.g., feed, livestock, and poultry industries). These parties assert that the RFS is creating demand for corn for use in production of transportation fuel, and that reducing that demand via a waiver would result in making additional corn available for other end uses and reduce prices of corn. Because the focus of the requesting parties is on corn and corn ethanol, we believe it is reasonable to similarly concentrate our technical analysis on the impacts of a waiver affecting the portion of the total renewable fuel mandate that is currently satisfied with conventional renewable fuel RINs, the majority of which represent corn-based ethanol.

At the same time, some of the requesting States mentioned the drought's impacts on soybean crops, and many of the requesting States requested a waiver of ''applicable volumes'' of renewable fuel.[33] While EPA did not conduct its own technical analysis of these issues, EPA considered the technical analysis and other information submitted by commenters, and has determined that a waiver should not be granted for the RFS biomass-based diesel volumes. We discuss the biomass-based diesel and cellulosic volume requirements in section V.6.

(c) Availability of Rollover RINs

Under the RFS program, RINs are valid for compliance purposes for both the calendar year in which they are generated and the following calendar year. By regulation, the amount of an obligated party's Renewable Volume Obligation (RVO) that can be met using previous-year, or ''rollover,'' RINs is capped at 20 percent. EPA explained our interpretation of the relevant statutory provisions, and our reason for establishing a cap of 20 percent, in the 2007 RFS final rulemaking on RFS.[34] For purposes of the current analysis, the number of rollover RINs available during the 2012/2013 marketing year affects the impact of implementation of the RFS volume requirements in 2013.

The specific number of rollover RINs available for use in the 2012/2013 marketing year is an input into EPA's stochastic modeling. To the extent that the number of rollover RINs is greater, the RFS requirements could be met with less production and blending of ethanol in 2013. The converse is the case if the number of rollover RINs is less. As discussed in Section V.1.d, we believe that refiners and importers, the parties obligated to comply with a renewable volume requirement, at least in many cases, have reasons other than the RFS program for choosing to rely on ethanol blending for compliance purposes. However, to the extent that the RFS program also creates such pressure, rollover RINs reduce it in a given time period by increasing compliance flexibility for obligated parties. It also provides more flexibility for renewable fuel producers. From the perspective of the ISU model, one rollover RIN is equivalent to one liquid gallon of ethanol: both equally satisfy the RFS requirements, and thus both are sources of ethanol to draw upon in the model.

Based on the most current data available from the EPA Moderated Transaction System (EMTS), EPA

[30] See, for example, ''Renewable Fuel Standard Waiver Options during the Drought of 2012,'' Food and Agricultural Policy Research Institute, University of Missouri, Report #11–12, October 12, (''FAPRI-Missouri''), available in the docket.

[31] National Pork Producers Council comments at EPA–HQ–OAR–2012–0632–2209.

[32] See, for example, comment from Chevron at EPA–HQ–OAR–2012–0632–2306.

[33] See, for example, the waiver request letter from the Governor of Utah, at EPA–HQ–OAR–2012–0632–2486, requesting a waiver ''as to have the maximum impact on the price of corn and soybeans * * *''.

[34] 72 FR 23935 (May 1, 2007).

projects that obligated parties will collectively be able to roll over 2 to 3 billion 2012 vintage RINs into the 2013 compliance period. EMTS currently reports that approximately 3.5 billion 2011 vintage D6 RINs are available for use towards 2012 compliance. As discussed above, no more than 20 percent of a given year's renewable fuel standard can be met with RINs from the previous year.[35] That requirement is 15.2 billion gallons in 2012, meaning that as many as 3.04 billion 2011 RINs can be carried over for 2012 compliance.[36] Since these 2011 vintage RINs expire at the end of the 2012 compliance period, obligated parties have a strong incentive to use these RINs first, carrying over any excess 2012 RINs into the 2013 compliance period. Based on this incentive and supported by conversations with industry and governmental stakeholders, EPA believes that obligated parties will utilize the maximum possible amount of 2011 RINs (i.e., 3.04 billion RINs out of a total 3.46 billion RINs available) for 2012 compliance and not let them expire.

Based on total 2012 EMTS data available to date, we project for purposes of this analysis that D6 RIN rollover into the 2012/2013 marketing year period will exceed 2.0 billion. Total D6 RIN generation for 2012 has already exceeded 10.8 billion gallons. Monthly generation of D6 (general renewable fuel) RINs was approximately 1.05 billion in October of 2012, only slightly lower than the 1.1 billion RINs generated in October of 2011 and just below average for 2012 as a whole.[37] If monthly RIN generation holds constant at October levels for the rest of 2012, rollover of 2012 vintage RINs to 2013 would likely exceed 2.6 billion. If RIN generation increases in November and December of 2012, as it did in both 2010 and 2011, rollover RIN availability would likely exceed 2.7 billion and could potentially be even higher. Thus in all of these scenarios, it is expected that at least 2.0 billion rollover RINs will be available for the 2013 compliance year. Further information on RIN rollover projections is also available in the docket.[38]

Several studies prepared by non-EPA researchers observe, and we agree, that the availability of rollover RINs can significantly affect the potential impact of implementation of the RFS volume requirements. Some studies have suggested that, in scenarios where rollover RINs are relatively scarce, waiving the effective conventional renewable fuel volume requirement might lead to a significant decrease in corn prices. However, if significant numbers of rollover RINs (i.e., 2.0 billion or more) are available, these studies suggest that the effect of a waiver is significantly smaller.[39]

EPA recognizes that the estimate of rollover RIN availability used in the ISU model (and other models) can have a significant effect on the results of the modeling. For purposes of our analysis, EPA assumed that no more than 2.0 billion rollover RINs would be available for use in the 2012/2013 time period. As discussed above, current data suggest that RIN rollover is likely to be higher or even significantly higher than this. We believe 2.0 billion rollover RINs is a conservative analytical assumption.

Historically refiners and blenders have blended more ethanol than required due to its favorable economics, leading to the large carryover RIN balance discussed above. EPA received comment suggesting that even if the blending economics were not favorable for ethanol, refiners and blenders might look forward to future obligations and purposefully over-comply with the RFS requirements in 2013 to increase their ''bank'' of relatively low-cost RINs that could be carried into 2014, in case they anticipate RIN prices to be higher then. If such behavior were to take place, ethanol production in the 2012/2013 corn marketing year would be higher than the level projected in the ISU modeling results. The implication is that the waiver could have a slightly larger impact on ethanol production and corn prices than what is projected in the ISU modeling results. If this type of over-complying behavior were to take place, we would expect demand for ethanol to be right at the E10 blend wall limit in 2012 and 2013. However, the empirical data does not support the theory that obligated parties are over-complying to the maximum extent that they can bank RINs today, since there is still a small but significant gap between the volumes of ethanol consumption our modeling projects for next year and the estimated E10 blend wall. Even if parties were to engage in over-compliance for banking purposes in 2013, their desire to do so would likely be limited by their ability to blend ethanol into low level blends (i.e., E10). Therefore, we do not believe that this type of behavior would have any appreciable effect on our analysis for this waiver decision.

(d) Flexibility in the Refining Sector

In assessing the impact of implementing the RFS volume requirements in the 2012/2013 time frame on ethanol production, a key consideration is the economic incentives for refiners to use ethanol during that time frame as well as the ability of refiners and fuel blenders to reduce, over that one-year timeframe, the quantity of ethanol currently being blended into the gasoline pool. As ethanol production and availability in the U.S. has increased over the past 10 years, the economics of blending ethanol into gasoline have been such that many refiners have transitioned from producing primarily finished gasoline to producing primarily blendstocks for oxygenate blending (BOBs) which require the addition of ethanol in order to meet the specifications of finished gasoline. However, assuming refiners wanted for business reasons to reduce the quantity of ethanol blended into the gasoline pool, refiners would have to seek alternative high octane blend stocks or significantly adjust refinery operations to make up for the volume and octane increase they currently receive from ethanol. Logistical challenges to the refined product distribution system would also have to be overcome in parallel with the necessary refinery operation changes.[40]

As mentioned, currently most refiners produce a sub-octane unfinished gasoline lacking oxygenates called blendstocks for oxygenate blending (BOBs). These BOBs are transported through fuel pipelines or other modes to petroleum product terminals where they are then blended with ethanol and become finished gasoline. Since ethanol is generally not produced near large refineries and may absorb water and impurities that normally reside in petroleum product pipelines, a separate ethanol distribution system has been established to distribute and ultimately blend ethanol into BOBs at terminals to produce the finished fuel.

[35] 40 CFR 80.1427.

[36] 3.04 billion RINs is 20 percent of the total renewable fuel requirement for 2012 (i.e., 15.2 billion gallons).

[37] Even if D6 RIN generation declines by 10 percent monthly in November and December of 2012, we expect that the number of 2012 vintage D6 RINs available after obligated parties fulfill their 2012 compliance obligations would still exceed 2 billion, and would likely exceed 2.5 billion. See ''RIN Rollover'' memo in the docket for more information.

[38] See ''RIN Rollover'' memo in the docket.

[39] See Babcock-Iowa State. See also Purdue University/Farm Foundation study,''Potential Impacts of a Partial Waiver of the Ethanol Blending Rules,'' EPA–HQ–OAR–2012–0632–0025.

[40] See Department of Energy memo on ethanol demand, available in the docket, for further information. See also EPA memo, ''Economics of Ethanol Blending and Refining Sector Flexibilities,'' available in the docket.

One reason refiners choose to blend ethanol into gasoline is for purposes of boosting gasoline octane levels. Ethanol has an octane value of 115 (R+M/2) while finished gasoline's pump octane value ranges from 87–93.[41] Ethanol also has a value as a gasoline extender when blended into the gasoline pool. Other properties of ethanol, such as its volatility and low sulfur and benzene content, influence its value to refiners. Each refiner is expected to make decisions about ethanol blending independently, in light of the value they place on these factors and the complexity and uniqueness of each refinery. Where the blending of ethanol is profitable to refiners we expect that they would continue to blend ethanol into the gasoline pool even in the absence of a renewable fuel requirement.[42]

After consultation with DOE, review of comments, and analysis undertaken by EPA, we determined that, assuming refiners had an economic incentive to reduce ethanol blending, refiners have limited flexibility to make the necessary adjustments to reduce ethanol blending if a one year waiver of the RFS program were granted under projected scenarios for ethanol and gasoline prices. Our modeling inputs reflect this determination.[43] At current ethanol and crude oil prices, the blending of ethanol into gasoline is an economically beneficial practice for refiners, and based on EIA forecasts this is expected to continue through at least 2013. However if that were to change and blending ethanol into gasoline was no longer an economically beneficial practice for refiners, we believe that the challenges at both the refinery level and in the refined product distribution system would be significant deterrents to reductions in ethanol blending in response to a one-year waiver. Studies conducted by independent organizations such as Morgan Stanley and Hart Energy, among others, support our assumption that refiners would be limited in their ability to reduce ethanol blending if a one year waiver of the RFS requirements is granted under current economic circumstances.[44] For example, Morgan Stanley argues that there would be significant impediments to moving away from ethanol because it is widely available and is the least expensive source of octane/oxygenates for most refineries. Similarly, Hart Energy estimates that ethanol's octane value and the cost of partially replacing ethanol use will limit the economic attractiveness to refiners of using less ethanol even with a waiver. They conclude that because an RFS waiver cannot force a reduction in domestic ethanol usage or exports, a waiver would likely have a small, if any, effect on reducing corn prices based on the continued demand for ethanol under current market economics.

EPA also received comments from the American Petroleum Institute, Chevron, and Marathon Petroleum Company stating that a one year waiver would be unlikely to result in a significant decrease in ethanol blending.[45] Though we did receive some comment arguing that refiners could make operational changes quickly, commenters provided little evidence upon which to assess this claim. These comments are likely based on historical practices when splash blending of ethanol was much more prevalent and refining and distribution had not optimized toward the use of ethanol.

Several commenters cited the challenges that refiners would face in reducing the quantity of ethanol blended into the gasoline pool in the near term as justification for a longer-term waiver.[46] These commenters stated that doing so would allow the refining industry sufficient time to address the operational and logistical challenges mentioned in the previous paragraphs and be necessary to result in reduced ethanol demand and consequent relief from high corn prices to affected industries. While we recognize that analyzing a longer period could affect the results of our modeling, EPA did not conduct such an analysis here for the reasons discussed above, including the high uncertainty involved in projecting relevant conditions further into the future. As such our technical analysis is based on the impacts of implementation and a potential waiver over a period of one year.

2. Projected Impact of Implementation of the Renewable Fuel Standard

We ran the ISU model with the updates and inputs described above and here describe the outputs. The ISU model projects that the average expected amount of conventional ethanol produced in the United States during the 2012/2013 corn crop year without a waiver will be 12.48 billion gallons. ISU's model predicts that for 89 percent of the simulated scenarios, waiving the RFS requirements would not change the overall level of corn ethanol production or overall U.S. ethanol consumption in 2012/2013 because in the event of a waiver the market would demand more ethanol than the RFS would require. For those 89 percent of the scenarios, waiving the RFS requirements would therefore have no impact on ethanol use, corn prices, ethanol prices, or fuel prices. We refer to that model result as an 89 percent probability that the RFS will not be ''binding'' in the 2012/2013 marketing year. Conversely, in 11 percent of the simulated ISU model runs the RFS would be binding. In those 11 percent of the random draws, the resulting market demand for ethanol would be below the RFS requirement and, therefore, the RFS would require greater use of ethanol than the market would otherwise demand. The binding scenarios are generally those in which projected fuel prices and corn yields are both unrealistically low, with both gasoline prices and corn yields in 2012/2013 falling significantly below their current DOE and USDA projections.[47] In those cases, the RFS would have an impact, albeit a limited or moderate one, on ethanol use and the food and fuel markets in the United States.

The ISU model assumes corn ethanol would account for at most 13.6 billion gallons of the RFS volume requirement during the 2012/2013 corn marketing year. Because the corn marketing year is split over two RFS compliance years, the 13.6 billion gallons is based on the fraction of the marketing year that would occur in the 2012 compliance year (one-third) and the 2013 compliance year (two-thirds). EISA requires 15.2 billion gallons of renewable fuels in 2012 and 16.55 billion gallons in 2013; however, 2 billion gallons of the 2012 volume and 2.75 billion gallons of the 2013 volume

[41] Octane rating or octane number is a standard measure of the performance of a motor or aviation fuel. The higher the octane number, the more compression the fuel can withstand before detonating.

[42] EPA acknowledges that the blending economics for ethanol are significantly different for E10 and E85. Our ethanol demand curve takes these differences into consideration, resulting in large drop in the ethanol to gasoline price ratio at the volume of ethanol that corresponds to the E10 blendwall.

[43] We note that our analysis does take into account different fuels where appropriate, including imported ethanol derived from sugarcane.

[44] Morgan Stanley, ''Ethanol Demand a Function of Economics, Not RFS,'' August 7, 2012. Hart Energy Special Report, ''U.S.: RFS Waiver Unlikely to Affect Ethanol Use,'' October 12, 2012. Both analyses are available in the docket.

[45] Comments submitted by American Petroleum Institute, EPA–HQ–OAR–2012–0632–2240, Chevron, EPA–HQ–OAR–2012–0632–2306, and Marathon Petroleum Company, EPA–HQ–OAR–2012–0632–1968.

[46] See for example National Chicken Council comments, EPA–HQ–OAR–2012–0632–1994 and Grocery Manufacturers Association comments, EPA–HQ–OAR–2012–0632–2341.

[47] Were we to use the November WASDE estimates, the percentage of time that the RFS requirements are projected to be not binding would be even higher, due to the increase in the lower end of the corn yield projections.

must be from advanced biofuels. While advanced biofuels, including biomass-based diesel, advanced ethanol, and cellulosic biofuels are included in the ISU model we focus our analysis on evaluating the effects of a waiver of the portion of the RFS volume requirement filled by corn ethanol (see Section V.1.b). The full results from this analysis are included in the docket. The modeling projects that 2.0 billion gallons of rollover RINs from 2012 will be used to meet the 13.6 billion gallons during this time period.

Certain empirical data also support the projection that the RFS is unlikely to be binding in the 2012/2013 timeframe. For example, the price of tradable renewable identification number (RIN) credits remains relatively low: below five cents per gallon as of September 26, 2012. Refiners and importers verify their compliance with the RFS by collecting and retiring RINs, which are assigned to volumes of renewable fuel by their producers. Refiners and importers use RINs for an appropriate volume of renewable fuel to demonstrate compliance with their RFS volume requirement. Parties that exceed their RFS obligations for a compliance period can trade excess RINs to other parties that need them for compliance, or under certain conditions, can bank them for future compliance. When the RFS requirement is expected to be binding, we would expect the demand for RINs would increase and the supply of excess RINs to decrease, leading to an increase in RIN prices.

Therefore, we expect the current RIN price reflects the market's current and near-term expectations about how binding the RFS is likely to be. Recent RIN prices represent a very small share of the price of a gallon of ethanol, suggesting that refiners and blenders expect the RFS is not likely to be binding in 2012 or 2013. It is possible that RIN prices have been depressed by market uncertainty generated by the recent waiver requests. However, the record high RIN price before these waiver requests was only approximately 6.5 cents per gallon. In this particular case, the empirical RIN price information corroborates the modeled impacts of the RFS.

3. Analysis of the Degree of Impact

When evaluating the economic impacts of implementation of the RFS volume requirements, our analysis centered on four major areas: average U.S. corn prices, food prices, feed prices, and fuel prices. While there may be other areas of potential impact, we focused on these areas because they are expected to have the largest potential economic impacts in the U.S. Given the time available for this analysis, we have not looked at the interaction of these impacts in an integrated modeling system. However, we believe that looking at these indicators individually provides a useful framework for determining the impact of the RFS volume requirements.

As discussed above, the body of information shows that it is very likely that the RFS volume requirements will have no impact on ethanol production volumes in the relevant time frame, and therefore no impact on corn, food, or fuel prices. In the unlikely event that the RFS program would have an impact on the corn and other markets during the 2012–2013 timeframe, its nature and magnitude is described below. Our analysis considers the impact in three ways (1) when the RFS volume requirements are not binding (89% of the scenarios), (2) the average across all 500 scenarios, binding and not binding, (3) and the average across the binding scenarios (11%). As a bounding exercise, we also provide information on a ''worst case'' scenarios from within the binding scenarios (see Section V.3.e below).

(a) Corn Price Impacts

Based on the ISU modeling results, the average expected impact of waiving the RFS requirements over all the potential outcomes would be a decrease in the price of corn by $0.07/bushel. This average result must be considered in context, however, since our analysis projects that it is highly likely that the RFS volume requirements are not binding, and that the impact on corn prices will be zero. There is only an 11% chance that the requirements will be binding. Because of this, we project that it is highly likely that the impact of waiving the RFS program is zero change in corn prices. However, in the subset of potential outcomes in which the RFS requirements are binding (11 percent of the results), waiving the program would result in an average expected decrease in the price of corn of $0.58/bushel. This leads to a non-zero average impact across all 500 scenarios, even though the most likely result is still zero impact. Table V.3.a–1 presents the ISU scenarios.

TABLE V.3.a–1—RANGE OF ESTIMATED CORN PRICES

	Iowa State mean estimate	Iowa State when RFS does not bind	Iowa State when RFS binds
Mean Corn Prices with Mandate ($/bushel)	$8.02	$8.00	$8.15
Mean Corn Prices with Waiver ($/bushel)	$7.95	$8.00	$7.57
Change in Corn Prices with Waiver ($/bushel)	−$0.07	$0.00	−$0.58
Percentage of Runs	100%	89%	11%

(b) Food Price Impacts

In consultation with USDA, EPA estimated how these projected changes in corn prices would influence U.S. food prices. It is highly likely that the RFS volume requirements are not binding and there will be no impact on food prices. The results of the modeled corn price impacts discussed above appear to be modest for both the mean estimate and the subset of scenarios in which the RFS requirements are binding (see Table V.3.b–1). A $0.07/bushel decrease in corn prices would result in a 0.04% decrease in Food consumer price index (CPI) and a 0.006% decrease in All Item CPI. A $0.58/bushel decrease in corn prices would result in a 0.35% change in Food CPI and a 0.049% change in All Item CPI. For the average household, a $0.07/bushel decrease in corn prices would result in a reduction of household expenditures on food equal to $2.59 in 2012/2013, while a $0.58/bushel decrease in corn prices would result in a savings of $22.68.

Since people in the lowest income groups are more sensitive to changes in food prices, we also analyzed the impact of changes in food expenditures as a percentage of total consumer expenditures and as a percentage of income. The changes in food expenditures are relatively small compared to total consumer expenditures for both average and low income households. When comparing the changes in food expenditures relative to income, the impact on low

income households is larger than the impact on average households.

Additional details on the methodology used to calculate the CPI and household expenditures are included in the docket.[48]

TABLE V.3.b–1—IMPACTS ON FOOD PRICES, CPI INDICATORS, AND HOUSEHOLD EXPENDITURES

	Units	ISU mean estimate	ISU when RFS binds
Change in Corn Prices with Waiver	$/bushel	−$0.07	−$0.58
Change in Food CPI with Waiver	Percent	−0.04	−0.35
Change in All Item CPI with Waiver	Percent	−0.006	−0.049
Change in Annual Food Expenditures for Average Household with Waiver	$	−$2.59	−$22.68
Change in Annual Food Expenditures for Lowest Quintile Household with Waiver	$	−$1.42	−$12.46
Change in Food Expenditures as a Percentage of Consumer Expenditures for Average Household with Waiver.	Percent	−0.005	−0.047
Change in Annual Food Expenditures as a Percentage of Consumer Expenditures for Lowest Quintile Household with Waiver.	Percent	−0.007	−0.061
Change in Food Expenditures as a Percentage of Income After Taxes for Average Household with Waiver.	Percent	−0.005	−0.046
Change in Food Expenditures as a Percentage of Income After Taxes for Lowest Quintile Household with Waiver.	Percent	−0.0065	−0.057

(c) Feed Price Impacts

Using WASDE projections (which assume the mandate is in place) for feed costs in 2012/2013, we estimated that U.S. feed prices are projected to be $318.45/ton, using a weighted average use of corn, sorghum, barley, oats, and soybean meal. In estimating the impact of a change in corn prices on feed costs, we used a simplifying assumption that the percentage change in corn prices is applied to all components of the feed grains components used in this analysis. Since the price of other feed grains tend to track the price of corn, we believe this simplifying assumption is a realistic estimate of how feed grains will track each other with changes in corn prices. It is highly likely that the RFS volume requirements are not binding, and there will be no impact on feed prices. We estimated the potential impact of granting the waiver on feed costs for the corn price scenarios described in the previous sections: the ISU mean estimate of a $0.07/bushel decrease in corn price and the subset of ISU scenarios in which the mandate is binding ($0.58/bushel decrease in corn price).

TABLE V.3.c–1—U.S. FEED PRICES

	2009/10	2010/11	2011/12	2012/13
Feed Cost ($/ton) without Waiver	$158.17	$212.93	$255.38	$318.45
Decrease in Feed Costs, $/ton ($0.07/bushel corn price change scenario)				−$1.88
Decrease in Feed Costs, $/ton ($0.58/bushel corn price change scenario)				−$16.50

Source: October 10, 2012 WASDE.
Note: Feed is equal to the weighted average sum of feed use of corn, sorghum, barley, and oats plus domestic use of soybean meal.

Based on USDA's estimates for U.S. livestock feed costs and returns, we estimated the impact of a percentage change in feed costs per unit for poultry, hogs, fed cattle, cow-calfs, and milk production. Details on the methodology used to calculate feed impacts are included in the docket. Using USDA's production and slaughter estimates, we aggregated the potential feed cost impacts of a waiver for the U.S. and the States that requested a waiver. Table V.3.c–2 presents the estimated changes in total nationwide and statewide feed costs due to the corn price changes observed in our modeling, alongside 2011 livestock revenue and GDP. As Tables V.3.c–3, V.3.c–4, and V.3.c–5 show, in dollar terms, the largest sectors of the livestock industry that could potentially benefit from the waiver are the cattle and dairy industry. However, as a portion of total feed costs, the impacts are similar across livestock types. As stated above, it is highly likely that the RFS volume requirements are not binding and there will be no impact on feed prices. However, we present the potential impacts from the corn price changes noted above in order to illustrate what might happen under those circumstances.

When considering impact of the implementation of the RFS volume requirements, EPA considered the impacts in both absolute terms and relative to the entity being affected, since impacts will be more meaningful for some states than others. Texas, for example, sees the largest dollar value feed impacts among states that requested a waiver. Our average projected corn price impact of $0.07/bushel represents a decrease of $35.2 million in total feed costs. However, this is only a 0.6 percent decrease in total Texas feed costs, which is equivalent to approximately 0.2 to 0.4 percent of State livestock revenue. In the 11 percent of cases where we modeled the RFS requirements as binding, we project that a waiver might decrease Texas feed costs by about $308.5 million (a 2.0–3.8 percent decrease in feed costs).

In a State like Arkansas, where livestock revenue represents about 3.5 percent of state GDP (the largest proportion of any state that requested a waiver of the RFS mandate), the impact of the waiver might be expected to have a larger impact. However, here we see only a 0.5 percent decrease in feed costs in the $0.07/bushel case, which is equivalent to only a 0.06 to 0.1 percent impact on State livestock revenue.

[48] See USDA memo on Food CPI and Food Expenditures in docket.

TABLE V.3.c–2—2011 GROSS DOMESTIC PRODUCT, 2011 LIVESTOCK REVENUE, AND PROJECTED TOTAL FEED COSTS AND ESTIMATED DECREASE WITH RFS WAIVER FOR COMBINED CATTLE, POULTRY, PORK, AND DAIRY PRODUCTION IN THE U.S. AND STATES REQUESTING A WAIVER

	Total feed costs without waiver (million $)	Decrease in feed costs in million $ ($0.07/bushel corn price change scenario)	Decrease in feed costs in million $ ($0.58/bushel corn price change scenario)	2011 State livestock revenue (million $)	2011 GDP (million $)
U.S.	77,802.37	−451.93	−3,964.30	123,400	14,981,020
AR	526.83	−2.84	−24.95	3,900	105,846
DE	364.77	−1.88	−16.49	700	65,755
FL	738.80	−4.31	−37.80	1,340	754,255
GA	1,619.71	−8.69	−76.19	3,900	418,943
MD	295.42	−1.66	−14.52	1,000	301,100
NM	1,289.02	−7.61	−66.78	2,100	79,414
NC	2,728.98	−15.32	−134.37	5,400	439,862
TX	6,041.58	−35.17	−308.47	10,800	1,308,132
UT	538.24	−3.18	−27.87	917	124,483
VA	1,006.17	−5.63	−49.40	1,800	428,909
WY	23.00	−0.14	−1.19	840	37,617

In addition to examining total feed costs in each state, we analyzed the impacts on the three main segments of the livestock industry: cattle and dairy, pork, and poultry and eggs. Here we present both the projected national-level impacts of a waiver and the impacts in selected States (chosen either because their livestock industry is large or because we observed a larger proportional impact on their market in cases where the mandate affects corn prices).

As observed above, it is highly likely that the RFS volume requirements are not binding and there will be no impact on these industries. Our analysis suggests that implementation of the RFS program, when binding, has a proportionally greater impact on the cattle and dairy industries, and those industries would consequently see greater cost reductions from a waiver in those scenarios. National cattle and dairy feed costs would decrease by 0.6 percent with a waiver. Texas, New Mexico, and Florida see the largest cattle and dairy feed cost impacts of a waiver in total dollar value, while Delaware and Utah would, along with Florida and New Mexico, see the largest cattle and dairy feed impacts from a waiver as a proportion of their total revenue in this sector. These outcomes indicate that, if the RFS volume requirements were binding, these are the states where a waiver may have the most impact on economic activity related to cattle and dairy. We present the impacts on their sectors below in Table V.3.c–3. In the $0.07/bushel case, the impact of a waiver in all of these states is less than a 1 percent reduction in cattle and dairy feed costs. This reduction represents a change of approximately 0.35 percent of Texas livestock revenue and a change of approximately 0.38 percent for New Mexico and Florida. In Delaware, the state where the change in feed costs has the greatest proportional effect on the cattle and dairy industry (due to the small size of this sector in Delaware), this reduction in costs would be equivalent to a 0.5–0.8 percent increase in cattle and dairy revenue and an approximately 0.0002 percent increase in Delaware State GDP. Impacts in Delaware would increase to 4.5–7.1 percent of cattle and dairy revenue in the $0.58/bushel scenario. A full comparison of these impacts to cattle and dairy revenues is available in the docket.[49]

TABLE V.3.c–3—TOTAL FEED COSTS AND ESTIMATED DECREASE WITH RFS WAIVER FOR CATTLE AND DAIRY PRODUCTION IN THE U.S. AND SELECTED STATES REQUESTING A WAIVER IN MILLIONS OF DOLLARS

	Total feed costs without waiver (in million $)	Decrease in feed costs in million $ ($0.07/bushel corn price change scenario)	Decrease in feed costs in million $ ($0.58/bushel corn price change scenario)
U.S.	49,518.32	−292.44	−2,565.30
TX	5,114.25	−30.20	−264.94
NM	1,288.82	−7.61	−66.77
FL	533.78	−3.15	−27.65
UT	482.60	−2.85	−25.00
DE	27.75	−0.16	−1.44

[49] See memo on ''Livestock Impacts'' in docket.

The proportional impact of a waiver on the national pork industry is projected to be about the same as cattle and dairy, approximately 0.6 percent. Of the states that submitted waiver requests, we project that the combined pork industry of North Carolina and Virginia would benefit the most from a waiver if the RFS volume requirements were binding, followed by Texas and Arkansas.[50] A $0.07/bushel decrease in corn prices is projected to reduce hog feed costs by just under $10 million in North Carolina and Virginia. We project an average savings of $87.35 million in cases where the mandate is binding. Impacts on pork revenue and State GDP in Texas and Arkansas would be smaller in both absolute and proportional terms. Impacts in Florida and Delaware, where the impact on the pork sector is much smaller in absolute terms but represents a large percentage of total pork revenue, in the $0.07/bushel case would represent less than 1 percent of their respective state livestock revenues and less than one thousandth of a percent of their State GDPs.

TABLE V.3.c–4—TOTAL FEED COSTS AND ESTIMATED DECREASE WITH RFS WAIVER FOR PORK PRODUCTION IN THE U.S. AND SELECTED STATES REQUESTING A WAIVER

	Total feed costs without waiver (in million $)	Decrease in feed costs in million $ ($0.07/bushel corn price change scenario)	Decrease in feed costs in million $ ($0.58/bushel corn price change scenario)
U.S.	14,439.12	−85.27	−748.02
NC/VA	1,686.06	−9.96	−87.35
TX	51.95	−0.31	−2.69
AR	27.21	−0.16	−1.41
FL	4.30	−0.03	−0.22
DE	1.93	−0.01	−0.10

The proportional impact of a waiver on the national poultry and egg industries is projected to be slightly smaller than those that might accrue to cattle and dairy and hogs, approximately 0.5 percent. The impacts of a waiver on the poultry industry are also the smallest of the three sectors in absolute terms. Of the states that submitted waiver requests, we project that Georgia's poultry industry would benefit the most from a waiver if the RFS volume requirements were binding, followed by North Carolina and Texas. A $0.07/bushel decrease in corn prices is projected to reduce Georgia poultry feed costs by 6.74 million. We project feed cost savings of $59.11 million in cases where the mandate is binding. We project that poultry revenue impacts in North Carolina and Texas would be smaller in absolute terms but roughly equal proportional terms. Impacts in Utah and Florida would be equivalent to a larger portion of total poultry revenue, but would still only represent between 0.1 and 0.3 percent of revenue in the $0.07 per bushel case.

TABLE V.3.c–5—TOTAL FEED COSTS AND ESTIMATED DECREASE WITH RFS WAIVER FOR POULTRY AND EGG PRODUCTION IN THE U.S. AND SELECTED STATES REQUESTING A WAIVER

	Total feed costs without waiver (in million $)	Decrease in feed costs in million $ ($0.07/bushel corn price change scenario)	Decrease in feed costs in million $ ($0.58/bushel corn price change scenario)
U.S.	13,844.94	−74.21	−650.98
GA	1,290.01	−6.74	−59.11
NC	1,136.26	−5.91	−51.86
TX	875.37	−4.66	−40.83
FL	200.72	−1.13	−9.92
UT	51.48	−0.30	−2.65

In their waiver requests, most States cited quantitative impacts on their agricultural sectors that are already realized or projected to occur due to the drought. EPA recognizes the significant impacts that the drought has had on state and national agricultural sectors. However, as we discuss above, the analytical task before us is to determine whether implementation of the RFS volume requirements themselves severely harm the economy. Most of the States that submitted waiver requests discuss the crucial role that corn prices play in the overall financial health of their livestock industries, but for the most part these States did not attempt to quantify in detail the impact of waiving the RFS on corn prices and the livestock industry. Various commenters in the livestock sector did provide analysis attempting to quantify the possible impact of a waiver on corn and soybean meal prices; these studies or the analyses such studies rely on are examined in Section V.4.b below.[51]

In summary, our analysis suggests that it is very likely that the RFS volume requirements will have no impact at all on ethanol production volumes in the

[50] The pork industries of North Carolina and Virginia are here analyzed together, owing to the fact that both are dominated by the operations of one company. Because of this, their pork feed costs and revenues are intertwined and are here examined together.

[51] See, for example analysis prepared for the North Carolina Poultry Federation at EPA–HQ–OAR–2012–0632–2429, and comments submitted by the Virginia Poultry Federation at EPA–HQ–OAR–2012–0632–2066.

relevant time frame, and therefore no impact on corn or feed prices. EPA looked, however, at what impacts on corn and feed prices might be in the unlikely event that the RFS mandate would have an impact on the corn and feed prices during the 2012/13 time frame. EPA assessed feed price impacts at the national level, State level, and at the individual sector level within eleven States. EPA believes that analyzing the feed price impacts on the nation, States, and individual sectors at the national and State levels is appropriate and provides further evidence upon which to base this decision, even considering the low probability that the RFS volume requirements will have an impact on ethanol production volume, and therefore corn and feed prices, in the relevant time frame. Given the low probability of the RFS having an impact in that time frame, and the estimated impact to state livestock sectors, EPA did not analyze any further geographical areas, as we consider the analysis above sufficient basis upon which to base our decision.

EPA received comment that, during a period of drought, impacts attributable to the RFS, even if relatively small, could be enough to influence firm-level decisions regarding whether to continue operations or to shut down. Since our analysis indicates that the RFS is highly unlikely to have an impact on ethanol production, and therefore corn prices, in the time period of concern, and our analysis necessarily focuses on the level of an economy, as opposed to the firm-level, we did not conduct analysis assessing the incremental impact the RFS would have, if any, on individual firms.

(d) Fuel Price Impacts

The ISU model also predicts changes in U.S. ethanol, gasoline, and blended fuel prices based on changes in ethanol production volumes. EPA's analysis indicates that it is highly likely that the RFS volume requirements are not binding and there will be no impact on fuel prices. The ISU modeling projects that the average impact across all modeled scenarios is that waiving the RFS mandate would decrease blended gasoline prices by 2/10 of one cent.[52] Blended gasoline prices in the ISU model decrease slightly on average across all of the modeled scenarios because ethanol prices decline by roughly one cent with less ethanol demand, for the limited scenarios where the RFS volume requirements are binding. We note, however, that this estimate should be considered within the limitations of the ISU model. The ISU model is not a refinery or fuel system model, and does not consider responses in the fuel markets to a reduction in U.S. ethanol demand in any depth. We include an estimate here to examine the potential magnitude of changes on average across all of the modeled scenarios, but we note that these results are based on a fairly simplistic approach to estimating blended gasoline price impacts.

TABLE V.3.d–1—RANGE OF ESTIMATED ETHANOL AND BLENDED GASOLINE PRICES

	Units	ISU mean estimate
Mean Ethanol Price with Mandate	$/gallon	$2.90
Mean Ethanol Price with Waiver	$/gallon	$2.89
Mean U.S. Corn Ethanol Production with Mandate	billion gallons	12.48
Mean U.S. Corn Ethanol Production with Waiver	billion gallons	12.44
Blended Gasoline Price with Mandate	$/gallon	$2.918
Blended Gasoline Price with Waiver	$/gallon	$2.916
Change in Blended Gasoline Price	$/gallon	$0.002

Given the limitations associated with our estimate on fuel price impacts, we present the projected average impact on fuel prices in Table V.3.d–1 as a sensitivity analysis. Were blended gasoline prices to change as the ISU model projects as a result of a waiver, this is the average impact we might expect to see. Based on these small predicted changes in blended gasoline prices, the overall impacts on the economy as it relates to fuel prices are also expected to be modest. It is highly likely that the RFS volume requirements are not binding and there will be no impact on fuel prices. Our analysis shows that a $0.002/gallon decrease in blended gasoline price for the Iowa State mean scenario would be expected to change the Energy CPI by 0.029%. Details on the methodology for determining these impacts are included in the docket.[53]

For the average household that owns a vehicle, the $0.002/gallon change in gasoline prices would result in a $1.98 decrease in annual gasoline expenditures in 2012/2013. When analyzing the impact of these changes on the lowest income groups, the absolute expenditures on gasoline are lower than for the average household, due to the fact that this segment of the population tends to drive fewer miles on average.

TABLE V.3.d–2—IMPACTS ON ENERGY CPI AND GASOLINE EXPENDITURES FOR AVERAGE AND LOW INCOME HOUSEHOLDS

	Units	ISU mean estimate	ISU when mandate binds
Change in Blended Fuel Price with Waiver	$/gallon	−$0.002	−$0.016
Change in Energy CPI with Waiver	Percent	−0.029%	−0.225%
Change in Annual Expenditures on Gasoline for Average Households with Vehicles.	$	−$1.98	−$17.40
Change in Annual Expenditures on Gasoline for Lowest Quintile Households with Vehicles.	$	−$1.20	−$10.49
Change in Gasoline Expenditures on Gasoline as a Percentage of Consumer Expenditures for Average Households with Vehicles.	Percent	−0.004%	−0.035%

[52] As with the average impact on corn prices, this figure is potentially misleading, in the sense that it is a non-zero outcome even though the most likely impact is zero (see Section V.3.a above).

[53] See Department of Energy memo on Energy CPI in docket.

TABLE V.3.d–2—IMPACTS ON ENERGY CPI AND GASOLINE EXPENDITURES FOR AVERAGE AND LOW INCOME HOUSEHOLDS—Continued

	Units	ISU mean estimate	ISU when mandate binds
Change in Gasoline Expenditures as a Percentage of Consumer Expenditures for Lowest Quintile Households with Vehicles.	Percent	−0.005%	−0.048%
Change in Gasoline Expenditures as a Percentage of Income After Taxes for Average Households with Vehicles.	Percent	−0.003%	−0.028%
Change in Gasoline Expenditures as a Percentage of Income After Taxes for Lowest Quintile Households with Vehicles.	Percent	−0.012%	−0.104%

Some commenters argued to the contrary, claiming that waiving the RFS would significantly impact the price of fuel. They argue that if less ethanol is blended into gasoline as a result of a waiver, then the demand for petroleum-based gasoline would increase, putting an upward pressure on the world price of oil. In turn, the increase in petroleum prices would boost overall blended fuel prices. For example, a recent 2012 study by authors at Louisiana State University found that ''* * * every billion gallons of increase in ethanol production decreases gasoline price as much as $0.06 cents''.[54] Other studies such as Du and Hayes from Iowa State University have suggested that increases in ethanol production over the last decade have reduced overall blended fuel prices.[55] Thus, a waiver which reduced the use of ethanol would have the effect of raising blended fuel prices. We note that there is disagreement about the extent of these impacts (see, for example, Knittel and Smith and others).[56] In any case, the Du and Hays and Knittel and Smith studies do not address the specific case at hand, the fuel price impacts of a waiver of the RFS mandate.

As mentioned above, our analysis indicates that it is highly likely that waiving the RFS mandate would have no impact on ethanol volumes. The ISU modeling predicts that the average impact across all modeled scenarios is that waiving the mandate would decrease ethanol demand by only 40 million gallons, and in 89 percent of the modeled cases the mandate is not binding. As a simplifying assumption, the ISU model does not take into account any potential impacts on the global oil markets, which we believe is a reasonable assumption in this situation given the small change in ethanol volumes that are projected in this analysis. Even in the 11 percent of the cases where the mandate was binding, changes in world oil market would be so small as not to change the overall conclusions of the study.

(e) Worst Case Scenario

As a bounding exercise, we also considered a ''worst case'' scenario that could occur if both corn yields and gasoline prices were at the low ends of the probability distributions used in our modeling. This worst case example considered the 1 percent of scenarios (five out of five hundred) where a waiver could have the largest potential impacts on corn prices. In this worst case scenario, the impact of waiving the mandate could decrease corn prices by $1.86/bushel, with a correspondingly larger impact on livestock, food, and fuel prices. It is highly unlikely that the combination of extremely low corn yields (approximately 116 bushels per acre) and wholesale gasoline prices (approximately $1.96/gallon) would occur simultaneously during the 2012/2013 corn marketing year. However, we have included more information on this worst case scenario in the docket for illustrative purposes.

4. Overview and Discussion of External Analyses

Comments submitted to EPA referenced or included a number of analyses and studies examining the impact of a potential waiver of RFS standards. These include studies from: Hart Energy, Irwin and Good (University of Illinois),[57] Carter, Smith, and Abu-Sneneh (University of California-Davis),[58] Purdue University and the Farm Foundation (Purdue/Farm Foundation), FAPRI-University of Missouri (FAPRI-Missouri), Babcock-Iowa State, Edgeworth Economics,[59] the Energy Policy Research Foundation, Inc. (EPRINC),[60] Cardno-ENTRIX,[61] Dr. Thomas Elam of FarmEcon LLC,[62] and the Department of Environment, Food, and Rural Affairs of the United Kingdom government (DEFRA).[63] Some of the studies focus more on fuel market impacts, while other studies concentrate specifically on U.S. agricultural sector impacts. Multiple alterative assumptions and options are explored across the different sets of analyses of a waiver of the RFS2 volume requirements making comparison of results challenging. Only a few of the studies are based on a fully integrated view that directly attempts to link detailed agricultural commodity markets with fuel market assessments to assess the impact of implementation of

[54] Marzoughi H. and Kennedy, P. Lynn, ''The Impact of Ethanol Production on the U.S. Gasoline Market'', Paper presented at the Southern Agricultural Economics Association Annual Meeting, February, 2012, available in the docket or at *http://EconPapers.repec.org/RePEc:ags:saea12:119752*.

[55] Xiaodong Du, Dermot J. Hayes, ''The Impact of Ethanol Production on U.S. and Regional Gasoline Markets: An Update to 2012,'' Center for Agricultural and Rural Development, Iowa State University, May 2012, available in the docket or at *http://www.card.iastate.edu/publications/synopsis.aspx?id=1166*.

[56] Christopher R. Knittel and Aaron Smith, ''Ethanol Production and Gasoline Prices: A Spurious Correlation,'' July 12, 2012, available in the docket or at at *http://web.mit.edu/knittel/www/papers/knittelsmith_latest.pdf*.

[57] Irwin, S. and Good, D., ''Ethanol—Does the RFS Matter?'' August 2, 2012, available in the docket or at *www.farmdocdaily.illinois.edu/2012/08/ethanoldoes_the_rfs_matter.html*.

[58] Comment submitted by Carter, Smith and Abu-Sneneh, EPA–HQ–OAR–2012–0632–2245.

[59] Edgeworth Economics, ''The Impact of a Waiver of the RFS Mandate on Food/Feed Prices and the Ethanol Industry,'' October 10, 2012, submitted in comments from Growth Energy, EPA–HQ–OAR–2012–0632–2357.

[60] Energy Policy Research Institute Foundation Inc., ''Ethanol's Lost Promise,'' EPA–HQ–OAR–2012–0632–2231.

[61] Urbanchuk, J., Cardno-ENTRIX, ''Impact of Waiving the Renewable Fuel Standard on Total Net Feed Costs,'' September 2012, submitted with comments from Renewable Fuels Association, EPA–HQ–OAR–2012–0632–2218.

[62] Elam, T., FarmEcon LLC, ''Ethanol RFS and 2012 Drought Impact on Virginia Agriculture'', August, 2012, and ''Ethanol RFS and 2012 Drought Impact on North Carolina Agriculture and Consumers'', September, 2012. Submitted with comments by the North Carolina Poultry Federation at EPA–HQ–OAR–2012–0632–2429, and comments submitted by the Virginia Poultry Federation at EPA–HQ–OAR–2012–0632–2066.

[63] Durham, C., Davies, G., and Bhattacharyya, T., ''Can Biofuels Policy Work For Food Security? An Analytical Paper for Discussion,'' June 2012, available in the docket.

the RFS volume requirements and a waiver's impacts.

(a) Fuel Market Studies

Fuel market studies that focus on the impacts of an RFS waiver look at the economics of blended ethanol. Irwin and Good (University of Illinois) suggest that a waiver is likely to have little impact on the liquid fuel supply system. Their analysis rests on their observation that ethanol is currently the least expensive octane enhancer available, and that the current liquid fuel supply system in the U.S. has closely integrated ethanol use as a component to the finished gasoline supply. Alteration of ethanol's utilization would take time and require reallocation of infrastructure. Irwin and Good argue that even if a waiver is granted, only a combination of relatively high ethanol prices and low wholesale gasoline prices would change current gasoline and ethanol supply patterns. They estimate that gasoline prices would have to fall to roughly $69/barrel (West Texas Intermediate crude) before a shift would occur. Alternatively, corn prices, which are the key determinate of the price of ethanol, would have to rise on a sustained basis to over $10/bushel.

Carter, Smith, and Abu-Sneneh (University of California-Davis) present analysis using two different assumptions—one in which ethanol is priced in terms of its energy content, and one in which ethanol is priced on a volumetric basis. They suggest that the former is more likely, and that motorists realize the energy penalty associated with ethanol, but consumers do not have a choice but to accept the associated energy loss. If motor gasoline is valued for its energy content, they conclude that ultimately the RFS mandate is ''severely harming'' motorists. Their analysis suggests that, at current market prices, octane enhancement alternatives to ethanol would arise in the medium to long term without the RFS mandate if blended gasoline were valued based on energy content. They conclude that, if the mandate were eliminated, lower demand for ethanol would result in lower average corn prices by up to $0.87/bushel.[64] They estimate the ''harm'' from the conventional fuel RFS requirement to be roughly $2.9–$5.9 billion annually, which they claim could be higher if all the costs associated with the use of ethanol are accounted for. There are several limitations of their analysis, however. The authors acknowledge that their conclusions do not incorporate all of the costs of reduced ethanol usage. For example, many oil refiners move their products through common pipelines. Refiners need to coordinate with other users of the pipeline to ensure that a uniform product enters the pool. The coordination costs of lower ethanol usage are not estimated. Furthermore, this study does not provide sufficient data or analysis upon which we can evaluate their assertion that consumers are currently aware or modify behaviors in response to the energy penalty associated with ethanol. Despite the paper's conclusion that the RFS requirements should be waived, it is important to point out that their second scenarios supports our assessment that there would be ''no market response'' to a waiver if finished gasoline is priced on a volumetric basis. We discuss the basis for our ethanol demand assumptions above, and we did not see evidence presented in this study to change our reasoning with respect to how ethanol is priced.

A study published by EPRINC, while not attempting to quantify the impact of a waiver on corn prices, states that a long term waiver would likely reduce corn prices and ''could free over 18 millions of acres of existing farm land for the production of crops to meet market needs for food, livestock feed, exports, or fuel.'' [65] This study acknowledges, however, that a near term waiver (6 months to 1 year) would have little to no effect on corn demand for ethanol production.[66] In concluding that the RFS mandate increases corn costs by $0.87/bushel, Carter, Smith, and Abu-Sneneh (University of California-Davis) cite the EPRINC study when discussing the ability of refiners to decrease ethanol blending in the gasoline pool in the medium to long term. The studies here discuss the ability of refiners to decrease ethanol blending over the medium to long term, but they do not discuss whether the economics of ethanol and gasoline production would be such that there would be an economic incentive to do so. As discussed above, whether refiners would move away from ethanol blending if they had the opportunity to do so is influenced by a variety of factors, including economic ones. Examining the impacts of a medium to long term waiver is a significant distinction between these two studies and the analysis performed by EPA. EPA's authority is limited to granting a one year waiver, with potential for extending the waiver, a fact specifically noted by EPRINC.[67] For a further discussion of this issue see Section VI.7(b).

As discussed above, based upon a review of multiple external analyses including the studies cited above, consultation with DOE, and review of comments that we received, and given the circumstances and scenarios examined in our analysis, we believe that it would be highly unlikely that refiners and blenders would seek to replace ethanol in the time frame analyzed (i.e., one year) even if the RFS requirement were reduced or waived over the 2012/2013 corn marketing year. Ethanol blending is an economically beneficial option for refiners at this time, given the price of ethanol and the cost of production of finished gasoline. That is not expected to change during the time period at issue. In addition, even if it were economically advantageous to do so, previous investments that have been made to configure the fuel supply production and distribution systems (e.g., blending terminals) to incorporate ethanol are costs that have already been expended, and any change in utilization of these investments could take time and require reallocation of infrastructure. In addition, options or opportunities to make infrastructure changes may be technically and economically limited in the short term. Refiners are unlikely to make the changes to allow for reduced ethanol blending, such as modifying refining operations to produce higher octane blendstocks and draining storage tanks, if they do not believe these changes will be economically beneficial in the medium to long term, though this could differ in a scenario differing from that analyzed here with respect to oil prices, rollover RINs, and other key parameters. Fuel supply investments also tend to involve large capital expenditures. Fuel contractual obligations may be set over extended periods of time and could be difficult to alter in the short run (e.g., six months to a year). Also, the costs of using ethanol replacements, in terms of using different octane additives or even different sources of finished gasoline, including imports of finished gasoline to the U.S., would likely be significant in the near term.[68]

Further, assuming that U.S. agricultural markets return to pre-drought conditions in the following years (e.g., 2013/14 and beyond) and the blending of ethanol into the gasoline pool continues to be a profitable practice, it would not appear to be in a

[64] This result refers to removal of the RFS, not from a one-year waiver of the RFS requirements.

[65] EPA–HQ–OAR–2012–0632–2231.

[66] EPA–HQ–OAR–2012–0632–2231.

[67] EPA–HQ–OAR–2012–0632–2231.

[68] See Morgan Stanley, August 7, 2012.

refiner's economic interest to make changes in the fuel supply system. This would especially be the case if EPA were to not renew a waiver after one year, since refiners would need to quickly undo all of the changes they had just made in order to comply with the RFS in 2014. Carter, Smith, and Abu-Sneneh acknowledge the costs of switching back and forth to different levels of ethanol usage between 2013 and 2014 could be high.

EPA further received comment that the RFS is saturating the ethanol market in the U.S.; commenters point to the large corn ethanol exports in 2011 as evidence that blending ethanol into gasoline in the U.S. is not a profitable practice.[69] We do not agree that the significant corn ethanol exports in 2011 indicate that blending ethanol into gasoline was not profitable in the U.S. and driven by the RFS. In 2011 the blending of ethanol into gasoline exceeded the RFS mandates by a wide margin. The most likely reason for this is that refiners and blenders found the blending of ethanol to be a profitable practice. Low prices for corn ethanol RINs appear to support this. We believe the large volume of exported ethanol in 2011 is yet more evidence that, at least in 2011, ethanol production was the highest value use for corn. RINs for ethanol that is exported outside the U.S. must be retired when the fuel is exported; we therefore believe it is highly unlikely that the RFS program encouraged this practice and that converting corn into ethanol for export was simply more profitable than selling it into the food or feed markets.

Comments also cited work done by EPRINC that shows that increased ethanol blending has not lead to decreased crude oil imports, but only to changes in the end uses of the crude oil as evidence that waiving the RFS would lead directly to reduced corn ethanol production.[70] They cite the EPRINC study concluding that any decrease in ethanol blending could be made up for with additional gasoline from existing refineries without additional crude oil imports, but rather through shifting of refined crude oil products. While this may be the case we note that any increased gasoline production would correspond in a decrease in other refined products, most likely diesel fuel as noted in the EPRINC study. We believe that if these changes were profitable refiners would already be looking to minimize ethanol blending, which has not been the case in the past several years. We also note that the EPRINC study also states that a short term waiver would have little effect on corn demand for the production of ethanol.

(b) Agricultural Market Studies

Several studies focus on the agricultural sector impacts of a possible waiver of the RFS volume requirements. A number of these studies provide quantitative estimates of impacts of a waiver on corn prices and feed prices. Where commenters provided estimates of impacts to a State or a particular industry sector, such estimates were frequently based on results from the studies discussed below.[71] In many cases, the studies below present a range of estimates for impacts, and commenters cited estimates from both the low and, more frequently, the high ends of those ranges. In general, these agricultural sector studies are directionally consistent with EPA's analysis using the ISU model. In fact, the range of estimates provided in the Purdue/Farm Foundation study (described in more detail below), bracket the results that we present on the average impacts of a waiver and the impacts when the mandate is binding. Similarly, all of the referenced studies cite the importance of the same key assumptions that we have discussed previously, namely the amount of carryover RINs that are available and the degree of flexibility available to the refining industry over a one year period. As discussed further below, EPA believes that our technical analysis uses the most up-to-date data on available RINs and takes into account important information on refiner flexibility that these other studies treat only qualitatively or not at all.

FAPRI—Missouri finds that ethanol production falls by roughly 160 million gallons from eliminating the ''conventional gap'' which they define as ''the maximum amount of conventional (corn starch) ethanol that can be counted towards the mandate''. Less corn is needed to produce ethanol and, as a result, average corn prices decrease by roughly $0.04 cents per bushel. Lower average corn prices means lower feed costs for livestock producers, though the lower corn prices are partially offset by higher soybean meal and distillers grain prices. These feed price changes lead to an increase in net returns to meat production and, as a result, meat production increases and meat prices decrease. The FAPRI-Missouri results, like the EPA results presented above, predict a fairly modest impact on corn prices from a waiver of the 2013 conventional mandate.[72]

Babcock-Iowa State looks at the impacts of a waiver of the conventional fuel component of the RFS requirements under two cases: a ''full'' and a ''flexible'' mandate compared to a ''no mandate'' case. In the ''flexible'' mandate case, Babcock assumes that there are 2.4 billion rollover RINs for the 2012/2013 corn-marketing year. Comparing the ''full'' and the ''flexible'' mandates, average corn prices decrease significantly, by $1.91 per bushel. As discussed in the Babcock paper, the ''full'' mandate is not a realistic scenario, since it assumes there will not be any carryover RINs available in 2013. Based on the empirical RIN data discussed above, EPA is confident that there will be a significant number of carryover RINs in 2013 unless ethanol production changes drastically in November and December of 2012. Therefore, the ''full mandate'' results should only be considered as a bounding exercise. Comparing the ''flexible'' to the ''no'' mandate scenario, average corn prices decrease by roughly $0.58 per bushel across all runs—a decline of roughly 7.4 percent. By way of comparison, in the EPA analysis eliminating the RFS requirements would result in a decrease in average corn prices of roughly $0.07/bushel, on average across all runs.

One of the key differences between Babcock's results and the results presented in EPA's analysis above is how responsive ethanol demand is to the relative prices of unblended gasoline and ethanol. Babcock assumes that

[69] National Chicken Council comments, EPA–HQ–OAR–2012–0632–1994.

[70] EPA–HQ–OAR–2012–0632–1994.

[71] Comments submitted by, for example, the Virginia Poultry Federation and the North Carolina Poultry Federation included studies by FarmEcon LLC (Elam), which examined changes in feed prices and effects on revenue if corn prices were to decrease, due to a waiver, by $1.14 per bushel. The estimate of a $1.14 decrease is from the Purdue/Farm Foundation study. It is the difference in corn prices between a case with 13.8 billion gallons of corn ethanol production and a case with 10.8 billion gallons of production. For reasons discussed elsewhere (see, for example, sections V.1.e and V.2), we believe that ethanol production in the event of a waiver is unlikely to decline by 3 billion gallons. We also project that corn ethanol production in 2012/13 without a waiver is most likely to be around 12.48 billion gallons (see Section V.2), less than the projection used by FarmEcon LLC. See, for example analysis prepared for the North Carolina Poultry Federation at EPA–HQ–OAR–2012–0632–2429, and comments submitted by the Virginia Poultry Federation at EPA–HQ–OAR–2012–0632–2066.

[72] ''[R]educing the overall RFS has a small negative effect on the corn price in 2012/13 relative to the baseline because overall ethanol use and production are projected to be motivated mostly by crop and fuel market conditions in the current marketing year, not the RFS. Waiving the mandate, a minimum use requirement, has limited market impact if people were going to use almost as much as the mandate anyway.'' FAPRI-Missouri study at 1.

ethanol demand is more responsive to changes in prices, meaning his analysis assumes refiners and blenders have more flexibility to substitute away from ethanol in response to a waiver. In light of the limitations on refiner flexibility identified in Section V.1.d above, we believe that our assessment of refiner flexibility, performed in consultation with DOE, is a better reflection of current conditions. In addition, Babcock's analysis uses older WASDE data (which reflects larger uncertainties in corn yields) and older gasoline price data (in which the average gasoline price is lower than the October STEO).

The Purdue/Farm Foundation study looks at different levels of drought (e.g., a weak, median and strong drought) and different combinations of ethanol blending levels, which could be achieved either with a waiver or the use of conventional RINs (e.g., 11.8, 10.4 and 7.75 billions of gallons of ethanol). They conclude that if refiners and blenders have flexibility to reduce ethanol usage in the short term, use of prior blending RINs credits and/or a large waiver could reduce average corn prices by roughly $1.30/bushel of corn. Alternatively, a more modest waiver may reduce average corn prices by roughly $0.47/bushel of corn. As stated in the paper, results of the analysis are highly dependent upon how much flexibility is assumed to exist in the refining sector. Depending on the degree of refining and blending flexibility (and the severity of the drought), Purdue's ''range of corn price impacts from a partial waiver is zero to $1.30/bu.'' [73] Their results therefore ''bracket'' the results projected by the ISU model.

Similar to the Babcock-Iowa State study, a large part of the difference in the agricultural sector impacts (e.g., commodity price impacts) between the Purdue/Farm Foundation study and EPA's analysis is due to the responsiveness of ethanol demand to the relative prices of unblended gasoline and ethanol. Our review of multiple external analyses including the studies cited above in Section V.1.d, consultation with DOE, and review of comments that we received, suggests that ethanol demand, particularly in the short-run (i.e., the one-year, the 2012/2013 corn marketing time frame of a possible waiver) would be relatively unresponsive. Even if the U.S. fuel system could adjust and reconfigure to use less ethanol in the 2012/2013 time frame, the economic circumstances of ethanol and gasoline production are such that there would continue to be an economic incentive to blend ethanol into gasoline, particularly if the expectation is that drought conditions will subside and corn production in the U.S. will return to more typical (e.g., pre-drought) levels as early as the 2013/2014 corn marketing year.

For the reasons discussed above, we believe these external studies find potential impacts of the waiver that are similar in scope and direction as the analysis that EPA conducted. Whereas some of the external studies present a range of results from varying key assumptions, our analysis uses a stochastic approach to capture uncertainty in several key variables. Where a stochastic analysis was not possible (e.g., on the refinery flexibility issue our review of multiple external analyses including the studies cited above in Section V.1.d, consultation with DOE, and review of comments that we received, suggests that ethanol demand, particularly in the short-run (i.e., the one-year 2012/2013 corn marketing time frame of a possible waiver) would be relatively unresponsive. Other agricultural analysis primarily discussed this issue qualitatively.

Edgeworth Economics undertakes a scenario analysis to estimate the impacts on various sectors of the U.S. economy of a waiver of the RFS volume requirements. Based upon their review of recent studies (e.g., Babcock-Iowa State, Purdue/Farm Foundation) of the impacts of a waiver, Edgeworth Economics uses a decrease in average corn prices of roughly $0.52/bushel to estimate these impacts. They estimate that a waiver would decrease feed costs across the U.S. by roughly $3.1–$4.7 billion in the 2012/2013 crop marketing year. The low end of the range is based upon an assumption that other feed prices would not track the price of corn. Alternatively, corn growers would see a loss of revenues of roughly $5.8 billion if feed costs track the price of corn. Ethanol producers, faced with a corresponding loss in demand of roughly 950 million gallons of ethanol in the scenario, would see a decrease in revenues and co-product sales of roughly $2.9 billion. This finding with regards to corn prices and feed price impacts is consistent with our projection of the impact of the RFS program in the binding case. We project that, in cases where the conventional portion of the RFS requirements are binding, a waiver would reduce corn prices by $0.58/bushel and feed prices by approximately $3.6 billion nationwide. However, as stated above, we only project this outcome in 11 percent of cases, which are premised on the unrealistic view that gasoline prices and corn yields in 2012/2013 both fall significantly below their current DOE and USDA projections. Edgeworth Economics' projections are plausible only to the extent this would occur. Further, because the Edgeworth study is premised upon an averaging of the Babcock and Purdue/Farm Foundation results, it shares the limitations of those findings as well.

Cardno-ENTRIX evaluated two scenarios under a waiver: a ''low'' scenario in which ethanol production in 2013 is reduced by 500 million gallons, or 3.7 percent below 2012 levels, and a ''high'' scenario in which ethanol production in 2013 is reduced 1,425 million gallons or 10.5 percent from 2012 levels. In both scenarios, biodiesel production is reduced by 500 million gallons, or 50 percent below 2012 levels of production. These scenarios are patterned off of the results of recent analyses of RFS waiver impacts by Babcock-Iowa State University and Purdue/Farm Foundation. The reduction in biodiesel volumes makes the scenarios somewhat different. As did Purdue/Farm Foundation, Cardno-ENTRIX assumes that sufficient economic refiner flexibility exists to reach the volume of ethanol production assumed in each of their scenarios.

In the ''low scenario'', average corn prices fall by $0.46/bushel and average soybean prices fall by $0.74/bushel. In the ''high scenario'', average corn prices fall by $0.48/bushel and average soybean prices fall by $0.96/bushel. As a response of demand shifts in the corn market (i.e., less ethanol, more feed and exports), corn price declines are roughly similar in the ''low'' and the ''high'' scenarios. The ''low'' scenario is comparable to our projected outcome if the RFS program is binding. In that case, we project that ethanol production would decrease by approximately 414 million gallons, with corn prices decreasing $0.58/bushel. Much of the difference is attributable to differences in key assumptions. The Babcock paper from which Cardno-ENTRIX drew this estimate utilized earlier WASDE estimates and also used gasoline futures prices instead of STEO estimates. Inputs to that analysis also vary in terms of the economic value of ethanol to refiners, and under what circumstances refiners would shift away from ethanol. As discussed elsewhere in this decision in detail, our analysis with respect to the value of ethanol to refiners given current conditions led us to results that differ.

In both scenarios, increases in DDGS and soybean meal prices offset declines in corn and soybean prices with

[73] An updated version of this study is discussed below.

relatively minimal impacts on net feed ration costs. For example, in the ''low scenario'', there is a slight decrease in net feed costs for beef due to the relatively high share of feed costs for feeder cattle accounted for by corn grain. However, net feed costs for dairy cattle increase by more than four percent and net feed costs for swine, broilers and layers increase by less than one percent. Part of the reason for the livestock outcomes in this analysis is due to scenario design. A waiver that reduces biodiesel usage results in less soy meal production and increases feedstock costs. The reduction in soy meal offsets the livestock impacts of a waiver that only influences ethanol production.

Studies performed by FarmEcon LLC attempted to quantify the potential impacts of a waiver on poultry, dairy and hog producers in North Carolina and Virginia. Both studies cite the Purdue/Farm Foundation study as their source for the key analytical input of commodity prices; other commenters cited the Purdue/Farm Foundation study as well when presenting quantitative impacts.[74] In one of the studies, FarmEcon LLC uses a decrease in average corn prices of $1.14/bushel from the Purdue/Farm Foundation large waiver scenario to look at feed costs impacts for the dairy, poultry and hog producers in North Carolina. The corn price changes estimated by Purdue/Farm Foundation are higher than the change in corn prices we anticipate to result from a waiver for reasons discussed above. Using a larger change in corn prices, FarmEcon LLC estimates larger feed market impacts than we anticipate.

We also note that this analysis does not consider the effects of a waiver on distillers grains prices. To the extent that a waiver would reduce corn ethanol production (as it would to at least some extent in all three scenarios examined above), it would also reduce the supply of distillers grains. This increased scarcity of distillers grains would likely increase their price; at best prices would remain stable. To the extent that a waiver would lead to increased distillers grain prices, the projected reductions in feed costs detailed above would be mitigated.

Other studies submitted by commenters included work done by Babcock examining potential long-term impacts of the RFS program on the swine industry.[75] We do not respond to this study here as it is analyzing a set of issues outside the scope of the current decision. The DEFRA analysis does not contain sufficient detail with respect to methodology or analytical parameters to enable an evaluation of its results in the context of the current waiver requests. For example, DEFRA assess illustrative scenarios where a price spike is simulated by reducing the U.S. corn area harvested by 40 percent while maintaining the U.S. renewable mandate and ethanol blenders' subsidy in 2011. Various scenarios are simulated which waive an increasing share of the U.S. renewable fuel requirement, all while maintaining the ethanol blenders' subsidy. DEFRA finds that the larger the share of the mandate waived, the larger the price increases that are offset. The DEFRA study does not analyze impacts of a potential waiver under current conditions (e.g., with projected corn yields for the 2012/13 corn marketing year, elimination of the blenders' subsidy), and instead examines more generic consequences of a waiver for average corn prices.

5. Summary of the Technical Analysis

For the 2012/2013 corn marketing year, our analysis shows that it is very likely that the RFS volume requirements will have no impact on ethanol production volumes in the relevant time frame, and therefore no impact on corn, food, or fuel prices. In addition the body of the evidence also indicates that even in the unlikely event that the RFS requirements would have an impact on the corn and other markets during the 2012–2013 timeframe, it would have at most a limited impact on the food, feed, and fuel markets. The nature and magnitude of these projected impacts, which are not likely to occur, would not be characterized as severe. After reviewing the analysis and information submitted by commenters, including that discussed above, EPA continues to believe that the results of its modeling are the most reliable indicator of the likelihood that implementation of the RFS volume requirements will have an impact on the economy, and in the unlikely case that it would have an impact, the nature and magnitude of such impact.

6. Waiver Requests Related to Implementation of the RFS Biomass-Based Diesel and Advanced Biofuel Volume Requirements

EPA received several comments addressing issues related to a waiver of the biomass-based diesel (BBD) volume requirements. In general, the comments provided relatively little information or analysis on the relevant issues.

While few analyses and comments examined the issue of a BBD waiver, those that did focused on the impact on livestock and feed prices. The key price impact here is that of soybean meal, since this is the primary soy product fed to livestock. We are aware of two quantitative studies that projected price impacts on soybeans and soybean meal as a result of a possible BBD waiver, Babcock-Iowa State and Cardno-ENTRIX.[76] Babcock projects that a waiver of the BBD requirements might reduce soybean prices by $0.61 per bushel or about 3.5 percent (assuming that rollover RINs are available), but would also increase soybean meal prices by $22.00 per ton or about 4.2 percent. Cardno-ENTRIX finds, under an assumed 500 million gallon decrease in the BBD requirements, that soybean prices would decrease by $0.74 per bushel or 4.5 percent, while soybean meal prices would increase by $32.96 per ton or about 6.7 percent. Because most livestock are fed soybean meal, not whole soybeans, these projections would mean that a waiver of the BBD volumes would very likely increase feed costs.[77] This would mean that waiving the BBD requirements would likely exacerbate the impacts that the drought has had on feed prices. It is likely that waiving any portion of the BBD requirements would cause more economic harm than it would alleviate in food and feed markets. Given this,

[74] Quantitative analysis presented in comments by the National Chicken Council, for example, uses estimates from an updated version of the Purdue/Farm Foundation study, EPA–HQ–OAR–2012–0632–1994. At the request of the National Chicken Council, the authors of this study applied September WASDE data to the same methodology, providing new results. The National Chicken Council refers to a projected change in corn prices of $2.00/bushel as a result of a waiver. The authors of this study projected that change assuming that ethanol production dropped from 13.8 billion gallons without a waiver to 7.75 billion gallons with a waiver. As we detail in our discussion of Elam, we do not agree with the estimate that 13.8 billion gallons of ethanol would be produced in 2013 with RFS requirements in place. Further, as we detail in our discussion of the Purdue/Farm Foundation study, the assumption that ethanol consumption by the refining sector could fall by roughly 6 billion gallons within the space of one year does not reflect our assessment of limits on refiner flexibility.

[75] ''Iowa State Analysis for 2015–2020/Analysis of Ethanol and Corn Market and the Impact on the Swine Industry,'' submitted in comments by the National Pork Producers Council, EPA–HQ–OAR–2012–0632–2209.

[76] Most of the studies examined in this determination, including those by Purdue/Farm Foundation, Irwin and Good, and Edgeworth Economics (all discussed elsewhere in this notice), focus only on the impacts of corn ethanol. FAPRI-Missouri provides estimated impacts of a biodiesel waiver on soybean prices, but does not provide estimated impacts for key soybean products (i.e., soybean meal). For this reason, this paper's estimates for soybeans are of limited usefulness in the context of feed costs.

[77] EPA received comment on this topic from various soybean-related parties, including, for example, the Illinois Soybean Association and Minnesota Soybean Processors (CITE).

and in light of the fact that the few commenters who asked us to consider a biodiesel waiver focused on the impacts on livestock costs, we do not believe that an EPA analysis similar to our examination of corn ethanol is merited. In addition, EPA concludes that the evidence does not support a determination that implementation of the RFS BBD volume requirements would severely harm the economy and a waiver would therefore not be appropriate.

Similarly, we have not conducted a technical analysis of the potential impacts of waiving the advanced renewable fuel standard, since a majority of the advanced standard is expected to be met with biomass-based diesel in the 2012/2013 corn marketing year. Finally, we have not analyzed the impacts of waiving the cellulosic renewable fuel standard in 2012/2013, since we did not receive any specific information or rationale concerning a possible justification for waiving the cellulosic volumes. In addition, the cellulosic volume requirement for 2013 is likely to be relatively small and production volumes unlikely to be affected by the drought due to their sources of feedstock.

VI. Other Issues

EPA received comment on several areas of concern in addition to the economic impact of implementation of the RFS volume requirements. Comments addressed, among other things, overall U.S. policy on biofuels and the RFS; the environmental impacts of renewable fuels in general and the RFS program in particular; the impact of granting a waiver on the future of ethanol production in the U.S.; the characteristics, favorable or otherwise, of ethanol as a transportation fuel; and EPA's interpretation of section 211(o)(7) of the Act. Although this section summarizes and provides general responses to some of the more the more frequently raised comments that are unrelated to the economic impact of implementing the RFS, EPA notes that these issues generally were not relevant to EPA's consideration of the current waiver request. While EPA has broad discretion to consider such issues in determining whether or not to grant a waiver if it finds that implementation of the RFS would severely harm the economy of a State, region or the U.S., these issues are not relevant to EPA's decision where, as here, EPA is denying the waiver requests because the evidence and information does not support a determination that the statutory criteria for granting a waiver are satisfied.

1. Impacts on Corn Prices From Increasing Renewable Fuel Production

EPA received many comments discussing the impact of increasing renewable fuel production over time on crop and feed prices, and on the economic consequences of increasing prices on various sectors, including the livestock, poultry, dairy, various food-related industries, and segments of the population.[78] Multiple commenters argued that the rise of corn prices over the past several years has coincided with and is in substantial part a result of the increasing renewable fuel volumes required under the RFS program. Commenters state that the consequences of this dynamic include tighter global corn supplies, a more volatile commodity market, and higher costs for various sectors of the economy as the prices of a key input, corn, have risen. A number of the requesting States and many commenters state that higher corn prices caused in part by increased demand from the RFS program have had significant negative effects on the livestock, poultry, and dairy industries due to the rising costs of feed. Other commenters focus on the link between higher prices for corn or other food commodities and increased prices of food for consumers. Some of these comments cite analysis conducted by various individuals or organizations estimating the portion of the increase in corn prices over a period of time that is attributable to increased renewable fuel use, or the impact of rising corn prices on consumer food items.

EPA acknowledges the linkages between corn prices, feed prices, costs to the livestock, poultry, and dairy industries, as well as impacts on food prices; the analysis presented above explicitly examines these connections. At the same time, and as many commenters also point out, the market price of corn is influenced by a variety of factors, including among other things macroeconomic factors like oil prices, international demand for coarse grains, crop production in different corn-growing countries, fertilizer costs, and weather conditions that affect crop production levels. As many of the requesting State letters point out, and as we discuss in the Executive Summary, this year's severe drought has had a significant impact on the recent increase in corn prices.[79]

As mentioned above we fully recognize the toll this year's drought has taken on multiple sectors of the economy, and we have reviewed comments submitted to us in detail. While we generally agree that the issues raised by commenters are important considerations, as discussed previously, the issue before EPA is a narrow one—whether implementation of the RFS volume requirements over the time period at issue would severely harm the economy. The historical impacts of overall production and use of biofuels in the U.S. is not the relevant issue for purposes of determining whether implementing the RFS would severely harm the economy of a State, region or the U.S. over the time period of concern.

2. Overall U.S. Policy on Renewable Fuels

EPA also received comments from various individuals and organizations critical of the broader RFS program and policies that promote renewable fuels in general. Some commenters raise the potential negative environmental consequences of renewable fuels, including impacts on wildlife habitat due to renewable fuel policy, and the potential for increased greenhouse gas emissions from land use changes connected to renewable fuel policy.[80] Others focus on the impacts that the RFS and other renewable fuel policies can have on international commodity markets, effects of price changes in developing countries, volatility in agricultural prices, and effects on domestic consumers, and argue that a waiver of RFS requirements would help to begin addressing such negative impacts. Some commenters either cited or submitted a study by Dr. Thomas Elam of FarmEcon LLC presenting a fairly comprehensive assessment of the RFS program, its impact on the agricultural sector, fuel markets, and global commodity markets, and proposals for statutory modifications.[81]

EPA considers these important topics and has reviewed such comments in detail. However, the question before us is fairly narrow. EPA received requests for a waiver under a specific provision of law and our decision in response to those requests is necessarily based on our authority under that provision. EPA

[78] Examples include petitions and/or comments submitted by various requesting States and by individuals and organizations associated with the livestock, poultry, and dairy industries.

[79] See, for example, August 13, 2012 letter from the Governor of Arkansas, EPA–HQ–OAR–2012–002. ''Virtually all of Arkansas is suffering from severe, extreme, or exceptional drought conditions. The declining outlook for this year's corn crop and accelerating prices for corn and other grains are having a severe economic impact on the State.''

[80] See for example comment submitted by Bullock et al., EPA–HQ–OAR–2012–0635–1707.

[81] See Dr. Thomas Elam, FarmEcon LLC, ''The RFS, Fuel and Food Prices, and the Need for Statutory Flexibility,'' July 16, 2012, submitted with comments from the National Chicken Council, EPA–HQ–OAR–2012–0632–1994.

has no authority to grant the waiver requests under this provision unless it determines that implementation of the RFS volume requirements would severely harm the economy of a State, region, or the United States. The evidence before EPA does not support such a determination, and EPA therefore is denying the waiver requests. With respect to the environmental impacts of increased renewable fuel use, the waiver requests are not based on a claim of severe harm to the environment. Outside the context of a waiver, EPA is required to address environmental concerns in various ways, including through analysis of lifecycle greenhouse gas emissions associated with different renewable fuels and fuel pathways. EPA's lifecycle analysis of such emissions is discussed at length in our March 26, 2010 final RFS rulemaking (75 FR 14670). A separate provision of EISA 2007 (the section 204 report to Congress) requires EPA to assess other potential impacts of biofuel use.[82] EPA also considers those kinds of factors when setting national volume requirements for the years not specified by Congress, under section 211(o)(2)(B)(ii).

3. RFS Programmatic Issues

Comments submitted by organizations representing the oil refining sector suggested that either eliminating or increasing the 20 percent cap on previous-year RINs that can be used for compliance under § 80.1427(a)(5) would increase the flexibility available to obligated parties in the event of a market disruption.[83] As mentioned above, EPA described its rationale for setting the cap at 20 percent in the May 1, 2007 final RFS rulemaking.[84] The cap is a reasoned way to implement the statutory requirements that credits in the RFS program have a duration of only 12 months. We continue to believe that the 20 percent cap strikes an appropriate balance between allowing flexibility to address market disruptions while providing biofuel producers with a degree of certainty with respect to demand. Therefore, EPA is not considering modifying the cap level at this time.

4. Characteristics of Ethanol as a Transportation Fuel

EPA received multiple comments describing what commenters view as unfavorable characteristics of ethanol as a transportation fuel; most of these comments focused on either ethanol blended into gasoline at the 10 percent or 15 percent level (E10 or E15). Commenters discussed the lower energy density of ethanol relative to gasoline and concerns with the use of E15 in certain engine types. While EPA appreciates the importance of such topics, they are beyond the scope of this determination and we do not address them here.

5. The Future of the Renewable Fuel Industry

Many commenters raised concerns regarding the impact that granting a waiver could have on the renewable fuel industry and the future of renewable fuel production. Such commenters, especially those associated with the renewable fuel sector, pointed out that granting a waiver would increase uncertainty in the marketplace, reduce investment, and hinder progress towards the policy goals of EISA 2007. EPA also received numerous comments related to the potential negative economic impacts of a waiver on renewable fuel producers and various related supporting industries, including impacts on jobs. EPA recognizes that were a waiver to be granted, the impacts would not be constrained to those industries that utilize corn as a feed input (e.g., livestock or dairy sectors), and that impacts would also affect other sectors of the economy, including in the agriculture and renewable fuel production sectors. EPA has reviewed comments on this topic and will continue to monitor the status of the U.S. biofuels industry, but in light of today's decision does not address these comments in detail here.

6. The Ethanol ''Blendwall''

Comments from oil refiners and associated trade organizations, as well as others, discuss potential impacts to fuel market dynamics as the level of ethanol in blended gasoline approaches the ''E10 blendwall.'' [85] The term blendwall generally refers to the market based limits on the volume of ethanol in gasoline, as ethanol-gasoline blends greater than E10 or E15 (depending on the model year of the vehicle) may only be marketed to flexible fuel vehicles. Commenters note that volumes of ethanol required by the RFS in the near future exceed the volume that can be consumed as E10. Commenters state that once ethanol in gasoline hits this E10 saturation point, blending additional ethanol into gasoline will not be a viable strategy to comply with RFS-required volumes.

In their letters requesting an RFS waiver, the requesting States do not focus on issues that might be posed by the blendwall, though some commenters in the livestock and poultry industry raise this topic as an issue of concern. In addition, while some commenters pointed to analysis related to blendwall impacts, it was not a focus of the majority of comments, and the amount of data and analysis submitted on the blendwall, its impacts on the overall fuel market, and the relationship between a waiver and blendwall impacts in different years was relatively small. The blendwall issue is not relevant to the analysis undertaken as part of this determination, as EPA's technical analysis indicates that for the 2012/2013 corn year, in light of the volume requirements in RFS and the amount of rollover RINs, that the market is expected to cause production of more ethanol than is needed to comply with the RFS volume requirements. However we believe it may be instructive to discuss the general topic briefly here.

In establishing the RFS program, Congress created a framework to increase the amount of renewable fuel used in the domestic transportation sector over time. It gradually increases from 4.0 billion gallons in 2006 to 36.0 billion gallons in 2022. Congress charged EPA with implementation of the program, and directed the Agency to assign the obligation to use renewable fuels to ''refineries, blenders, distributors and importers as appropriate'' to ensure that the annual national statutory volumes were met. EPA subsequently promulgated the implementing regulations for the RFS program first in 2007 in response to the Energy Policy Act of 2005 and then again in 2010 in response to the Energy Independence and Security Act. Under these regulations refiners and importers are required to ensure that the volumes of renewable fuel required under the Act are actually consumed.

The RFS program establishes volume requirements for each obligated party, but it is neutral with respect to the type or form of renewable fuel used to meet the volume requirements, as long as the fuels are used to replace or reduce the quantity of fossil fuel present in a transportation fuel, heating oil or jet fuel; meet the required life-cycle greenhouse gas (GHG) performance standards; and are made from qualifying renewable biomass.

Ethanol has been the dominant domestic renewable fuel for several

[82] The first triennial Report to Congress is available at *http://oaspub.epa.gov/eims/eimscomm.getfile?p_download_id=506091*.

[83] See for example, comments submitted by the American Petroleum Institute, EPA–HQ–OAR–2012–0632–2240.

[84] 72 FR at 23934–5.

[85] See for example comments submitted by the American Fuel and Petrochemical Manufacturing Association, EPA–HQ–OAR–2012–0632–1939.

years, and during development of the law and regulations stakeholders in the fuel sector reasonably expected that ethanol would play a significant role in fulfilling the RFS volume requirements. As pointed out by commenters, E10 is approaching the point at which it saturates the gasoline market. As a result, if obligated parties choose to achieve their required RFS volumes using ethanol they should work with their partners in the vehicle and fuel market to overcome any market limitations on increasing the volume of ethanol that is used. Stakeholders in the refining sector have been aware of the E10 blendwall since passage of EISA in December of 2007.

As the market has approached the E10 blendwall, the ethanol industry has worked to support the introduction of E15 into the market, and domestic auto manufacturers have increased production of vehicles capable of running on even higher ethanol blends. Over ten million flex-fuel vehicles (FFVs) are now in the existing fleet. FFVs currently consume E85 only about 0.4% of the time, but were they to be regularly fueled on E85, such vehicles would be capable of consuming billions of additional gallons of ethanol. The affected industries have had and continue to have the ability to achieve widespread adoption of E85 through working with partners in the retail and terminal infrastructure sectors to increase the number of stations that offer E85 or other intermediate ethanol blends and improve the pricing structure relative to E10.[86] As noted above, however, other fuel options are available to meet RFS requirements.

7. Legal Interpretation of 211(o)(7)

(a) Implementation of the RFS Itself Must Severely Harm the Economy

The statute authorizes a waiver where ''implementation of the requirement would severely harm the economy.'' In the 2008 waiver determination, EPA concluded the straightforward meaning of this provision is that implementation of the RFS program itself must be the cause of the severe harm. We found that the language provided by Congress does not support the interpretation that EPA would be authorized to grant a waiver if it found that implementation of the program would significantly *contribute* to severe harm. EPA noted several instances in section 211 and other sections of the Clean Air Act where Congress authorized EPA action based on the contribution made by a factor or activity, and worded the statute to clearly indicate this intention. We cited as an example section 211(c)(1) of the Act which authorizes EPA to control or prohibit a fuel or fuel additive where it ''causes or contributes'' to air or water pollution that may reasonably be anticipated to endanger public health or welfare. EPA also cited to various waiver provisions where Congress clearly used language indicating that a waiver could be based on a determination that there is a contribution to an adverse result or a similar lesser degree of casual link to the adverse result. Section 211(f)(4), for example, allows EPA to waive a certain prohibition on fuels and fuel additives upon a determination that they will not ''cause or contribute'' to a specified harm. Other examples are presented in the 2008 waiver determination.

In response to the August 30, 2012 Notice, one commenter argued that the concept of ''cause or contribute to'' arises in the Clean Air Act under a set of contexts that pertain to ''public health, environmental quality, safety,'' but do not relate to the concept of economic harm. In interpreting the language of 211(o)(7) by examining other instances where Congress utilizes the concept of contribution under section 211, commenters assert, EPA unnecessarily limited itself to an overly stringent reading of the RFS waiver provision.[87]

EPA disagrees with this argument. Had Congress intended to authorize EPA to grant a waiver where RFS implementation is merely a contributing factor to severe economic harm, it could clearly have done so by using statutory language similar to that found in the statutory provisions cited by the commenter.

Another commenter argued that EPA's interpretation renders the provision impossible to meet and essentially prejudges the issue. They noted that implementation of the RFS requirements must always occur within the context of an existing economy and fact situation, so that it is inappropriate to interpret the waiver provision as requiring that implementation of the RFS alone would cause severe economic harm. They state that the statute does not require the Administrator to ignore the worst drought in 50 years, its effects on corn stocks, and the price effects of the interaction of the RFS with the drought-induced supply shock. The commenter misinterprets EPA's position. EPA agrees that implementation of the RFS must necessarily occur within the context of existing market conditions, and that it is necessary and appropriate for EPA to consider the effect of RFS implementation in the context of those existing conditions. That is why for today's determination EPA has modeled the impact of RFS implementation in the current economic environment, including the context of the current drought and its impacts on corn yields and corn prices. Nor does EPA believe that its interpretation renders the provision impossible to meet. In Section V we discuss a number of key parameters and inputs used in our modeled analysis; these include availability of rollover RINs, gasoline prices, and corn yields, among others. Changes in one or several of these variables could lead to analytical results that could provide support for a finding that implementation of the RFS is severely harming the economy—but our analysis does not support such a finding for the time period and scenario analyzed here.

(b) There Must Be a Generally High Degree of Confidence That There Will Be Severe Harm as a Result of the Implementation of RFS

The waiver provision indicates that EPA must find that implementation of the RFS ''would'' severely harm the economy. We previously interpreted this as indicating that there must be a generally high degree of confidence that severe harm would occur from implementation of the RFS, and we continue to believe this interpretation is appropriate. In the 2008 waiver determination we noted that Congress specifically provided for a lesser degree of confidence in a related waiver provision, section 211(o)(8). That provision applies for just the first year of the RFS program, and provides for a waiver of the 2006 requirements based on a study by the Secretary of Energy of whether the program ''*will likely result* in significant adverse impacts on consumers in 2006.'' (Emphasis supplied). The term ''likely'' generally means that something is at least probable, and EPA believes that the term ''would'' in section 211(o)(7)(A) means Congress intended to require a greater degree of confidence under the waiver provision at issue here.

We also noted in 2008 EPA's belief that generally requiring a high degree of confidence that implementation of the RFS would severely harm an economy would appropriately implement Congress' intent for yearly growth in the

[86] The number of retail service stations that offer E85 has grown at a rate of only 350 stations per year since 2007. As of today, the total number of retail stations offering E85 is only about 3000, so that only one out of every 50 retail fuel stations offers E85.

[87] American Petroleum Institute, EPA–HQ–OAR–2012–0632–2240

use of renewable fuels, evidenced by the 2005 and 2007 requirements for such growth. In addition, it would limit waivers to circumstances where a waiver would be expected to provide effective relief from harm. If there is generally high confidence that implementation of the RFS program would cause harm, then a waiver should provide effective relief from that harm. However in situations where there is not such a high degree of confidence, a waiver might be ineffectual and unnecessarily disrupt the expected growth in use of renewable fuels.

In our prior Texas waiver determination we found support for our interpretation of this waiver provision in an analogous approach taken by EPA in applying former section 211(k)(2)(B), the provision for waiver of the oxygen content requirement for RFG. In that provision, Congress provided that EPA ''may'' waive the oxygen content requirement upon a determination that compliance with this requirement ''would'' prevent or interfere with attainment of a NAAQS. EPA interpreted this as calling for the waiver applicant to ''clearly demonstrate'' interference before a waiver would be granted. This interpretation was upheld in *Davis* v. *EPA,* 348 F.3d 772, 779–780 (9th Cir. 2003).

In response to the August 30, 2012 Notice, one commenter argued that EPA erred in finding support for its interpretation of the term ''would'' in Section 211(o)(7) by reference to the less stringent ''will likely result'' statutory test set forth in 211(o)(8) for a waiver of the renewable fuel requirements in 2006. The commenter suggests that the fact situation in 2006 was different in that it was the first year of the RFS program, and that relatively smaller renewable fuel volumes were involved. While EPA agrees that the fact situation in 2006 was different than in subsequent years of RFS implementation, that fact does not render EPA's analysis of the different statutory terms unreasonable. No doubt because the fact situation was different in 2006 than in subsequent years of RFS implementation, Congress established a different, and less stringent, test to justify an RFS waiver in that year than in subsequent years. It is entirely reasonable for EPA to conclude that Congress intended a higher degree of certainty of harm in 211(o)(7) than in 211(o)(8) in light of the different statutory terms used in those sections. Therefore, EPA believes the ''would severely harm'' test in 211(o)7) requires a higher degree of certainty of harm than the ''will likely result'' test in 211(o)(8).

(c) ''Severely Harm'' Indicates That Congress Set a High Threshold for Grant of a Waiver

In 2008, EPA discussed the level or threshold of harm necessary to satisfy the ''severely harm'' phrase found in section 211(o)(7). EPA continues to agree with the interpretation from the 2008 waiver determination, where we stated that while the statute does not define the term ''severely harm,'' the straightforward meaning of this phrase indicates that Congress set a high threshold for issuance of a waiver. In the 2008 determination we discussed our rationale for this reading, pointing to the difference between the criteria for a waiver under section 211(o)(7)(A) and the criteria for a waiver during the first year of the RFS program. In section 211(o)(8)(A) Congress provided for a waiver based on an assessment of whether implementation of the RFS in 2006 would result in ''significant adverse impacts'' on consumers. A waiver under section 211(o)(7)(A), however, requires that implementation ''severely harm'' the economy, which is clearly a much higher threshold than ''significant adverse impacts.'' We also considered the use of the term ''severe'' in CAA section 181(a). Ozone nonattainment areas are classified according to their degree of impairment, along a continuum of marginal, moderate, serious, severe or extreme ozone nonattainment areas. Thus, in section 181, ''severe'' indicates a level of harm that is greater than marginal, moderate, or serious, though less than extreme. We previously stated our belief that the term ''severe'' should be similarly interpreted for purposes of section 211(o)(7)(A), as indicating a point that is quite far along a continuum of harm, though short of extreme. In response to the August 30, 2012 Notice, one commenter, addressing this comparison, wrote, ''EPA suggested in the Texas waiver decision that it needed to interpret 'severe' within CAA section 211 in the same manner as CAA section 181(a). EPA is under no such mandate.'' [88] EPA agrees that we are under no such mandate, and disagrees with the commenter's characterization of our decision in 2008. EPA is not required to interpret the term ''severe'' in section 211in the same manner as section 181(a), but as we wrote in the 2008 determination, it is ''instructive'' to do so. EPA continues to believe this is the case.

As in 2008, and after reviewing comments submitted this year, EPA finds that we do not need to interpret this provision in any greater detail for purposes of acting on any of the waiver requests, as the circumstances in this case do not demonstrate the kind of harm from RFS implementation that would be characterized as severe. In addition, as described in section V, EPA has determined that it is highly likely that implementation of the RFS in 2012 and 2013 will have no impact on the use of renewable fuel in the United States. Thus, implementation of the RFS could not be seen as severely harming the economy, regardless of EPA's interpretation of the term.

(d) Harm to the Economy

Under EPA's prior Texas waiver determination EPA considered the meaning of the term ''economy'' in section 211(o)(7)(A)(2). Although Texas had argued that the term should be interpreted such that a showing of severe harm to one sector of the economy, *e.g.,* the livestock industry, is sufficient under the statute, others argued that there must be a showing of severe harm to the entire economy of a State, region or the United States, including all sectors. EPA stated its belief that it would be unreasonable to base a waiver determination solely on consideration of impacts of the RFS program to one sector of an economy, without also considering the impacts of the RFS program on other sectors of the economy or on other kinds of impact. It is possible that one sector of the economy could be severely harmed, and another greatly benefited from the RFS program; or the sector that is harmed may make up a quite small part of the overall economy. EPA stated its belief that in the context of any RFS waiver request we should responsibly review and analyze the economic information that is reasonably available regarding the full impacts of the RFS program and a possible waiver, including detrimental and beneficial impacts, before determining that a waiver of the program is warranted. In addition, we examined the language in the statute providing that EPA ''may'' waive the RFS volume requirement after finding that implementation of the RFS program would severely harm the economy. As such, we determined that a broad consideration of economic and other impacts could be undertaken whether or not EPA adopted the more limited interpretation of the term ''economy'' advanced by Texas. For example, if EPA examined the full impacts on an economy, EPA would determine whether RFS implementation would severely harm the overall economy of a State, region, or the U.S. However, if

[88] National Pork Producers Council comments, EPA–HQ–OAR–2012–0632–2209.

EPA adopted the more limited interpretation, and then found severe harm to a sector of the economy, EPA would still evaluate the overall impacts on the economy and other factors before exercising its discretion under the ''may'' clause to grant or deny the waiver request. Some commenters argued in response to the August 30 notice that EPA's interpretation in the 2008 Texas waiver decision was incorrect, because nothing in the statute allows EPA to broadly consider possible economic benefits as well as harm to various sectors of the economy. The commenter failed to acknowledge that EPA is not required to issue a waiver when severe economic harm to a state, region or the United States is demonstrated. The statute provides that EPA ''may'' do so in that situation. EPA continues to believe that in exercising its discretion under the statute to grant or deny a waiver request, it would be reasonable for EPA to consider all impacts associated with RFS implementation. In its Texas waiver determination EPA found that it did not need to resolve the issue of whether a waiver could be granted based solely on a demonstration of harm to one sector of the economy, since the circumstances in that case did not warrant a waiver under either interpretation. Similarly, despite the comments EPA received on this interpretative issue within the current waiver requests, we find that EPA does not need to resolve this issue of interpretation since the circumstances in this case do not warrant a waiver under either interpretation.

VII. Decision

EPA recognizes that severe drought has taken a large toll on many States and sectors of the economy, and further acknowledges that many parties, both those supporting a waiver and those opposing a waiver, have raised issues of great concern to them and to others in the nation concerning the use of biofuels. However the issue before the Agency in this case is a much more limited one, as described below. Based on a thorough review of the record in this case, and applying the evidence to the statutory criteria, EPA finds that the evidence does not support granting a waiver.

EPA is authorized to grant a waiver request if EPA determines that implementation of the RFS requirements would severely harm the economy of a State, region, or the United States. As discussed above, this calls for a determination that implementation of the RFS itself would severely harm the economy; it is not enough that implementation would contribute to such harm. Today's determination has two basic parts. The first part addresses whether there is a generally high degree of confidence that harm would occur from implementation of the RFS. The second part considers whether such harm, if it were to occur, is ''severe'', indicating a high threshold for the nature and degree of harm that would support issuance of a waiver, a point that is quite far along a continuum of harm, though short of extreme. Based on a thorough review of the record in this case, and applying the evidence to the statutory criteria, EPA finds that the evidence does not support granting a waiver.

First, regarding the degree of confidence that implementation of the RFS program during the time period at issue would harm the economy, after weighing all of the evidence before it the evidence does not support a finding that implementation of the RFS would harm the economy of a State, region, or the United States. All parties agree that any claimed economic harm would derive from the increased production of ethanol associated with implementation of the RFS, and any associated increase in the price of corn. However the weight of the evidence shows that it is very likely that the RFS volume requirements will have no impact on ethanol production volumes in the relevant time frame, and therefore no impact on corn, food, or fuel prices. The ISU modeling projects that waiving the RFS would have no impact at all on the use of ethanol in 89% of the scenarios modeled. The availability of rollover RINs, the beneficial economics of producing ethanol gasoline blends, the generally low level of flexibility of refiners to shift from ethanol over a one-year period, and the low price currently in the market for renewable fuel RINs all support the conclusion that waiving the RFS program would not be expected to have any effect on the production of ethanol. In other words, demand for ethanol would remain high with and without the RFS volume requirements for the time period at issue. As discussed in section V, the evidence submitted to support the view that a waiver would have a large effect on ethanol use is less credible because of concerns about the validity of key assumptions that underpin those analyses. After considering all of the evidence and information and weighing it appropriately, EPA believes that it is very likely that implementation of the RFS volume requirements will have no impact on ethanol production volumes in the relevant time frame. The analysis also indicates that it is unlikely that implementation of the RFS would cause any degree of harm to the economy. Though EPA fully recognizes the harmful impact to the economy from the 2012 drought, the evidence before the agency does not support a finding that *implementation of the RFS* would likely or even probably cause harm to the economy over the 2012/2013 time period and certainly the evidence does not reach the generally high degree of confidence required for issuance of a waiver under section 211(o)(7)(A).

Second, the Agency examined the evidence to evaluate the potential impact of implementation of the RFS program on corn prices and the impacts of such corn prices on various sectors of the economy and the overall economy, both within the requesting States and for the entire United States. In the ISU modeling, a range of scenarios were modeled, with the model projecting ethanol use, corn price and fuel price. The modeling indicates that for 89% of the scenarios implementation of the RFS volume requirements would have no impact on ethanol use or corn price, with only 11% of the scenarios indicating a change in ethanol use and a corresponding change in corn price. EPA determined that the average change in corn price over all of the scenarios was $0.07 per bushel of corn. The average change in corn price over the 11% of scenarios where a waiver would have an effect was $0.58 per bushel of corn. As discussed in section V, a price change in corn of this magnitude would have only a moderate impact on livestock costs and food prices. It would also be accompanied by a small change in fuel costs. For the reasons discussed above, EPA believes the weight of the evidence supports the view that it is highly likely there will be no impact on ethanol use or corn prices from implementation of the RFS program over the time period at issue, and if an impact were to occur, it would likely be on average $0.58 per bushel of corn. EPA believes this range of potential price increases for corn, even without considering the accompanying impact on fuel prices, would not support a determination of severe harm to the economy, whether considering the various livestock industries of the requesting States, livestock industry of the nation, the economies of the requesting States, or the economy of the United States. In this case, EPA does not need to determine exactly what nature or degree of harm would amount to severe harm, as the evidence in this case clearly does not meet the statutory criterion of severe harm to an economy.

In conclusion, EPA finds that the evidence and information in this case does not support a determination that implementation of the RFS requirements during the time period at issue would severely harm the economy of a State, a region, or the United States.

Dated: November 16, 2012.

Lisa P. Jackson,

Administrator.

[FR Doc. 2012–28586 Filed 11–26–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9752–2; Docket ID No. EPA–HQ–ORD–2011–0051]

Draft Integrated Science Assessment for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: EPA is announcing the availability of a document titled, ''Third External Review Draft Integrated Science Assessment for Lead'' (EPA/600/R–10/075C). The document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development as part of the review of the national ambient air quality standards (NAAQS) for lead (Pb).

EPA is releasing this draft document to seek review by the Clean Air Scientific Advisory Committee (CASAC) and the public (meeting date and location to be specified in a separate **Federal Register** Notice). The draft document does not represent and should not be construed to represent any final EPA policy, viewpoint, or determination. EPA will consider any public comments submitted in response to this notice when revising the document.

DATES: The public comment period begins, November 27, 2012, and ends January 28, 2013. Comments must be received on or before January 28, 2013.

ADDRESSES: The ''Third External Review Draft Integrated Science Assessment for Lead'' will be available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of CD–ROM or paper copies will be available. Contact Ms. Marieka Boyd by phone (919–541–0031), fax (919–541–5078), or email (*boyd.marieka@epa.gov*) to request either of these, and please provide your name, your mailing address, and the document title, ''Third External Review Draft Integrated Science Assessment for Lead'' (EPA/600/R–10/075C) to facilitate processing of your request.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Dr. Ellen Kirrane, NCEA; telephone: 919–541–1340; facsimile: 919–541–2985; or email: *kirrane.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Information About the Document

Section 108 (a) of the Clean Air Act directs the Administrator to identify certain pollutants which, among other things, ''cause or contribute to air pollution, which may reasonably be anticipated to endanger public health or welfare'' and to issue air quality criteria for them. These air quality criteria are to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare, which may be expected from the presence of [a] pollutant in the ambient air * * *.'' Under section 109 of the Act, EPA is then to establish national ambient air quality standards (NAAQS) for each pollutant for which EPA has issued criteria. Section 109 (d) of the Act subsequently requires periodic review and, if appropriate, revision of existing air quality criteria to reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. EPA is also to periodically review and, if appropriate, revise the NAAQS, based on the revised air quality criteria.

Pb is one of six principal (or ''criteria'') pollutants for which EPA has established NAAQS. Periodically, EPA reviews the scientific basis for these standards by preparing an Integrated Science Assessment (ISA) (formerly called an Air Quality Criteria Document). The ISA provides a concise review, synthesis, and evaluation of the most policy-relevant science to serve as a scientific foundation for the review of the NAAQS. The CASAC, an independent science advisory committee mandated by Section 109 (d) (2) of the Clean Air Act, is charged with independent scientific review of EPA's air quality criteria.

On February 26, 2010 (75 FR 8934), EPA formally initiated its current review of the air quality criteria for Pb, requesting the submission of recent scientific information on specified topics. Soon after, a science policy workshop was held to identify key policy issues and questions to frame the review of the Pb NAAQS (75 FR 20843). Drawing from the workshop discussions, a draft of EPA's ''Integrated Review Plan for the Lead National Ambient Air Quality Standards Review'' (EPA/452/D–11–001) was developed and made available in March 2011 for public comment and was discussed by the CASAC via a publicly accessible teleconference consultation on May 5, 2011 (76 FR 21346). The final IRP was released in December 2011 (76 FR 76972) and is available at *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_2010_pd.html.*

As part of the science assessment phase of the review, EPA held a workshop in December 2010 to discuss, with invited scientific experts, initial draft materials prepared in the development of the ISA (75 FR 69078). The first external review draft ISA for Pb was released on May 6, 2011 (*http://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=226323*). The CASAC Pb Review Panel met at a public meeting on July 20, 2011, to review the draft ISA (76 FR 36120). Subsequently, on December 9, 2011, the CASAC Pb Review Panel provided a consensus letter for their review to the Administrator of the EPA (*http://yosemite.epa.gov/sab/sabproduct.nsf/D3E2E8488025344D852579610068A8A1/$File/EPA-CASAC-12-002-unsigned.pdf*). The second external review draft ISA for Pb was released on February 2, 2012 (*http://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=235331#Download*). The CASAC Pb Review Panel met at a public meeting on April 10, 2012, to review the draft ISA (77 FR 14783). Subsequently, on July 20, 2012, the CASAC Pb Review Panel provided a consensus letter for their review to the Administrator of the EPA (*http://yosemite.epa.gov/sab/SABPRODUCT.NSF/13B1FD83815FA11885257A410064E0DC/$File/EPA-CASAC-12-005-unsigned.pdf*). The third external review draft ISA for Pb will be discussed at a public meeting of the CASAC Pb Review Panel, and timely public comments received will be provided to the CASAC panel. A future **Federal Register** Notice will inform the public of the exact date and time of that CASAC meeting.

II. How To Submit Technical Comments to the Docket at www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2011–0051 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Email: *Docket_ORD@epa.gov*.
- Fax: 202–566–9744.

• Mail: Office of Environmental Information (OEI) Docket (Mail Code: 28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. The phone number is 202–566–1752.

• Hand Delivery: The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue 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. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2011–0051. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information through *www.regulations.gov* or email that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: September 28, 2012.

Rebecca Clark,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 2012–28722 Filed 11–26–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Safety and Homeland Security Bureau; Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice of cancellation of meeting.

SUMMARY: The meeting of the Communications Security, Reliability, and Interoperability Council (CSRIC III) scheduled for December 5, 2012, at Federal Communications Commission headquarters in Washington, DC, has been cancelled.

FOR FURTHER INFORMATION CONTACT: Jeffery Goldthorp, Designated Federal Officer of the FCC's CSRIC, (202) 418–1096 (voice) or *jeffery.goldthorp@fcc.gov* (email); or Lauren Kravetz, Deputy Designated Federal Officer of the FCC's CSRIC, (202) 418–7944 (voice) or *lauren.kravetz@fcc.gov* (email).

SUPPLEMENTARY INFORMATION: The CSRIC meeting scheduled for Wednesday, December 5, 2012, has been cancelled. CSRIC is scheduled to meet next on Wednesday, March 6, 2013, at 9 a.m. in the Commission Meeting Room of the Federal Communications Commission. Additional information regarding the CSRIC can be found at: *http://www.fcc.gov/pshs/advisory/csric/.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2012–28720 Filed 11–26–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 12–1875]

Emergency Access Advisory Committee; Announcement of Date of Next Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the date of the Emergency Access Advisory Committee's (Committee or EAAC) next meeting. At the December meeting, the agenda will include discussion of draft reports from the subcommittees and other activities needed to ensure access to 911 by individuals with disabilities.

DATES: The Committee's next meeting will take place on Friday, December 14, 2012, 10:30 a.m. to 3:30 p.m. (EST), at the headquarters of the Federal Communications Commission (FCC).

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, in the Commission Meeting Room.

FOR FURTHER INFORMATION CONTACT: Cheryl King, Consumer and Governmental Affairs Bureau, (202) 418–2284 (voice) or (202) 418–0416 (TTY), email: *Cheryl.King@fcc.gov* and/or Patrick Donovan, Public Safety and Homeland Security Bureau, (202) 418–2413, email: *Patrick.Donovan@fcc.gov.*

SUPPLEMENTARY INFORMATION: On December 7, 2010, in document DA 10–2318, Chairman Julius Genachowski announced the establishment and appointment of members and Co-Chairpersons of the EAAC, an advisory committee required by the Twenty-First Century Communications and Video Accessibility Act (CVAA), Public Law 11–260, for the purpose of achieving equal access to emergency services by individuals with disabilities as part of our nation's migration to a national Internet protocol-enabled emergency network, also known as the next generation 9–1–1 system (NG9–1–1). The purpose of the EAAC is to determine the most effective and efficient technologies and methods by which to enable access to Next Generation 911 (NG 9–1–1) emergency services by individuals with disabilities, and to make recommendations to the Commission on how to achieve those

effective and efficient technologies and methods. During the spring of 2011, the EAAC conducted a nationwide survey of individuals with disabilities and released a report on that survey on June 21, 2011. Following release of the survey report, the EAAC developed recommendations, which it submitted to the Commission on December 7, 2011, as required by the CVAA. At the December 2012 EAAC meeting, the agenda will include discussion of draft reports from the subcommittees and other activities needed to ensure access to 911 by individuals with disabilities.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Federal Communications Commission.

Karen Peltz Strauss,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2012–28765 Filed 11–26–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request (3064–0072)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501 *et seq.,* the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of an existing information collection, as required by the PRA. On September 20, 2012 (77 FR 58377), the FDIC solicited public comment for a 60-day period on the renewal of the following information collection: Acquisition Services Information Requirements. No comments were received. Therefore, the FDIC hereby gives notice of submission of its request for renewal to OMB for review.

DATES: Comments must be submitted on or before December 27, 2012.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room NYA–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently-approved collection of information:

Title: Acquisition Services Information Requirements.

OMB Number: 3064–0072.

Affected Public: State nonmember banks.

Estimated Number of Respondents: 6035.

Estimated average burden per respondent: .4 hours.

Estimated Total Annual Burden Hours: 2564 hours.

General Description of Collection: This is a collection of information involving the submission of various forms by contractors doing business with the FDIC.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 21st day of November 2012.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2012–28739 Filed 11–26–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501 *et seq.,* the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of an existing information collection, as required by the PRA. On September 20, 2012 (77 FR 58377), the FDIC solicited public comment for a 60-day period on the renewal of the following information collection: Procedures for Monitoring Bank Protection Act Compliance. No comments were received. Therefore, the FDIC hereby gives notice of submission

of its request for renewal to OMB for review.

DATES: Comments must be submitted on or before December 27, 2012.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room NYA–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently-approved collection of information:

Title: Procedures for Monitoring Bank Protection Act Compliance.

OMB Number: 3064–0095.

Affected Public: State nonmember banks.

Estimated Number of Respondents: 4,700.

Estimated burden per respondent: 0.5 hours.

Estimated Total Annual Burden Hours: 2,350 hours.

General Description of Collection: The collection requires insured state nonmember banks to comply with the Bank Protection Act and to review bank security programs.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 21st day of November 2012.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2012–28740 Filed 11–26–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination of Insufficient Assets To Satisfy Claims Against Financial Institution in Receivership

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: The FDIC has determined that insufficient assets exist in the receivership of Darby Bank and Trust Co., Vidalia, Georgia, to make any distribution on general unsecured claims, and therefore such claims will recover nothing and have no value.

DATES: The FDIC made its determination on November 11, 2012.

FOR FURTHER INFORMATION CONTACT:

If you have questions regarding this notice, you may contact an FDIC Claims Agent at (904) 256–3925. Written correspondence may also be mailed to FDIC as Receiver of Darby Bank and Trust Co., Attention: Claims Agent, 8800 Baymeadows Way West, Jacksonville, FL 32256.

SUPPLEMENTARY INFORMATION: On November 12, 2010, Darby Bank and Trust Co., Vidalia, Georgia, (FIN #10312) was closed by the Georgia Department of Banking and Finance, and the Federal Deposit Insurance Corporation (''FDIC'') was appointed as its receiver (''Receiver''). In complying with its statutory duty to resolve the institution in the method that is least costly to the deposit insurance fund (see 12 U.S.C. 1823(c)(4)), the FDIC facilitated a transaction with Ameris Bank, Moultrie, Georgia, to acquire all of the deposits and most of the assets of the failed institution.

Section 11(d)(11)(A) of the FDI Act, 12 U.S.C. 1821(d)(11)(A), sets forth the order of priority for distribution of amounts realized from the liquidation or other resolution of an insured depository institution to pay claims. Under the statutory order of priority, administrative expenses and deposit liabilities must be paid in full before any distribution may be made to general unsecured creditors or any lower priority claims.

As of September 30, 2012, the maximum value of assets that could be available for distribution by the Receiver, together with maximum possible recoveries on professional liability claims against directors, officers, and other professionals, as well as potential tax refunds, was $125,488,526. As of the same date, administrative expenses and depositor liabilities equaled $173,303,177, exceeding available assets and potential recoveries by at least $47,814,651. Accordingly, the FDIC has determined that insufficient assets exist to make any distribution on general unsecured creditor claims (and any lower priority claims) and therefore all such claims, asserted or unasserted, will recover nothing and have no value.

Dated: November 21, 2012.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2012–28761 Filed 11–26–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Senior Executive Service Performance Review Board

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Senior Executive Service Performance Review Boards for the Federal Retirement Thrift Investment Board. The purpose of the Performance Review Boards is to view and make recommendations concerning proposed performance appraisals, ratings, and bonuses, and other appropriate personnel actions for members of the Senior Executive Service.

DATES: This notice is effective November 27, 2012.

FOR FURTHER INFORMATION CONTACT: Kelly Powell, HR Specialist, at 202–942–1681.

SUPPLEMENTARY INFORMATION: Title 5, U.S. Code, 4314(c)(4), requires that the appointment of Performance Review Board members be published in the **Federal Register** before Board service commences. The following persons will serve on the Federal Retirement Thrift Investment Board's Performance Review Boards which will oversee the evaluation of the performance appraisals of the Senior Executive Service members of the Federal

Retirement Thrift Investment Board: Thomas K. Emswiler, James B. Petrick, Tracey A. Ray, Kimberly Weaver, Mark Walther, and Renee Wilder.

James B. Petrick,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2012–28764 Filed 11–26–12; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012–0076, Sequence 67; OMB Control No. 9000–0184]

Federal Acquisition Regulation; Submission for OMB Review; Contractors Performing Private Security Functions Outside the United States

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an information collection requirement regarding a new OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning Contractors Performing Private Security Functions Outside the United States. A notice was published in the **Federal Register** at 77 FR 43039, on July 23, 2012. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before December 27, 2012 to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by Information Collection 9000–0184, Contractors Performing Private Security Functions Outside the United States, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting the OMB control number and selecting ''Search''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0184, Contractors Performing Private Security Functions Outside the United States''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0184, Contractors Performing Private Security Functions Outside the United States'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite Information Collection 9000–0184, Contractors Performing Private Security Functions Outside the United States in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, Governmentwide Acquisition Policy, at 202–208–4949 or email *michaelo.jackson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Section 862 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008, as amended by section 853 of the NDAA for FY 2009 and sections 831 and 832 of the NDAA for FY 2011, together with the required Governmentwide implementing regulations (32 CFR part 159, published at 76 FR 49650 on August 11, 2011), as amended, adds requirements and limitations for contractors performing private security functions in areas of contingency operations, combat operations, or other military operations as designated by the Secretary of Defense, upon agreement of the Secretaries of Defense and State. These requirements are that contractors performing in areas such as Iraq and Afghanistan ensure that their personnel performing private security functions comply with 32 CFR part 159, including (1) accounting for Government-acquired and contractor-furnished property and (2) reporting incidents in which a weapon is discharged, personnel are attacked or killed or property is destroyed, or active, lethal countermeasures are employed.

B. Annual Reporting Burden

Respondents: 920.
Responses per Respondent: 5.
Total Response: 4,600.
Hours per Response: 0.109 hours.
Total Burden Hours: 501.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0184, Contractors Performing Private Security Functions Outside the United States, in all correspondence.

Dated: November 14, 2012.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–28657 Filed 11–26–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[30Day–13–13BZ]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC/ATSDR Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC/ATSDR Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery–NEW–Agency for Toxic Substances and Disease Registry (ATSDR).

As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, the ATSDR has submitted a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*).

To request additional information, please contact Kimberly S. Lane, Reports Clearance Officer, Centers for Disease Control and Prevention, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

The Agency received no comments in response to the 60-day notice published in the **Federal Register** on December 22, 2010 (75 FR 80542).

This is a new collection of information. Respondents will be screened and selected from individuals and households, businesses, organizations, and/or State, Local or Tribal Government. Below we provide ATSDR's projected annualized estimate for the next three years. There is no cost to respondents other than their time. The estimated annualized burden hours for this data collection activity are 1,070.

Type of collection	Average number of respondents per activity	Annual frequency of response	Average number of activities	Average hours per response
Comment cards or complaint forms	50	1	2	30/60
Focus groups	65	1	2	2
One-on-one interviews	50	1	1	30/60
One-time or panel discussion groups	10	1	2	8
Moderated, unmoderated, in-person and remote usability studies	500	1	1	30/60
Testing of a survey or other collection to refine questions	75	1	1	1
On-line surveys	1,000	1	1	15/60

Dated: November 19, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–28741 Filed 11–26–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–13–0914]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Workplace Violence Prevention Programs in NJ Healthcare Facilities (0920–0914, Expiration 1/31/2015)—Revision—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Healthcare workers are nearly five times more likely to be victims of violence than workers in all industries combined. While healthcare workers are not at particularly high risk for job-related homicide, nearly 60% of all nonfatal assaults occurring in private industry are experienced in healthcare. Six states have enacted laws to reduce violence against healthcare workers by requiring workplace violence prevention programs. However, little is understood about how effective these laws are in reducing violence against healthcare workers.

The objective of the proposed study is three-fold: (1) To examine healthcare facility compliance with the New Jersey Violence Prevention in Health Care Facilities Act, (2) to evaluate the effectiveness of the regulations in this Act in reducing assault injuries to workers. Our central hypothesis is that facilities with high compliance with the regulations will have lower rates of

employee violence-related injury, and (3) evaluate the assault injury rate. The long-term goal of the proposed project is to reduce violence against healthcare workers.

CDC currently has approval to evaluate the legislation at hospitals and to conduct a nurse survey. Data collection is ongoing at the hospitals and for the nurse survey.

This revision will add two new respondent groups: Nursing homes and home healthcare aides. We will conduct face-to-face interviews with the Chairs of the Violence Prevention Committees in 20 nursing homes who are in charge of overseeing compliance efforts. The purpose of the interviews is to measure compliance to the state regulations. The details of their Workplace Violence Prevention Program are in their existing policies and procedures. We will also collect assault injury data from nursing homes' violent event reports 3 years pre-regulation (2009–2011) and 3 years post-regulation (2012–2014). This data is captured in existing Occupational Safety and Health Administration (OSHA) logs and is publicly available. The purpose of collecting these data is to evaluate changes in assault injury rates before and after enactment of the regulations.

We will also conduct a home healthcare aide survey (4000 respondents or 1333 annually). This survey will describe the workplace violence prevention training that home healthcare aides receive. Home healthcare aides will be recruited from a mailing list of home healthcare aides certified from the State of New Jersey Division of Consumer Affairs Board of Nursing. The mailing list was selected as the population source of workers due to the ability to capture all home healthcare aides in New Jersey.

We will test our central hypothesis by accomplishing the following specific aims:

1. Compare the comprehensiveness of nursing home workplace violence prevention programs before and after enactment of the New Jersey regulations in nursing homes; Working hypothesis: Based on our preliminary research, we hypothesize that enactment of the regulations will improve the comprehensiveness of nursing home workplace violence prevention program policies, procedures and training. Questions will also be asked about barriers and facilitators to developing the violence prevention program. These data will be collected in the post-regulation time period.

2. Describe the workplace violence prevention training home healthcare aides receive following enactment of the New Jersey regulations; Working hypothesis: Based on our preliminary research, we hypothesize that home healthcare aides receive at least 80% of the workplace violence prevention training components mandated in the New Jersey regulations.

3. Examine patterns of assault injuries to nursing home workers before and after enactment of the regulations; Working hypothesis: Based on our preliminary research, we hypothesize that rates of assault injuries to nursing home workers will decrease following enactment of the regulations.

A contractor will conduct the interviews, collect the nursing homes' policies and procedures, and collect the assault injury data.

No employee or perpetrator identifiable information will be collected.

The Health Professionals and Allied Employees union will promote the survey to their members. To maintain the worker's anonymity, the home healthcare agency in which he/she works will not be identified. There are no costs to respondents other than their time. The estimated total annualized burden hours are 960.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)
Hospital Administrators	Evaluation of Hospital Workplace Violence Prevention Program (C1).	17	1	1
Hospital Administrators	Committee Chair Interview (C2)	17	1	1
Hospital Administrators	Employee Incident Information (C3)	17	1	1
Nursing Home Administrators	Evaluation of Nursing Home Workplace Violence Prevention Program (C1).	7	1	1
Nursing Home Administrators	Committee Chair Interview (C2)	7	1	1
Nursing Home Administrators	Employee Incident Information (C3)	7	1	1
Nurses (RN and LPN)	Healthcare Facility Workplace Violence Prevention Programs Nurse Survey (C4).	1333	1	20/60
Home Healthcare Aides	Healthcare Facility Workplace Violence Prevention Programs Home Healthcare Aide Survey (C5).	1333	1	20/60

Dated: November 19, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–28723 Filed 11–26–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–12–12GO]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Colorectal Cancer Control Program Indirect/Non-Medical Cost Study—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Colorectal Cancer (CRC) is the second leading cause of cancer-related deaths in the United States, following lung cancer. Based on scientific evidence which indicates that regular screening with fecal occult blood testing (FOBT), fecal immunochemical testing (FIT), flexible sigmoidoscopy, and/or colonoscopy is effective in reducing CRC incidence and mortality, regular CRC screening is now recommended for average-risk persons. In 2009, by applying lessons learned from a four-year e demonstration program, CDC designed and initiated the larger population-based Colorectal Cancer Control Program (CRCCP) at 29 sites with the goals of reducing health disparities in CRC screening, incidence and mortality.

To date there has been no comprehensive assessment of all the costs associated with CRC screening, especially indirect and non-medical costs that may act as barriers to screening, incurred by the low-income population served by the CRCCP. CDC proposes to address this gap by collecting information from a subset of patients enrolled in the program. CDC plans to conduct the information collection in partnership with providers in five states (Alabama, Arizona, Colorado, New York, and Pennsylvania).

Each provider site will administer the survey to patients who undergo screening by FIT or colonoscopy until it reaches a target number of responses. Targets for each site range between 75 and 150 completed questionnaires, depending on the volume of patients screened. Patients who undergo fecal immunochemical testing will be asked to complete the FIT questionnaire, which is estimated to take about 10 minutes. Patients who undergo colonoscopy will be asked to complete the Colonoscopy questionnaire, which includes additional questions about the preparation and recovery associated with this procedure. The estimated burden per response for the Colonoscopy questionnaire is 25 minutes. Demographic information will be collected from all patients who participate in the study. Participation in the study is voluntary, but patients will be offered an incentive in the form of a gift card. Each participating provider will make patient navigators available to assist patients with coordinating the screening process and completing the questionnaires. Providers will be reimbursed for patient navigator time and administrative expense associated with data collection.

This information collection will be used to produce estimates of the personal costs incurred by patients who undergo CRC screening by FIT or colonoscopy, and to improve understanding of these costs as potential barriers to participation. Study findings will be disseminated through reports, presentations, and publications. Results will also be used by participating sites, CDC, and other federal agencies to improve delivery of CRC screening services and to increase screening rates among low-income adults over 50 years of age who have no health insurance or inadequate health insurance for CRC screening.

OMB approval is requested for one year. Each respondent will have the option of completing a hardcopy questionnaire (in English or Spanish) or an on-line questionnaire. No identifiable information will be collected by CDC or CDC's data collection contractor. There are no costs to respondents other than their time. The total estimated annualized burden hours are 181.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)
Patients Served by the Colorectal Cancer Control Program.	FIT Questionnaire	300	1	10/60
	Colonoscopy Questionnaire	315	1	25/60

Dated: November 19, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–28727 Filed 11–26–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3265–FN]

Medicare and Medicaid Programs; Approval of the Accreditation Association for Ambulatory Health Care (AAAHC) Application for Continuing CMS Approval of Its Ambulatory Surgical Center Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve the Accreditation Association for Ambulatory Health Care (AAAHC) for continued recognition as a national accrediting organization for ambulatory surgical centers (ASCs) that wish to participate in the Medicare and/or Medicaid programs.

DATES: *Effective Date:* This notice is effective December 20, 2012 through December 20, 2018.

FOR FURTHER INFORMATION CONTACT: Lillian Williams, (410) 786–8636. Cindy Melanson, (410) 786–0310. Patricia Chmielewski, (410) 786–6899.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in an ambulatory surgical center (ASC) provided certain requirements are met. Section 1832(a)(2)(F)(i) of the Social Security Act (the Act) requires ASCs to meet

health, safety, and other standards specified by the Secretary. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 416 specify the conditions that an ASC must meet to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for ASCs.

Generally, to enter into an agreement, an ASC must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 416. Thereafter, the ASC is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. However, there is an alternative to surveys by State agencies.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, CMS will deem those provider entities as having met the Medicare requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, a provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accrediting organization applying for approval of its accreditation program under part 488, subpart A, must provide us with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.4 and § 488.8(d)(3). The regulations at § 488.8(d)(3) require accrediting organizations to reapply for continued approval of its accreditation program every 6 years or sooner as determined by CMS.

The Ambulatory Health Care's (AAAHC) current term of approval for their ASC accreditation program expires on December 20, 2012.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish a notice of approval or denial of the application.

III. Provisions of the Proposed Notice

On June 22, 2012, we published a proposed notice in the **Federal Register** (77 FR 37678) entitled, ''Application from the Accreditation Association for Ambulatory Health Care for Continued Approval of Its Ambulatory Surgical Centers Accreditation Program'' announcing the AAAHC's request for continued approval of its ASC accreditation program.

Under section 1865(a)(2) of the Act and in our regulations at § 488.4 and § 488.8, we conducted a review of AAAHC's application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- An onsite administrative review of AAAHC's: (1) corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- The comparison of AAAHC's accreditation to CMS's current Medicare ASC conditions for coverage.
- A documentation review of AAAHC's survey process to—
  + Determine the composition of the survey team, surveyor qualifications, and AAAHC's ability to provide continuing surveyor training.
  + Compare AAAHC's processes to those of State survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
  + Evaluate AAAHC's procedures for monitoring ASC's found to be out of compliance with AAAHC's program requirements. The monitoring procedures are used only when AAAHC identifies noncompliance. If noncompliance is identified through validation reviews, the State survey agency monitors corrections as specified at § 488.7(d).
  + Assess AAAHC's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
  + Establish AAAHC's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.
  + Determine the adequacy of staff and other resources.
  + Confirm AAAHC's ability to provide adequate funding for performing required surveys.
  + Confirm AAAHC's policies with respect to whether surveys are announced or unannounced.
  + Obtain AAAHC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with Section 1865(a)(3)(A) of the Act, the June 22, 2012 proposed notice also solicited public comments regarding whether AAAHC's requirements met or exceeded the Medicare conditions for coverage for ASCs. We received no public comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between AAAHC's Standards and Requirements for Accreditation and Medicare's Conditions and Survey Requirements

We compared AAAHC's ASC requirements and survey process with the Medicare conditions for certification and survey process as outlined in the State Operations Manual (SOM). Our review and evaluation of AAAHC's ASC application, which were conducted as described in section III of this final notice, yielded the following:

- To meet the requirements at § 416.41(a), AAAHC revised its standards to address all contracts.
- To meet the requirements at § 416.41(c)(1), AAAHC revised its standards to address ''the emergency care of patients.''
- To meet the requirements at § 416.44, AAAHC revised its standards to address the Life Safety Code (LSC) survey and created a policy to ensure all ASCs receive a complete and comprehensive LSC survey.
- To meet the requirements at § 416.47(a), AAAHC revised its standards to address the use of patients records.
- To meet the requirements at § 416.47(b), AAAHC revised its standards to address the requirement that every record must be accurate, legible, and promptly completed.
- To meet the requirements at § 416.50(b)(1)(ii), AAAHC revised its standards to ensure patients have the right to ''voice grievances regarding treatment or care that is (or fails to be) provided.''
- To meet the requirements at § 488.4(a)(5), AAAHC modified its policies to improve the accuracy and consistency of data submissions to CMS.
- To meet the requirements at § 488.4(a)(6), AAAHC modified its

policies to ensure that all compliant investigations are conducted in accordance with the requirements in the SOM, chapter 5.

• To meet the requirements at § 488.28(a) and Section 2726 of the SOM, AAAHC amended its policies to require a Plan of Correction (PoC) for all deficiencies cited.

• To meet the requirements at section 2728A of the SOM, AAAHC modified its policies to include all of the required elements in an acceptable PoC.

• To meet the requirements at 2728B of the SOM, AAAHC modified its policies regarding timeframes for requesting PoCs.

• To meet the requirements at section 2728B of the SOM, AAAHC modified its policies to ensure that accepted PoCs contain all elements specified in the SOM.

• To meet the Medicare requirements at section 3012 of the SOM related to focused and follow-up surveys, AAAHC amended its policies to include the 45-day response timeframe.

• To meet the requirements at Appendix L of the SOM— Sampling for Initial Surveys, Recertification Surveys, or Representative Sample Validation Surveys, AAAHC revised its policies to ensure surveyors review at least the required minimum number of medical records during a survey.

• To meet the requirements at Appendix L of the SOM— Use of the Infection Control Tool, AAAHC revised its survey protocol to ensure consistency, completeness and proper implementation of the Infection Control Tool.

• To verify AAAHC's continued compliance with the provisions of the LSC, CMS will conduct a follow-up survey observation within 1 year of the date of publication of this final notice.

B. Term of Approval

Based on our review and observations described in section III of this final notice, we have determined that AAAHC's requirements for ASCs meet or exceed our requirements. Therefore, we approve AAAHC as a national accreditation organization for ASCs that request participation in the Medicare program, effective December 20, 2012 through December 20, 2018.

V. Collection of Information Requirements

This document does not impose any reporting, recordkeeping or third-party disclosure requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—ASC Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 20, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–28728 Filed 11–23–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–7026–N]

Medicare, Medicaid, and Children's Health Insurance Programs; Meeting of the Advisory Panel on Outreach and Education (APOE), December 18, 2012

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

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel) in accordance with the Federal Advisory Committee Act. The Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on opportunities to enhance the effectiveness of consumer education strategies concerning Medicare, Medicaid and the Children's Health Insurance Program (CHIP). This meeting is open to the public.

DATES: *Meeting Date:* Tuesday, December 18, 2012, 8:30 a.m. to 4:00 p.m. Eastern Standard Time (EST).

Deadline for Meeting Registration, Presentations and Comments: Tuesday, December 4, 2012, 5:00 p.m., EST.

Deadline for Requesting Special Accommodations: Tuesday, December 4, 2012, 5:00 p.m., EST.

ADDRESSES: *Meeting Location:* The Liaison Capitol Hill, 415 New Jersey Avenue NW., Washington, DC 20001.

Presentations and Written Comments: Jennifer Kordonski, Designated Federal Official (DFO), Division of Forum and Conference Development, Office of Communications, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S1–13–05, Baltimore, MD 21244–1850 or contact Ms. Kordonski via email at *Jennifer.Kordonski@cms.hhs.gov.*

Registration: The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register at the Web site *http://events.SignUp4.com/APOEDECMTG* or by contacting the DFO at the address listed in the **ADDRESSES** section of this notice or by telephone at number listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, by the date listed in the **DATES** section of this notice. Individuals requiring sign language interpretation or other special accommodations should contact the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Kordonski, (410) 786–1840. Additional information about the APOE is available on the Internet at *http://www.cms.gov/FACA/04_APOE.asp.* Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act (FACA), this notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel). Section 9(a)(2) of the Federal Advisory Committee Act authorizes the Secretary of Health and Human Services (the Secretary) to establish an advisory panel if the Secretary determines that the panel is ''in the public interest in connection with the performance of duties imposed * * * by law.'' Such duties are imposed by section 1804 of the Social Security Act (the Act), requiring the Secretary to provide informational materials to Medicare beneficiaries about the Medicare program, and section 1851(d) of the Act, requiring the Secretary to provide for ''activities * * * to broadly disseminate information to [M]edicare beneficiaries * * * on the coverage options provided under [Medicare Advantage] in order to promote an active, informed selection among such options.''

The Panel is also authorized by section 1114(f) of the Act (42 U.S.C. 1314(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a). The Secretary signed the charter establishing this Panel on January 21, 1999 (64 FR 7899, February 17, 1999) and approved the renewal of the charter on January 21, 2011 (76 FR 11782, March 3, 2011).

Pursuant to the amended charter, the Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services (CMS) concerning optimal strategies for the following:

• Developing and implementing education and outreach programs for individuals enrolled in, or eligible for, Medicare, Medicaid and the Children's Health Insurance Program (CHIP).

• Enhancing the federal government's effectiveness in informing Medicare, Medicaid and CHIP consumers, providers and stakeholders pursuant to education and outreach programs of issues regarding these and other health coverage programs, including the appropriate use of public-private partnerships to leverage the resources of the private sector in educating beneficiaries, providers and stakeholders.

• Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of Medicare, Medicaid and CHIP education programs.

• Assembling and sharing an information base of ''best practices'' for helping consumers evaluate health plan options.

• Building and leveraging existing community infrastructures for information, counseling and assistance.

• Drawing the program link between outreach and education, promoting consumer understanding of health care coverage choices and facilitating consumer selection/enrollment, which in turn support the overarching goal of improved access to quality care, including prevention services, envisioned under health care reform.

The current members of the Panel are: Samantha Artiga, Principal Policy Analyst, Kaiser Family Foundation; Joseph Baker, President, Medicare Rights Center; Philip Bergquist, Manager, Health Center Operations, CHIPRA Outreach & Enrollment Project and Director, Michigan Primary Care Association; Marjorie Cadogan, Executive Deputy Commissioner, Department of Social Services; Jonathan Dauphine, Senior Vice President, AARP; Barbara Ferrer, Executive Director, Boston Public Health Commission; Shelby Gonzales, Senior Health Outreach Associate, Center on Budget & Policy Priorities; Jan Henning, Benefits Counseling & Special Projects Coordinator, North Central Texas Council of Governments' Area Agency on Aging; Warren Jones, Executive Director, Mississippi Institute for Improvement of Geographic Minority Health; Cathy Kaufmann, Administrator, Oregon Health Authority; Sandy Markwood, Chief Executive Officer, National Association of Area Agencies on Aging; Miriam Mobley-Smith, Dean, Chicago State University, College of Pharmacy; Ana Natale-Pereira, Associate Professor of Medicine, University of Medicine & Dentistry of New Jersey; Megan Padden, Vice President, Sentara Health Plans; David W. Roberts, Vice-President, Healthcare Information and Management System Society; Julie Bodën Schmidt, Associate Vice President, National Association of Community Health Centers; Alan Spielman, President & Chief Executive Officer, URAC; Winston Wong, Medical Director, Community Benefit Director, Kaiser Permanente and Darlene Yee-Melichar, Professor & Coordinator, San Francisco State University.

The agenda for the December 18, 2012 meeting will include the following:

• Welcome and Listening Session with CMS Leadership.

• Recap of the Previous (August 2, 2012) Meeting.

• Affordable Care Act Initiatives.

• Quality Initiatives.

• An Opportunity for Public Comment.

• Meeting Summary, Review of Recommendations and Next Steps.

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. The number of oral presentations may be limited by the time available. Individuals not wishing to make a presentation may submit written comments to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

Authority: Sec. 222 of the Public Health Service Act (42 U.S.C. 217a) and sec. 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR 102–3).

(Catalog of Federal Domestic Assistance Program No. 93.733, Medicare—Hospital Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 20, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–28647 Filed 11–26–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9962–NC]

Request for Information Regarding Health Care Quality for Exchanges

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

ACTION: Request for Information.

SUMMARY: This notice is a request for information to seek public comments regarding health plan quality management in Affordable Insurance Exchanges.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on December 27, 2012.

ADDRESSES: In commenting, refer to file code CMS–9962–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9962–NC, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9962–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without

Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the ''**SUPPLEMENTARY INFORMATION**'' section.

FOR FURTHER INFORMATION CONTACT: Rebecca Zimmermann, (301) 492–4396.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov*. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

Last year, the Department of Health and Human Services (HHS) adopted the National Strategy for Quality Improvement in Health Care (National Quality Strategy) to create national aims and priorities that would guide local, state, and national efforts to improve the quality of health care in the United States. The priorities of the National Quality Strategy include making care safer; ensuring person- and family-centered care; promoting effective communication and coordination of care; promoting the most effective prevention and treatment for the leading causes of mortality, starting with cardiovascular disease; working with communities to promote wide use of best practices to enable healthy living; and making quality care more affordable.[1] As discussed in the National Quality Strategy, ''[t]he Affordable Care Act seeks to increase access to high-quality, affordable health care for all Americans.'' To that end, the Affordable Care Act contains several provisions that help to foster and support health care quality improvement across the insurance marketplace, including section 2717 of the Public Health Service Act (PHS Act). The Affordable Care Act places additional quality-related requirements on health insurance issuers offering qualified health plans (QHPs) in the new Exchange marketplace, including section 1311 which directs QHP issuers to implement quality improvement strategies, enhance patient safety through specific contracting requirements, and publicly report quality data. The Affordable Care Act also directs the Secretary of HHS to develop and administer a quality rating system and an enrollee satisfaction survey system, the results of which will be available to Exchange consumers shopping for insurance plans. In addition, section 10329 of the Affordable Care Act, which relates to plans both inside and outside the Exchange, directs the Secretary, in consultation with relevant stakeholders, to develop a methodology for calculating the value of a health plan.

HHS's strategy for establishing quality reporting requirements to ensure that quality health care is delivered through the Exchange marketplace includes the consideration of existing relevant quality measure sets and quality improvement initiatives in conjunction with other factors, such as characteristics of the Exchange population. States, employers, health insurance issuers, and other stakeholders, in addition to the Centers for Medicare and Medicaid Services (CMS) and other HHS agencies, are currently engaged in health plan quality reporting and improvement initiatives. As indicated in the National Quality Strategy, HHS is interested in promoting effective quality measurement while minimizing the burden of data collection by aligning measures across programs. These efforts would also ease comparability across plans, providers, and insurance markets, and promote delivery of high-quality and high-value health care.

As set forth in the May 2012 General Guidance on Federally-facilitated Exchanges, HHS intends to propose a phased approach to quality reporting and display standards for all Exchanges and QHP issuers. No new quality reporting standards would be in place until 2016 (other than those related to accreditation, if applicable), which allows time to develop standards appropriately matched to the Exchange enrollee population and plan offerings. Until final regulations are issued, state-based Exchanges would have the choice of adopting a similar approach or implementing their own quality reporting standards immediately and over time.[2]

In preparation for the implementation of the quality provisions affecting QHPs in the new Exchange marketplace under the Affordable Care Act, HHS is requesting information through this notice from stakeholders regarding existing quality measures and rating systems, strategies and requirements for quality improvement, purchasing strategies to promote care redesign and patient safety, as well as effective methodologies to measure health plan value. This notice also offers the opportunity to provide recommendations on the most effective ways to enhance and align the quality reporting and display requirements for QHPs starting in 2016 in conjunction with existing quality improvement initiatives, such as the National Quality Strategy. We note that this notice should not be viewed as final policy that will be adopted pursuant to rulemaking.

II. Solicitation of Comments

CMS is requesting information regarding the following:

Understanding the Current Landscape

1. What quality improvement strategies do health insurance issuers currently use to drive health care quality improvement in the following categories: (1) Improving health outcomes; (2) preventing hospital readmissions; (3) improving patient safety and reducing medical errors; (4) implementing wellness and health promotion activities; and (5) reducing health disparities?

2. What challenges exist with quality improvement strategy metrics and

[1] See *Report to Congress: National Strategy for Quality Improvement in Health Care* available at *http://www.healthcare.gov/law/resources/reports/quality03212011a.html*.

[2] See ''General Guidance on Federally-facilitated Exchanges,'' available at *http://cciio.cms.gov/resources/files/FFE_Guidance_FINAL_VERSION_051612.pdf*.

tracking quality improvement over time (for example, measure selection criteria, data collection and reporting requirements)? What strategies (including those related to health information technology) could mitigate these challenges?

3. Describe current public reporting or transparency efforts that states and private entities use to display health care quality information.

4. How do health insurance issuers currently monitor the performance of hospitals and other providers with which they have relationships? Do health insurance issuers monitor patient safety statistics, such as hospital acquired conditions and mortality outcomes, and if so, how? Do health insurance issuers monitor care coordination activities, such as hospital discharge planning activities, and outcomes of care coordination activities, and if so, how?

Applicability to the Health Insurance Exchange Marketplace

5. What opportunities exist to further the goals of the National Quality Strategy through quality reporting requirements in the Exchange marketplace?

6. What quality measures or measure sets currently required or recognized by states, accrediting entities, or CMS are most relevant to the Exchange marketplace?

7. Are there any gaps in current clinical measure sets that may create challenges for capturing experience in the Exchange?

8. What are some issues to consider in establishing requirements for an issuer's quality improvement strategy? How might an Exchange evaluate the effectiveness of quality improvement strategies across plans and issuers? What is the value in narrative reports to assess quality improvement strategies?

9. What methods should be used to capture and display quality improvement activities? Which publicly and privately funded activities to promote data collection and transparency could be leveraged (for example, Meaningful Use Incentive Program) to inform these methods?

10. What are the priority areas for the quality rating in the Exchange marketplace? (for example, delivery of specific preventive services, health plan performance and customer service)? Should these be similar to or different from the Medicare Advantage five-star quality rating system (for example, staying healthy: screenings, tests and vaccines; managing chronic (long-term) conditions; ratings of health plan responsiveness and care; health plan members' complaints and appeals; and health plan telephone customer service)? [3]

11. What are effective ways to display quality ratings that would be meaningful for Exchange consumers and small employers, especially drawing on lessons learned from public reporting and transparency efforts that states and private entities use to display health care quality information?

12. What types of methodological challenges may exist with public reporting of quality data in an Exchange? What suggested strategies would facilitate addressing these issues?

13. Describe any strategies that states are considering to align quality reporting requirements inside and outside the Exchange marketplace, such as creating a quality rating for commercial plans offered in the non-Exchange individual market.

14. Are there methods or strategies that should be used to track the quality, impact and performance of services for those with accessibility and communication barriers, such as persons with disabilities or limited English proficiency?

15. What factors should HHS consider in designing an approach to calculate health plan value that would be meaningful to consumers? What are potential benefits and limitations of these factors? How should Exchanges align their programs with value-based purchasing and other new payment models (for example, Accountable Care Organizations) being implemented by payers?

Dated: November 6, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: November 16, 2012.

Kathleen Sebelius,

Secretary.

[FR Doc. 2012–28473 Filed 11–23–12; 11:15 am]

BILLING CODE 4120–01–P

[3] For more information on Medicare Advantage rating system domains see *http://www.cms.gov/Medicare/Health-Plans/HealthPlansGenInfo/Downloads/2013-Call-Letter.pdf; http://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovGenIn/PerformanceData.html.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on Migrant Health; Cancellation of Meeting

Name: National Advisory Council on Migrant Health.

Dates and Times: December 4, 2012, 8:30 a.m. to 5:00 p.m. December 5, 2012, 8:00 a.m. to 12:00 p.m.

STATUS: The meeting of the National Advisory Council on Migrant Health, scheduled for December 4 and 5, 2012, is cancelled. This cancellation applies to all sessions of the meeting. The meeting was announced in the **Federal Register** of November 8, 2012 (77 FR 67014).

FOR FURTHER INFORMATION CONTACT: Gladys Cate, Office of Special Population Health, Bureau of Primary Health Care, Health Resources and Services Administration, 5600 Fishers Lane, Room 15–74, Rockville, Maryland 20857; telephone (301) 594–0367.

Dated: November 20, 2012.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2012–28699 Filed 11–26–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville,

Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Axon Regeneration After Brain or Spinal Cord Injury

Description of Technology: The invention is directed to modification of a particular sugar by the enzyme arylsulfatase B (ARSB), which results in axon regeneration.

Following traumatic brain or spinal cord injury, glial scars prevent regeneration of axons. Chondroitin sulfate proteoglycans (CSPGs) are major components of glial scars. CSPGs are made of a protein core containing glycosaminoglycan (GAG) sugar side chains, which, when sulfated, are responsible for the inhibitory activity of glial scars. Specifically, NIH researchers have shown that the 4-sulfate unit on a certain sugar on GAG is responsible for inhibiting axon regrowth and, when the 4-sulfate unit is reduced, axon regrowth is observed. Moreover, removal of this 4-sulfate unit by the ARSB enzyme promotes axon regrowth.

As a potential therapy for spinal cord injuries, researchers developed a vector expressing ARSB and demonstrated that this vector promotes axon regeneration when injected into the spinal cord of a mouse.

Potential Commercial Applications:

- Treatment of brain and spinal cord injury.
- Treatment of other CNS injuries, including stroke.
- Treatment of heart attack.

Competitive Advantages:

- There are no existing products for treatment of traumatic spinal cord injury.
- ARSB is already approved for treatment of Mucopolysaccharoidosis VI, a lysosomal storage disease.

Development Stage:

- Early-stage.
- In vitro data available.
- In vivo data available (animal).

Inventors: Herbert M. Geller and Yasuhiro Katagiri (NHLBI).

Publication: Wang H, et al. Chondroitin-4-sulfation negatively regulates axonal guidance and growth. J Cell Sci. 2008 Sep 15;121(Pt 18):3083–91. [PMID 18768934].

Intellectual Property: HHS Reference No. E–214–2012/0—U.S. Provisional Application No. 61/705,555 filed 25 Sept 2012.

Licensing Contact: Lauren Nguyen-Antczak, Ph.D., J.D.; 301–435–4074; *Lauren.Nguyen-antczak@nih.gov.*

Collaborative Research Opportunity: The NHLBI is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the use of ARSB in axonal regeneration after brain or spinal cord injury using animal models. For collaboration opportunities, please contact Denise Crooks, Ph.D. at 301–435–0103 or *crooksd@mail.nih.gov.*

Nitric Oxide-Releasing Polyvinylpyrrolidone-Based Polymers for Wound Healing and Related Applications

Description of Technology: Novel nitric oxide-releasing polyvinylpyrrolidone-based polymers, their compositions, and use in treating wounds. The disclosed polymers appear to be stable, biocompatible and bioabsorbable, while providing for extended nitric oxide release at therapeutic levels. The invention also encompasses medical devices, such as wound dressings and bandages, which include the polymers and are capable of releasing nitric oxide when in use. These devices may be used to treat a wound, various infections, and dermatological conditions.

The therapeutic efficacy of nitric oxide has been demonstrated for many indications, including wound healing. As wounds are deficient in nitric oxide, its application has been shown to have beneficial effects on wound healing by promoting angiogenesis and tissue remodeling.

Potential Commercial Applications: Wound healing, infections, and dermatological conditions.

Competitive Advantages: The claimed nitric oxide-releasing polymers are bioabsorbable and release greater amounts of nitric oxide over a greater period of time than other NO-releasing polymers.

Development Stage:

- Early-stage.
- Pre-clinical.

Inventors: Joseph A. Hrabie and Larry K. Keefer (NCI).

Intellectual Property: HHS Reference No. E–157–2012/0—US Provisional Application No. 61/672,486 filed 17 Jul 2012.

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov.*

Gag-Based DNA Vaccines Against HIV

Description of Technology: Novel DNA vaccine constructs against HIV that express highly conserved elements (CE) within the HIV Gag protein and elicit strong, cross-clade cellular and humoral responses. The DNA vaccine vectors were engineered to express CEs for protection against different clades of HIV and prevention of immunodominance, two issues associated with current HIV vaccine candidates.

In vivo studies of Rhesus macaques vaccinated with variants of these constructs expressing seven highly CEs covering >99 of all known Gag sequences elicited strong, cellular T-cell and humoral antibody immune responses. The Gag-specific antibody responses were high titer and cross-clade. Cross-clade protection is important given the sequence diversity of HIV as is the absence of immunodominant epitopes that generate antibodies which are not protective against HIV.

Potential Commercial Applications: HIV vaccines.

Competitive Advantages: Addresses two key hurdles faced by current HIV vaccines: sequence diversity of HIV and immunodominance.

Development Stage:

- Early-stage.
- Pre-clinical.
- In vitro data available.
- In vivo data available (animal).

Inventors: George N. Pavlakis (NCI), Barbara K. Felber (NCI), James Mullins (University of Washington).

Intellectual Property: HHS Reference No. E–132–2012/0—U.S. Provisional Application No. 61/606,265 filed 02 Mar 2012.

Related Technology: HHS Reference No. E–308–2000/0—Patent family filed in the U.S., Canada, Australia, Europe, and Japan.

Licensing Contact: Kevin W. Chang, Ph.D.; 301–435–5018; *changke@mail.nih.gov.*

Diagnostic Test and Therapeutic Target for Sjogren's Syndrome

Description of Technology: Sjögren's syndrome is an autoimmune disease that attacks salivary glands resulting in chronic dry mouth and dry eyes. Currently, there is no single diagnostic test to confirm the presence of Sjögren's. Physicians presently reach diagnosis after conducting a series of blood and functional tests for tear and salivary production. Diagnosis is further complicated as Sjögren's symptoms frequently mimic those of other autoimmune diseases (e.g., lupus, rheumatoid arthritis, etc.) and is often overlooked as dryness associated with medications being taken by the patient.

Researchers at NIDCR have identified overexpression of a growth factor, bone morphogenetic protein 6 (BMP6), in patients with Sjögren's. By detecting BMP6 expression and/or activity, this invention potentially presents a singular confirmation to diagnose those suffering

and those at risk for developing Sjögren's. BMP6 also presents a potential therapeutic target for Sjögren's, a disease for which there is presently no cure.

Researchers have also discovered unique expression profiles for two other genes (XIST and MECP2) in male Sjögren's patients. Detecting aberrant expression and/or activity of these genes also offer a potential singular test for diagnosing Sjögren's in male subjects.

Potential Applications:

• Singular diagnostic test to diagnose Sjögren's.

• Therapeutic target to develop treatment for Sjögren's.

Competitive Advantages:

• Currently no single test available to diagnose Sjögren's.

• Currently there is no cure for Sjögren's; present palliative treatments only reduce symptoms (e.g., moisture replacement therapy for eyes and mouth, and systemic anti-inflammatory or immunosuppressive agents for more advanced forms of disease).

Development Stage:

• Pre-clinical.

• In vitro data available.

• In vivo data available (animal).

• In vivo data available (human).

Inventor: John Chiorini (NIDCR).

Publication: Dix DJ, et al. Targeted gene disruption of Hsp70–2 results in failed meiosis, germ cell apoptosis, and male infertility. Proc Natl Acad Sci USA. 1996 Apr 16;93(8):3264–8. [PMID 8622925].

Intellectual Property: HHS Reference No. E–232–2011/0–US–01—U.S. Provisional Application No. 61/540,364 filed 28 Sep 2011.

Licensing Contact: Lauren Nguyen-Antczak, Ph.D., J.D.; 301–435–4074; *Lauren.Nguyen-antczak@nih.gov.*

Collaborative Research Opportunity: The NIDCR is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize BMP6 Based Diagnosis and Treatment of Sjögren's. For collaboration opportunities, please contact David W. Bradley, Ph.D. at *bradleyda@nidcr.nih.gov.*

Use of PAMP (Proadrenomedullin N-Terminal 20 Peptide) and PAMP Inhibitors for the Treatment of Cancer, Cardiovascular Disease, and Other Angiogenesis-Related Diseases

Description of Technology: This technology details the use of PAMP or PAMP derivatives as a means to induce angiogenesis in tissue, as well as the use of PAMP inhibitors to inhibit angiogenesis.

PAMP (Proadrenomedullin N-terminal 20 peptide) is a 20 amino-acid molecule originating from the post-translational processing of pre-proadrenomedullin. PAMP is known as a potent hypotensive and vasodilatory agent; however, in addition to these properties, the inventors have discovered that PAMP also functions as a potent angiogenic factor. The inventors have also shown that an inhibitory fragment of PAMP, PAMP (12–20), is able to delay tumor growth in xenograft models of tumor progression. The ability to promote angiogenesis can be used as a means to increase vascularization in specific tissue areas or to treat patients with ischemic diseases. In contrast, the ability to inhibit this process can be used to limit growth of solid tumors and as a therapy for retinopathies, endometriosis, or arthritis.

Potential Commercial Applications:

• PAMP and derivatives may be used as treatments for ischemic disease or coronary artery disease and to promote vascularization in graft tissues.

• PAMP inhibitors may be used as treatments to limit growth of solid tumors or other angiogenesis-related disease.

Competitive Advantages:

• PAMP exhibits a potent angiogenic potential at femtomolar concentrations, as opposed to nanomolar concentrations of other growth factors such as bFGF and VEGF.

• PAMP and PAMP inhibitors provide a new mechanism for modulation of angiogenesis and treatment of angiogenesis-related diseases.

Development Stage:

• Early-stage.

• In vitro data available.

• In vivo data available (animal).

Inventor: Frank F Cuttitta (NCI).

Publication: Martinez A, et al. Proadrenomedullin NH2-terminal 20 peptide is a potent angiogenic factor, and its inhibition results in reduction of tumor growth. Cancer Res. 2004 Sep 15;64(18):6489–94. [PMID 15374959].

Intellectual Property: HHS Reference No. E–294–2002/0—

• US Patent No. 7,462,593, Issued 09 Dec 2008.

• US Patent No. 7,862,815, Issued 04 Jan 2011.

• Foreign counterparts in Australia, Canada, and Japan.

Licensing Contact: Tara Kirby, Ph.D.; 301–435–4426; *tarak@mail.nih.gov.*

Methods for Measuring Adrenomedullin and Monitoring and Treating Adrenomedullin-Mediated Diseases, Such as Diabetes and Cancer

Description of Technology: The technology includes methods for utilizing purified adrenomedullin (AM)-binding proteins, or functional portions thereof, to diagnose, treat, and monitor AM-related diseases such as diabetes and cancer. Antibodies and small-molecule antagonists, which can down-regulate the function of AM, Complement Factor-H (CFH), and the AM–CFH complex, have also been isolated.

AM is a ubiquitously-expressed peptide that functions as a universal autocrine growth factor. AM drives cell proliferation, acts as a vasodilator, can protect cells against oxidative stress in hypoxic injury, and acts as a dose-dependent inhibitor of insulin secretion. Methods for measuring *in vivo* levels of AM accurately and regulating the activity of available AM may be critically important in diagnosis and treatment of many conditions, such as heart disease, pulmonary disease, cirrhosis, cancer, diabetes, sepsis, and inflammation.

This technology centers on the observation that AM binds to CFH *in vivo.* Without a means to determine the amount of AM that is bound to CFH, measurements of AM are inaccurate. Furthermore, therapies focused on the AM–CFH complex may have advantages over therapies focused on AM alone.

Potential Commercial Applications:

• Methods for diagnosis and treatment of conditions, such as cancer, diabetes, or other conditions influenced by AM levels.

• AM-specific antibodies could be used in a diagnostic assay to measure levels of AM.

Competitive Advantages:

• More accurate measurements of serum adrenomedullin than current tests.

• Targeting AM–CFH decreases bioavailable AM, provides an additional pathway for modulating angiogenesis.

Development Stage:

• Pre-clinical.

• In vitro data available.

• In vivo data available (animal).

Inventor: Frank F Cuttitta (NCI).

Publications:

1. Martínez A, et al. Mapping of the adrenomedullin-binding domains in human complement factor H. Hypertens Res. 2003 Feb;26 Suppl:S55–9. [PMID 12630812]

2. Pio R, et al. Complement factor H is a serum-binding protein for adrenomedullin, and the resulting complex modulates the bioactivities of both partners. J Biol Chem. 2001 Apr 13;276(15):12292–300. [PMID 11116141]

3. Miller MJ, et al. Adrenomedullin expression in human tumor cell lines. Its potential role as an autocrine growth factor. J Biol Chem. 1996 Sep 20;271(38):23345–51. [PMID 8798536]

Intellectual Property: HHS Reference No. E–256–1999/0—

• PCT Application No. PCT/US00/24722 filed 08 Sep 2000.

• US Patent No. 7,659,081 issued 09 Feb 2010.

• US Patent No. 7,993,857 issued 09 Aug 2011.

Licensing Contact: Tara Kirby, Ph.D.; 301–435–4426; *tarak@mail.nih.gov.*

Dated: November 20, 2012.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2012–28630 Filed 11–26–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious 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 Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Planning (R34) Grants and Implementation Cooperative Agreements (U01).

Date: December 19, 2012.

Time: 12:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: James T. Snyder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities/NIAID, National Institutes of Health, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2634, *james.snyder@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 20, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28633 Filed 11–26–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Career Awards Review.

Date: December 13, 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: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DEM Fellowship Review.

Date: February 4–5, 2013.

Time: 8:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

Contact Person: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@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: November 20, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28632 Filed 11–26–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Translational SEP.

Date: November 30, 2012.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 435–6033, *rajarams@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS T–32.

Date: December 12, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Roosevelt Hotel, New Orleans, 123 Baronne Street, New Orleans, LA 70112.

Contact Person: Phillip F. Wiethorn, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5388, *wiethorp@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Epilepsy Clinical Trials.

Date: December 14, 2012.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–0660, *benzingw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 20, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28631 Filed 11–26–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Privacy Act of 1974; Retirement of Department of Homeland Security Transportation Security Administration System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of retirement of one Privacy Act system of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it will retire the following Privacy Act system of records notice, Department of Homeland Security/Transportation Security Administration-009 General Legal Records (August 18, 2003, 68 FR 49496), which was written to assist attorneys in the Office of Chief Counsel in providing legal advice to management and to cover general legal records and programs. The Transportation Security Administration will rely upon Department of Homeland Security/ALL–017 General Legal Records (November 23, 2011, 76 FR 72428) to cover its legal activities.

DATES: These changes will take effect upon publication.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Peter Pietra, Director, Privacy Policy and Compliance, TSA–36, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6036; email: *TSAPrivacy@dhs.gov*. For privacy issues please contact: Jonathan R. Cantor, (202–343–1717), Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and as part of its ongoing integration and management efforts, the Department of Homeland Security (DHS) is retiring the system of records notice, DHS/Transportation Security Administration (TSA)-009 General Legal Records (August 18, 2003, 68 FR 49496), which was written to assist attorneys in the Office of Chief Counsel in providing legal advice to TSA management on a wide variety of legal issues; to respond to claims by employees, former employees, and other individuals; to assist in the settlement of claims against the government; to represent TSA during litigation; and to maintain internal statistics from its inventory of record systems. TSA will rely upon DHS/ALL–017 General Legal Records (November 23, 2011, 76 FR 72428) to cover its legal activities.

Eliminating the system of records notice DHS/TSA–009 General Legal Records, will have no adverse impacts on individuals, but will promote the overall streamlining and management of DHS Privacy Act record systems.

Dated: November 6, 2012.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2012–28674 Filed 11–26–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2012–0070]

Privacy Act of 1974; Department of Homeland Security/ALL–004 General Information Technology Access Account Records System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act System of Records update.

SUMMARY: In accordance with the Privacy Act of 1974 the Department of Homeland Security proposes to update and reissue a Department of Homeland Security system of records notice titled, Department of Homeland Security/ALL–004 General Information Technology Access Account Records System of Records. As a result of the biennial review of this system, the Department proposes to update the categories of individuals and categories of records covered by the system. Additionally, the routine uses have been updated with minor clarifications. This updated system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Written comments must be submitted on or before December 27, 2012.

ADDRESSES: You may submit comments, identified by Docket Number DHS–2012–0070 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions and for privacy issues please contact: Jonathan R. Cantor (202–343–1717), Acting Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) proposes to update and reissue a current Department-wide system of records titled DHS/ALL–004 General Information Technology Access Account Records System of Records (73 FR 28139, May 15, 2008). The collection and maintenance of this information will assist DHS in managing the

Department's information technology access account records.

This system consists of information collected in order to provide authorized individuals with access to DHS information technology resources. This information includes user name, business affiliation, account information, and passwords. Passwords are encrypted and used as part of the log in process for verification of appropriate access.

In accordance with the Privacy Act of 1974, DHS is giving notice that it proposes to update and reissue a DHS system of records notice titled, DHS/ALL–004 General Information Technology Access Account Records System of Records. As a result of the biennial review of this system, the Department proposes to update the categories of individuals, to include individuals who have been denied or had access revoked. In addition, the categories of records has been updated to include such information as voluntary posting of photos for collaboration purposes, comments posted for collaboration purposes, training taken, justification for access, and all logs of activity on the DHS network. Finally, the routine uses have been updated with minor clarifications. This updated system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which their records are put, and to assist individuals to more easily find such files within the agency. Below is the description of DHS/ALL–004 General Information Technology Access Account Records System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS

Department of Homeland Security (DHS)/ALL–004

SYSTEM NAME:

DHS/ALL–004 General Information Technology Access Account Records System of Records.

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Records are maintained at several Headquarters locations and in component offices of the Department of Homeland Security, in both Washington, DC and field locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

- All persons who are authorized to access DHS information technology resources, including employees, contractors, grantees, private enterprises, and any lawfully designated representative of the above and including representatives of federal, state, territorial, tribal, local, international, or foreign government agencies or entities, in furtherance of the DHS mission.
- Individuals who serve on DHS boards and committees;
- Individuals who have business with DHS and who have provided personal information in order to facilitate access to DHS information technology resources;
- Individuals who are points of contact provided for government business, operations, or programs, and the individual(s) they list as emergency contacts;
- Individuals who voluntarily join a DHS-owned and operated web portal for collaboration purposes; and
- Individuals who request access but are denied, or who have had access revoked.

CATEGORIES OF RECORDS IN THE SYSTEM:

- Name;
- Social Security Number;
- Business and affiliations;
- Facility positions held;
- Business telephone numbers;
- Cellular phone numbers;
- Pager numbers;
- Numbers where individuals can be reached while on travel or otherwise away from the office;
- Citizenship;
- Level of access;
- Home addresses;
- Business addresses;
- Electronic mail addresses of senders and recipients;
- Justification for access to DHS computers, networks, or systems;
- Verification of training requirements or other prerequisite requirements for access to DHS computers, networks, or systems;
- Records on access to DHS computers and networks including user ID and passwords;
- Registration numbers or IDs associated with DHS Information Technology resources;
- Date and time of access;
- Logs of activity of DHS IT resources;
- IP address of access;
- Logs of Internet activity; and
- Records on the authentication of the access request, names, phone numbers of other contacts, and positions or business/organizational affiliations and titles of individuals who can verify that the individual seeking access has a need to access as well as other contact information provided to the Department that is derived from other sources to facilitate authorized access to DHS Information Technology resources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; EO 9397 (SSN), as amended by EO 13487; and 44 U.S.C. 3534.

PURPOSE(S):

This system will collect a discreet set of personally identifiable information in order to provide authorized individuals access to, or interact with DHS information technology resources, and allow DHS to track use of DHS IT resources. Directly resulting from the use of DHS information technology resources is the collection, review, and maintenance of any logs, audits, or other such security data regarding the use of such information technology resources.

The system enables DHS to maintain: Account information required for approved access to information technology; lists of individuals who are appropriate organizational points of contact; and lists of individuals who are emergency points of contact. The system

will also enable DHS to provide individuals access to certain programs and meeting attendance and where appropriate, allow for sharing of information between individuals in the same operational program to facilitate collaboration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3), as follows:

A. To the Department of Justice (including United States Attorney Offices) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To sponsors, employers, contractors, facility operators, grantees, experts, and consultants in connection with establishing an access account for an individual or maintaining appropriate points of contact and when necessary to accomplish a DHS mission function or objective related to this system of records.

I. To other individuals in the same operational program supported by an information technology system, where appropriate notice to the individual has been made that his or her contact information will be shared with other members of the same operational program in order to facilitate collaboration.

J. To federal agencies such as Office of Personnel Management, the Merit Systems Protection Board, the Office of Management and Budget, Federal Labor Relations Authority, Government Accountability Office, and the Equal Employment Opportunity Commission in the fulfillment of these agencies' official duties.

K. To international, federal, state and local, tribal, private and/or corporate entities for the purpose of the regular exchange of business contact information in order to facilitate collaboration for official business.

L. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are on paper and/or in digital or other electronic form. Digital and other electronic images are stored on a storage area network in a secured environment. Records, whether paper or electronic, may be stored at the DHS Headquarters or at the component level.

RETRIEVABILITY:

Information may be retrieved, sorted, and/or searched by an identification number assigned by computer, social security number, by facility, by business affiliation, email address, or by the name of the individual, or other employee data fields previously identified in this SORN.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules and policies, including the DHS Information Technology Security Program Handbook and DHS Information Security Program Policy and Handbook. Further, DHS/ALL–004 General Information Technology Access Account Records system of records security protocols will meet multiple National Institute of Standards and Technology (NIST) Security Standards from Authentication to Certification and Accreditation. Records in the DHS/ALL–004 General Information Technology Access Account Records system of records will be maintained in a secure, password-protected electronic system that will utilize security hardware and software to include: Multiple firewalls, active intruder detection, and role-based access controls. Additional safeguards will vary by component and program. All records are protected from unauthorized access through

appropriate administrative, physical, and technical safeguards. These safeguards include: Restricting access to authorized personnel who have a ''need to know;'' using locks; and password protection identification features. Classified information is appropriately stored in accordance with applicable requirements. DHS file areas are locked after normal duty hours and the facilities are protected from the outside by security personnel.

RETENTION AND DISPOSAL:

Records are securely retained and disposed of in accordance with the National Archives and Records Administration's General Records Schedule 24, section 6, ''User Identification, Profiles, Authorizations, and Password Files.'' Inactive records will be destroyed or deleted 6 years after the user account is terminated or password is altered, or when no longer needed for investigative or security purposes, whichever is later.

SYSTEM MANAGER AND ADDRESS:

The System Manager is the Chief Information Officer (CIO), Department of Homeland Security, Washington, DC 20528.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Headquarters' or component's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Privacy Office, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov* or 1–866–431–0486. In addition you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from affected individuals/organizations/facilities, public source data, other government agencies and/or information already in other DHS records systems.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: November 13, 2012.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2012–28675 Filed 11–26–12; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Privacy Act of 1974; Retirement of Department of Homeland Security Transportation Security Administration System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of retirement of one Privacy Act system of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it will retire the following Privacy Act system of records notice, Department of Homeland Security/Transportation Security Administration-012 Transportation Worker Identification Credentialing System (September 24, 2004, 69 FR 57348), which was written to cover the Prototype Phase of the Transportation Worker Identification Credentialing Program to authorize unescorted entry to secure transportation areas. These records were destroyed in accordance with the applicable records retention schedule, with the following exceptions: (1) Records for individuals who were an actual match to a government watchlist; and (2) records for individuals who were a close match but subsequently cleared as not posing a potential or actual threat to transportation. This notice reflects that these two categories of records from the Transportation Worker Identification Credentialing Prototype Phase must continue to be retained in accordance with the applicable records retention schedule, and will be maintained under the authority of the Department of Homeland Security/Transportation Security Administration-002 Transportation Security Threat Assessment System System of Records (May 19, 2010, 75 FR 28046), which covers the Security Threat Assessment process associated with the Transportation Worker Identification Credentialing and other Transportation Security Administration vetting programs.

DATES: These changes will take effect upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Peter Pietra, Privacy Officer, TSA–36, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6036; email: *TSAPrivacy@dhs.gov*. For privacy issues please contact: Jonathan Cantor, (202–343–1717), Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and as part of its ongoing integration and management efforts, the Department of Homeland Security (DHS) is retiring the system of records notice, DHS/Transportation Security Administration (TSA)–012 Transportation Worker Identification Credentialing (TWIC) System (September 24, 2004, 69 FR 57348), which was written to cover the Prototype Phase of the TWIC Program to authorize unescorted entry to secure transportation areas. The retirement of

this system of records is appropriate because the Prototype Phase is complete, and records from this system have been destroyed in accordance with the TSA Threat Assessment and Credentialing records retention schedule, with the following exceptions: (1) A small number of records for individuals who were an actual match to a government watchlist (which will be retained for 99 years); and (2) records for individuals who were a close match but subsequently cleared as not posing a potential or actual threat to transportation (which will be retained for 7 years). Records from the TWIC Prototype Phase not yet authorized for destruction will be retained under the authority of the DHS/TSA–002 Transportation Security Threat Assessment System (T–STAS) System of Records (May 19, 2010, 75 FR 28046), which covers the Security Threat Assessment (STA) process associated with the TWIC and other TSA vetting programs.

Eliminating the system of records notice DHS/TSA–012 TWIC will have no adverse impact on individuals, but will promote the overall streamlining and management of DHS Privacy Act record systems. Records for individuals who participated in the Prototype Phase have been destroyed, except as identified above. Individuals whose records continue to be retained pending disposition under the records retention schedule may seek access or correction to their records under DHS/TSA–002 T–STAS.

Dated: November 6, 2012.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2012–28678 Filed 11–26–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Privacy Act of 1974; Retirement of Department of Homeland Security Transportation Security Administration System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of retirement of one Privacy Act system of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it will retire the following Privacy Act system of records notice, Department of Homeland Security/Transportation Security Administration-015 Registered Traveler Operations Files (November 8, 2005, 69 FR 67735), which was written to establish a new system of records that governs information related to the Registered Traveler pilot program. The program is no longer in operation within the Transportation Security Administration and associated records have been destroyed in accordance with records disposition schedules approved by the National Archives and Records Administration.

DATES: These changes will take effect upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Peter Pietra, Director, Privacy Policy and Compliance, TSA–36, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6036; email: *TSAPrivacy@dhs.gov*. For privacy issues, please contact: Jonathan Cantor, (202–343–1717), Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and as part of its ongoing integration and management efforts, the Department of Homeland Security (DHS) is retiring the system of records notice, DHS/Transportation Security Administration (TSA)–015 Registered Traveler (RT) Operations File Files (November 8, 2005, 69 FR 67735), which was written to establish a new system of records that governs records related to the Registered Traveler pilot program. The program was designed to positively identify certain travelers who volunteered to participate in the program; expecting to expedite the pre-boarding process and improve allocation of TSA resources.

Eliminating the system of records notice DHS/TSA–015 (RT) will have no adverse impact on individuals, but will promote the overall streamlining and management of DHS Privacy Act record systems.

Dated: November 6, 2012.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2012–28677 Filed 11–26–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Privacy Act of 1974; Retirement of Department of Homeland Security Transportation Security Administration System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of retirement of one Privacy Act system of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it will retire the following Privacy Act system of records notice, DHS/TSA–017 Secure Flight Test Records (June 22, 2005, 70 FR 36320), which was written to cover the testing phase of the Secure Flight program, from its inventory of record systems. The Department of Homeland Security will rely upon Department of Homeland Security/Transportation Security Administration–019, Secure Flight Records (November 9, 2007, 72 FR 63711) to cover the operational phase of the Secure Flight program.

DATES: These changes will take effect upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Peter Pietra, Director, Privacy Policy and Compliance, TSA–36, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6036; email: *TSAPrivacy@dhs.gov*. For privacy issues please contact: Jonathan Cantor, (202–343–1717), Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and as part of its ongoing integration and management efforts, the Department of Homeland Security (DHS) is retiring the system of records notice, DHS/Transportation Security Administration (TSA)–017 Secure Flight Test Records (June 22, 2005, 70 FR 36320), from its inventory of record systems. TSA published DHS/TSA–017, Secure Flight Test Records, to cover the testing phase of the Secure Flight program, which was designed to assist TSA in preventing individuals known or suspected to be engaged in terrorist activity from boarding domestic passenger flights. TSA also conducted a separate test of the use of commercial data to determine its effectiveness in identifying passenger information that is

inaccurate or incorrect. All test records within this system have been destroyed in accordance with the National Archives and Records Administration General Records Schedule 20. DHS/TSA–019 Secure Flight Records (November 9, 2007, 72 FR 63711), currently covers the operational phase of the Secure Flight program. DHS will continue to collect and maintain records regarding the Secure Flight program and will rely upon the existing system of records notice, DHS/TSA–019, Secure Flight Records.

Eliminating the system of records notice DHS/TSA–017, Secure Flight Test Records, will have no adverse impacts on individuals, but will promote the overall streamlining and management of DHS Privacy Act record systems.

Dated: November 6, 2012.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2012–28676 Filed 11–26–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2012–0733]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0071, Boat Owner's Report, Possible Safety Defect. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before December 27, 2012.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2012–0733] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by email via: *OIRA-submission@omb.eop.gov*.

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–611), ATTN: PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2100 2ND ST SW., STOP 7101, WASHINGTON, DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Kenlinishia Tyler, Office of Information Management, telephone 202–475–3652 or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2012–0733], and must be received by December 27, 2012. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2012–0733], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *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 DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address

under **ADDRESSES**, but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2012–0733'' in the ''Keyword'' box. 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 comments 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 will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2012–0733'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0071.

Privacy Act

Anyone can search the electronic form of comments received in 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 statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (77 FR 53899, September 4, 2012) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Requests

Title: Boat Owner's Report, Possible Safety Defect.

OMB Control Number: 1625–0071.

Type of Request: Extension of a currently approved collection.

Respondents: Owners and users of recreational boats and items of designated associated equipment.

Abstract: The collection of information provides a means for consumers who believe their recreational boats or designated associated equipment contain substantial risk defects or fail to comply with Federal safety standards to report the deficiencies to the Coast Guard for investigation and possible remedy.

Forms: CG–5578.

Burden Estimate: The estimated annual burden has increased from 17.8 hours to 20.5 hours a year.

Dated: November 16, 2012.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2012–28695 Filed 11–26–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2010–0012; OMB No. 1660–0022]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Community Rating System (CRS) Program-Application Worksheets and Commentary

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 under the emergency processing procedures in OMB regulation 5 CFR 1320.13. FEMA is requesting that this information collection be approved by December 14, 2012. The approval will authorize FEMA to use the collection through June 14, 2012. FEMA plans to follow this emergency request with a request for a 3-year approval. The request will be processed under OMB's standard clearance procedures in accordance with the provisions of OMB regulation 5 CFR 1320.10. To help us with the timely processing of the emergency and standard clearance submissions to OMB, FEMA invites the general public to comment on the proposed collection of information.

DATES: Comments must be submitted to OMB on or before December 27, 2012.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, Office of Management, Federal Emergency Management Agency, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or at email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) promotes and implements sound local floodplain management. Communities must adopt minimum floodplain management standards in order to participate in the NFIP and receive the benefits of flood insurance. The Community Rating System (CRS), codified in the National Flood Insurance Reform Act (NFIRA) of 1994 (Pub. L. 103–325, Sec. 541.) was designed by the Federal Emergency Management Agency (FEMA) to encourage communities to undertake activities that will mitigate flooding and flood damage beyond the minimum standards for NFIP participation. The CRS Program ''CRS Coordinator's Manual'' is the key primary explanatory document used by CRS communities. It provides detailed explanations of the program and its activities respondents (communities) will select activities to apply for and receive credit and community certifications so that proper credit is applied for each. Communities that receive these credits become eligible for flood insurance premium discounts.

Collection of Information

Title: Community Rating System (CRS) Program-Application Worksheets and Commentary.

Type of Information Collection: Revision of a currently approved information collection.

Form Titles and Numbers: FEMA Form 086–0–35, Community Rating System Application Letter of Interest and Quick Check Instructional; FEMA

086–0–35A, Community Rating System Community Certifications; FEMA form 086–0–35B, Environmental and Historic Preservation Certifications.

Abstract: The CRS Application Worksheet and Commentary are used by communities that participate in the National Flood Insurance Program's (NFIP) Community Rating System (CRS) to document the activities that communities have undertaken to mitigate against future flood losses. The CRS Application Worksheet and Commentary provide a step-by-step process for communities to follow in their effort to achieve the maximum amount of discount on flood insurance premiums. Community participation in CRS allows flood insurance costs to be reduced as a result of implementing floodplain management practices, such as building codes and public education activities. These practices reduce risks of flooding and promote purchase of flood insurance.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 1,274.

Estimated Total Annual Burden Hours: 16,748.

Estimated Cost: There are no recordkeeping, capital, start-up or maintenance costs associated with this information collection.

Frequency of Response: Annually.

Comments: Written comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed information collection, 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 of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, e.g., permitting electronic submission of responses. Submit comments to OMB within 30 days of the date of this notice. To ensure that FEMA is fully aware of any comments or concerns that you share with OMB, please provide us with a copy of your comments. FEMA will continue to accept comments from interested persons through January 28, 2013. Submit comments to the FEMA address listed in the **FOR FURTHER INFORMATION CONTACT** caption.

Gary Anderson,

Chief Administration Officer, Office of the Chief Administration Office, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–28665 Filed 11–26–12; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5660–N–01]

Notice of Neighborhood Stabilization Program; Closeout Requirements and Recapture

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice describes closeout requirements that apply to and additional regulations waived for grantees receiving grants under the three rounds of funding under the Neighborhood Stabilization Program.

DATES: *Effective Date:* November 27, 2012.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7286, Washington, DC 20410, telephone number 202–708–3587 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. FAX inquiries may be sent to Mr. Gimont at 202–401–2044.

SUPPLEMENTARY INFORMATION:

Program Background and Purpose

The Neighborhood Stabilization Program (or NSP) was established by the Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. 110–289, approved July 30, 2008), specifically Division B, Title III of HERA, for the purpose of stabilizing communities that have suffered from foreclosures and abandonment. As established by HERA, NSP provided grants to all states and selected local governments on a formula basis.

The American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111–5, approved February 17, 2009) authorized additional NSP grants to be awarded to states, local governments, nonprofits and a consortium of nonprofit entities, but on a competitive basis. The Recovery Act also authorized funding for national and local technical assistance providers to support NSP grantees.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. 111–203, approved July 21, 2010) authorized a third round of Neighborhood Stabilization grants to all states and select governments on a formula basis.

The purpose of the funds awarded under the three rounds of NSP is to target the stabilization of neighborhoods negatively affected by properties that have been foreclosed upon and abandoned. The notice, Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants, published October 19, 2010 (75 FR 64322) (''Unified NSP Notice'') provides further background for these programs, the program principles, and the objectives and outcomes of the NSP program. In addition, the Notice of Fund Availability (NOFA) for the Neighborhood Stabilization Program 2 under the American Recovery and Reinvestment Act, 2009, 74 FR 21377 (May 7, 2009), as amended by subsequent notices (''NSP2 NOFA''), includes requirements specific to the competitive round of funding under the Recovery Act.

The primary purpose of this notice is to revise requirements set forth in the Unified NSP Notice to provide the grant closeout framework for all three rounds of NSP by minimally adjusting the Community Development Block Grant (CDBG) closeout requirements (24 CFR 570.509). Following publication of this notice, HUD will update issued CDBG closeout guidance (CPD Notice 12–0004) to incorporate specific operating instructions for closeout of NSP grants. These instructions will create an NSP closeout process that is nearly identical to the CDBG closeout process and place both sets of instructions in a single document. This approach takes advantage of NSP grantee (and HUD field staff) familiarity with the CDBG closeout procedures because, by the time of grant closeout, almost every NSP grantee will have completed closeout of a CDBG Recovery Act grant.

Since this notice applies to grantees receiving grants under the three rounds of funding under the Neighborhood Stabilization Program, the terms NSP1, NSP2 or NSP3 are used to describe each of the three funding rounds. When referring to the grants, grantees, assisted activities, and implementation rules under HERA, this notice will use the term ''NSP1.'' When referring to the

grants, grantees, assisted activities, and implementation rules under the Recovery Act, this notice will use the term ''NSP2.'' When referring to the grants, grantees, assisted activities, and implementation rules under the Dodd-Frank Act, this notice will use the term ''NSP3.'' Collectively, the grants, grantees, assisted activities, and implementation rules under these three rounds of funding are referred to as NSP.

NSP is a component of the CDBG program, authorized under Housing and Community Development Act of 1974 (HCD Act) (42 U.S.C. 5301 *et seq.*).

Authority To Provide Alternative Requirements and Grant Regulatory Waivers

HERA appropriated $3.92 billion for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA states otherwise, the grants are to be CDBG funds. HERA, the Recovery Act, and the Frank-Dodd Act authorize the Secretary of HUD to specify alternative requirements to any provision under Title I of the HCD Act except for requirements related to fair housing, nondiscrimination, labor standards, and the environment (including lead-based paint). The alternative requirements must be in accordance with the terms of section 2301 of HERA and for the sole purpose of expediting for NSP1, or facilitating for NSP2 and NSP3, the use of grant funds. The CDBG requirements will apply to NSP except where this or other published notices supersede or amend such requirements.

This Notice specifies a new alternative requirement to a statutory requirement by extending the requirement that NSP program income be used for NSP purposes not only under the grant agreement, but after grant closeout. Except as described in this notice and previous notices governing NSP, statutory and regulatory provisions governing the CDBG program, including those at 24 CFR part 570 subpart I for states or, for CDBG entitlement communities, including those at 24 CFR part 570 subparts A, C, D, J, K, and O, as appropriate, apply to the use of these funds. The State of Hawaii was allocated funds and will be subject to part 570, subpart I, as modified by this notice.

I. Alternative Requirements and Regulatory Waivers

A. Closeout Requirements

1. General Grant Closeout Requirements

Background

This part of the Notice provides instructions on the closeout of all NSP grants. The procedures describe the grantee's continuing obligations with respect to program income, long-term affordability, and land-banked properties. This Notice provides an alternative requirement for section 104(j) of the HCD Act of 1974 and a waiver of 24 CFR 570.509 to the extent necessary to allow an NSP grantee to continue to use NSP program income on hand at the time of grant closeout with HUD in accordance with NSP program requirements, including this notice, instead of for community development activities in accordance with CDBG regulations. All NSP program income on hand at the time of closeout must meet program requirements as specified, including meeting a national objective.

Requirement

A new Section Y is added to the Unified NSP Notice that reads:

Y. NSP Grant Closeout Procedures

An alternative requirement is provided for section 104(j) of Title I of the HCD Act and provisions of 24 CFR 570.509 are waived to provide that the CDBG closeout requirements apply as modified for NSP1, NSP2, and NSP3 grants as described below (The modifications adjust for the use of DRGR and the difference in the program names.):

(a) *Criteria for closeout.* An NSP grant will be closed out when HUD determines, in consultation with the grantee, that the following criteria have been met:

(1) All costs to be paid with NSP funds have been incurred, with the exception of closeout costs (e.g., audit costs) and costs resulting from contingent liabilities described in the closeout agreement pursuant to paragraph (c) of this section. Contingent liabilities include, but are not limited to, third-party claims against the grantee, as well as related administrative costs.

(2) With respect to activities (such as rehabilitation of privately owned properties) which are financed by means of escrow accounts, loan guarantees, or similar mechanisms, the work to be assisted with NSP funds (but excluding program income) has actually been completed.

(3) That not less than 25 percent of the grantee's NSP grant (initial allocation plus any program income) was expended to house individuals or families whose incomes do not exceed 50 percent of area median income.

(4) Other responsibilities of the grantee under the grant agreement and applicable laws and regulations appear to have been carried out satisfactorily or there is no further Federal interest in keeping the grant agreement open for the purpose of securing performance.

(b) *Closeout actions.* (1) Within 90 calendar days of the date it is determined that the criteria for closeout have been met, the grantee shall submit to HUD the final quarterly report in the Disaster Recovery Grant Reporting (DRGR) system. If an acceptable report is not submitted in a timely manner, an audit of the grantee's grant activities may be conducted by HUD.

(2) Based on the information provided in the final performance report and other relevant information, HUD, in consultation with the grantee, will prepare a closeout agreement in accordance with paragraph (c) of this section.

(3) HUD will cancel any unused portion of the awarded grant, as shown in DRGR and the signed grant closeout agreement. Any unused grant funds disbursed from the U.S. Treasury which are in the possession of the grantee shall be refunded to HUD.

(4) Any costs paid with NSP funds which were not audited previously shall be subject to coverage in the grantee's next single audit performed in accordance with the regulations in 24 CFR part 84 or 85. The grantee may be required to repay HUD any disallowed costs based on the results of the audit, or on additional HUD reviews provided for in the closeout agreement.

(c) *Closeout agreement.* Any obligations remaining as of the date of the closeout shall be covered by the terms of a closeout agreement. The agreement shall be prepared by the HUD field office in consultation with the grantee. The agreement shall identify the grant being closed out, and include provisions with respect to the following:

(1) Identification of any closeout costs or contingent liabilities subject to payment with NSP funds (excluding program income) after the closeout agreement is signed;

(2) Identification of any unused grant funds to be canceled by HUD;

(3) Identification of the amount of program assets, including:

(i) Any program income on deposit in financial institutions at the time the closeout agreement is signed and of any program income currently held by subrecipients or consortium members;

(ii) A list of real property subject to NSP continuing affordability requirements;

(iii) A list of real property held in an NSP-assisted land bank;

(iv) If the grantee has assisted a land-bank, a plan detailing how the land bank will meet the 10-year maximum land holding requirement of Section II.E.2.d of the Unified NSP Notice and Appendix I, Section E.2.d of the NSP2 NOFA; and

(v) A management plan on the attached template describing how the grantee will enforce the NSP continuing affordability requirements, including the responsible organization for this function.

(4) Description of the grantee's responsibility after closeout for:

(i) Compliance with all NSP program requirements, certifications and assurances in using program income on deposit at the time the closeout agreement is signed and in using any other remaining NSP funds available for closeout costs and contingent liabilities;

(ii) Use of real property assisted with NSP funds in accordance with the principles described in 24 CFR 570.505 and, for properties held in land banks, the requirement to obligate or otherwise commit a property for a specific eligible use in accordance with CDBG requirements;

(iii) Compliance with requirements governing NSP program income received subsequent to grant closeout, as described in 24 CFR 570.504(b)(4)–(5) and this Notice, and

(iv) Ensuring that flood insurance coverage for affected property owners is maintained for the mandatory period;

(5) Other provisions appropriate to any special circumstances of the grant closeout, in modification of or in addition to the obligations in paragraphs (c)(1) through (4) of this section. The agreement shall authorize monitoring by HUD, and shall provide that findings of noncompliance may be taken into account by HUD, as unsatisfactory performance of the grantee, in the consideration of any future grant award under the NSP, CDBG, or HOME Investment Partnerships (HOME) programs.

2. Additional Grant Closeout Requirements

Background

HERA does not address grant closeout. HERA directs through a rule of construction that unless HERA sets forth a different requirement, NSP funds shall be treated as CDBG funds. Therefore, the CDBG requirements apply to grant closeout. CDBG requirements address program income earned after grant closeout by a grantee with a continuing CDBG grant. NSP grants are generating program income and are likely to do so for several more years. In accordance with paragraph II.N of the Unified NSP Notice and Appendix I, paragraph N of the NSP2 NOFA, grantees must use program income for NSP eligible activities. After closeout, the HCD Act, at section 104(j), provides:

''Notwithstanding any other provision of law, any unit of general local government may retain any program income that is realized from any grant made by the Secretary, or any amount distributed by a State, under section 106 if (1) such income was realized after the initial disbursement of the funds received by such unit of general local government under such section; and (2) such unit of general local government has agreed that it will utilize the program income for eligible *community development activities in accordance with the provisions of this title;* except that the Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this subsection creates an unreasonable administrative burden on the unit of general local government.''

Given that demonstrated need for neighborhood stabilization exceeds available NSP funding, HUD has concluded that grantees should continue neighborhood stabilization activities with NSP program income after closeout to the extent sufficient program income is received annually to support viable projects. This notice therefore provides a continuing alternative requirement for section 104(j) that, after grant closeout, a CDBG grantee must use NSP program income in accordance with all NSP requirements with some exceptions. (1) In instances in which the annual NSP program income does not exceed $25,000, the funds shall be used for general administrative costs related to ensuring continued affordability of NSP units or added to the grantee's CDBG program income receipts and the CDBG requirements at 570.500(a)(4) shall apply, which may exclude such amounts from the definition of program income if combined earnings (NSP plus CDBG) are less than $25,000; and (2) in instances in which a grantee's annual NSP program income exceeds $25,000 and does not exceed $250,000, the requirement of paragraph II.E.2.e of the Unified NSP Notice, and Appendix I, paragraph E.2.e of the NSP2 NOFA, shall not apply.

Paragraph II.E.2.e and paragraph E.2.e restate the NSP statutory requirement that ''not less than 25 percent of the funds appropriated or otherwise made available * * * shall be used to house individuals or families whose incomes do not exceed 50 percent of area median income.'' HUD believes that in applying this requirement to program income received after closeout, grantees need to receive sufficient annual program income to be able to comply. Using NSP1 grantee data, HUD analyzed the average cost to produce one unit of affordable housing assisted with NSP funds. The cost analysis considered costs associated with NSP eligible activities such as rehabilitation and new construction. HUD reasoned that Congress chose the percentage to be set aside in consideration of the large amount of funds that grantees received under their original grant. In other words, Congress did not intend to require NSP grantees to spend all of their NSP funds to house individuals or families whose incomes do not exceed 50 percent of area median income. With regard to program income, HUD notes that there are a number of grantees that are projected to generate only small amounts of program income after grant closeout. Thus, to maintain consistency with the manner in which Congress intended for the 25 percent set aside to be applied, HUD has determined that a minimum of $250,000 in annual program income may be necessary to comply with the requirement to spend 25 percent of any program income generated after grant closeout to house for individuals or families at or below 50 percent of area medium income and to produce at least one unit of affordable housing without significant burden.

The NSP continuation provisions apply to program income generated from the use of NSP funds by a CDBG entitlement or State grantee for the duration of the grantee's participation in the CDBG program in any year in which NSP funds exceed the thresholds above. Minimum annual reporting requirements will continue, initially in DRGR and later joined to the grantee's CDBG reporting in the Integrated Disbursement and Information System (IDIS).

After closeout, if a former NSP grantee wishes to use funds for acquisition of property into a land bank, HUD will hold that property subject to the same deadline as all other land-banked properties: the property will have ten years from the date the NSP grant closeout agreement is fully executed to meet an eligible redevelopment of that property in accordance with NSP requirements.

For NSP2, State and entitlement grantees that are consortium lead entities or a consortium member administering NSP2 funds subject to a consortium funding agreement, must comply with program income and land bank rules as described above. A local government that was not an entitlement grantee would be subject to the same requirements as 24 CFR 570.489(e)(3)(ii)(B). Non-profit grantees or members of consortia are not subject to ongoing NSP or CDBG program requirements with the exception of requirements imposed by HUD concerning the reporting of activities using miscellaneous revenue from the NSP program for 5 years and that any land bank properties be disposed of for a specific use supporting neighborhood stabilization within 10 years after grant closeout.

Revised Requirements

A new Section Z. is added to the Unified NSP Notice that reads:

Z. Closeout Procedures for Program Income, Land Banks, and Long-Term Affordability

Background

Program Income. NSP program income on hand at the time of closeout or received after closeout shall, subject to the *de minimis* exception provided for in Section Y, continue to be used in accordance with NSP requirements. The additional flexibility created by the legislation for the creation of financing mechanisms, development of new

housing, operation of land banks, and service of families up to 120 percent of Area Median Income (AMI), will remain in place.

However, HUD notes that continued acquisition of new land bank property after closeout with NSP program income could undermine the urgency of finding uses for the properties already acquired. Grantees will be required to allocate 25 percent of program income to housing for families with less than 50 percent of Area Median Income when the amount of annual program income received by a grantee is sufficient to make application of this requirement reasonable. After grant closeout, former NSP grantees that are CDBG entitlements or State governments will report at least annually as provided for by HUD, initially in DRGR and later in an enhanced IDIS, on the receipt and use of program income, and the disposition of land banked properties. These grantees must also include NSP program income in the CDBG Action Plan or substantial amendment in accordance with CDBG requirements. All former NSP grantees, including nonprofits and non-entitlement units of general local government receiving funds directly from HUD, must report at least annually in a form acceptable to the Secretary regarding enforcement of any NSP continuing affordability restrictions. Reporting will continue over the course of the minimum period of affordability set forth in HOME program standards at 24 CFR 92.252 (e) and 92.254(a)(4).

Finally, most program income will be received by entitlement cities and counties, and by states, which have systems and procedures to manage NSP revenues, which are treated in most respects like CDBG revenues. However, non-profit consortium members in NSP2 grant consortia that receive revenues generated by NSP projects will not have access to the state and municipal CDBG tracking systems. Further, the CDBG regulation and Office of Management and Budget (OMB) circular implemented at 24 CFR 84.24(e) do not require that non-profit grantees continue to treat revenues generated from use of NSP funds and received after grant closeout as federal funds unless HUD regulations or the terms and conditions of the award provide otherwise. Thus, for grantees that are not direct formula CDBG grantees (non-profits and non-entitlement local governments, including those that are part of a consortium), HUD is requiring that revenues generated by projects funded before closeout but received within 5 years after grant closeout must be used for NSP eligible activities and meet NSP benefit requirements, but no other federal requirements would apply. With the exception of income earned from the sale of NSP-assisted real property or loans, any income earned by such post-closeout use of funds would not be governed by any NSP requirements and would be miscellaneous revenues, although HUD encourages such grantees to apply NSP principles to subsequent uses of the funds.

Disposition of Land Bank Property. The HERA created a use of funds which did not exist in the Community Development Block Grant program: land banks. HUD implemented this use in association with two CDBG eligible activities: acquisition of real property and disposition of real property. This tool has been used by a number of grantees, in all parts of the country but primarily in the upper Midwest, to hold property acquired with NSP funds that has no immediate demand in the housing market. Given the non-recurring nature on NSP funds, HUD set a limit of ten years for n NSP-acquired property to remain in a land bank without ''obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.''

In this Notice, HUD is adjusting the land bank disposition requirement in two ways. First, HUD is setting the start date of the 10-year period before which land held in a land bank must be obligated or committed for a specific use as the date of the closeout agreement. Second, HUD is re-stating the existing requirement for NSP-assisted properties held in a land bank to: ''obligat[e]or otherwise commit[] the property for a specific use supporting neighborhood stabilization.''

Long Term Affordability of Housing. The NSP authorization law, HERA, at section 2301(f)(3)(B), directs:

The Secretary shall, by rule or order, ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, and redevelopment of abandoned and foreclosed upon homes under this section remain affordable to individuals and families * * *.

NSP implements this direction by requiring each grantee to address in its submission how it will ensure continued affordability, and define affordable rents, standards, and enforcement mechanisms. Long-term affordability enforcement for homeownership activities, owing to the mostly automatic operation of the resale/recapture mechanisms, will ensure grantees are notified when a property is disposed of within the term of affordability. Grantees and HUD will require policies and procedures for tracking the re-use of funds recovered through these mechanisms.

Despite the difficulties of implementation, NSP rules do require grantees to have a system for securing the long-term affordability of NSP-assisted units. In many cases, this is implemented in developer or subrecipient agreements or in recorded property restrictions. Grantees must meet the requirement and HUD will monitor to verify compliance. To ensure some accountability for long-term affordability, this Notice requires that each NSP grantee regularly update a HUD-provided online registry of covered NSP properties throughout the affordability period for each property. HUD will also cover grantee review and tracking of the NSP property inventory in the standard CDBG risk analysis and monitoring protocols. At minimum, grantees must use the HOME program affordability periods as defined in 24 CFR 92.252 and 92.254. HUD expects former NSP grantees to continue to enforce affordability restrictions after grant closeout.

Requirements

1. *Program Income.* Gross revenues received by NSP grantees after closeout will be governed by the following requirements:

a. In general, annual funds received in excess of $25,000 shall be used in accordance with all NSP requirements for eligible NSP properties, uses and activities, including new construction, financing mechanisms, and management and disposition of land bank property.

b. If annual NSP program income does not exceed $25,000, the funds shall be used for general administrative costs related to ensuring continued affordability of NSP units or added to the grantee's CDBG program income receipts and the CDBG requirements at 24 CFR 570.500(a)(4) shall apply, which may exclude such amounts from the definition of program income.

c. Program income may provide benefit to individuals and families with incomes up to 120 percent of AMI as permitted in NSP under Section II.E;

d. If a grantee's annual NSP program income exceeds $250,000, 25 percent of the program income shall be used to house individuals or families below 50 percent of AMI; in instances in which a grantee's annual NSP program income does not exceed $250,000, the requirements of paragraph II.E.2.e does not apply.

e. NSP2 grantees that are not CDBG entitlement communities or States must use post-closeout revenues generated from NSP-assisted activities funded before closeout for NSP purposes. If the grantee does not have another ongoing grant received directly from HUD at the time of closeout, then in accordance with 24 CFR 570.504(b)(5), income received after closeout from the disposition of real property or from loans outstanding at the time of closeout shall not be governed by NSP or CDBG rules, except that such income shall be used for activities that meet one of the national objectives in 24 CFR 570.208 and the eligibility requirements described in section 105 of the HCD Act. The provisions of 24 CFR 570.504(b)(5) are waived to limit its application to income received within 5 years of grant closeout. Any income received 5 years after grant closeout, as well as program income from funds outlaid after the date of the closeout agreement may be used without restriction. Such grantees are encouraged to use such funds in accordance with the principles above.

f. States may continue to act directly to implement NSP activities post-closeout.

g. HUD will provide direction to grantees by the date of closeout on procedures for reporting and tracking NSP program income revenues. Tracking will continue in DRGR until IDIS enhancements to allow NSP property registry and program income tracking are developed and released.

2. Disposition of Landbank Properties

a. Grantees must not hold NSP-assisted properties in land banks for more than ten years. HUD will calculate this period beginning with the date of execution of the grant closeout agreement. HUD will provide direction to grantees by the date of closeout on procedures for reporting and tracking property held in land banks.

b. After grant closeout, landbank properties must be obligated or otherwise committed for a specific use that supports neighborhood stabilization. Properties in a landbank, or otherwise held by the grantee, will be considered obligated for redevelopment if the property is:

(1) Owned by a local government or non-profit entity and identified under a Consolidated Plan approved by HUD for use as a CDBG-eligible public improvement such as parks, open space, or flood control;

(2) Owned by a community land trust to create affordable housing;

(3) Transferred to and committed for any other use in the grantee's CDBG program, included in an annual Action Plan, subject to all CDBG regulations and no longer part of the NSP program;

(4) Designated for affordable housing in accordance with HERA and under development by an eligible development entity which has control of the site and has expended predevelopment costs; or

(5) Included in a redevelopment plan that has been approved by the local governing body.

c. Any NSP assisted properties remaining in the land bank ten years after the date of grant closeout shall revert entirely to the CDBG program and must be immediately used to meet a national objective or disposed of in accordance with CDBG use of real property requirements at 24 CFR 570.505.

3. Long-Term Affordability

a. Grantees must ensure that, when a house is sold, the affordability requirements are met as provided in their NSP action plan substantial amendment or NSP2 NOFA application. Generally this will be through following the Resale or Recapture provisions of the HOME regulations at 24 CFR 92.254(a)(5). Property that serves owner-occupants may assure compliance with the continued affordability period by recording with the sale documents in the form of a lien on the mortgage loan and/or a covenant on the deed.

b. At a minimum, each property that serves rental household will meet the requirements of the HOME program, at 24 CFR 92.252(a), (c), (e), and (f). This will require active oversight by the grantee to monitor the project for compliance. It is permissible to use program income to pay for such costs. If there is no program income, grantees may charge the project a small fee as part of their agreements with property owners based on documented costs to accomplish this monitoring, but only if the development has sufficient income after paying operating expenses.

c. HUD will establish reporting capability to maintain a property registry including information on all NSP properties still subject to continued affordability requirements at the time of grant closeout. Grantees must report as provided in the closeout agreement so long as program requirements apply to the unit or it fulfills the affordability requirement.

4. Non-Compliance

In the closeout agreement, HUD will include a provision allowing the Department access to records and the ability to apply the corrective and remedial actions in 24 CFR 570.910 for grantees that do not fully satisfy this requirement.

B. Recapture Provisions

Background

Section 2301(c)(1) of HERA required NSP1 grantees to use their funds within 18 months of receipt. In the Unified NSP Notice, 75 FR. 64326, HUD defined the term ''use'' to mean ''obligate.'' The Unified NSP Notice also provided, at 75 Fed. Reg. 64323, that NSP1 grantees that failed to obligate their NSP1 funds within 18 months would be subject to corrective action or recapture of grant funds. States with unused funds would be subject to recapture of unobligated amounts up to $19.6 million because states were statutorily required to receive this amount regardless of their relative needs for funds. States received the $19.6 million base plus any need-based formula increment.

NSP1 grantees are required by the formula allocation notice and the terms of their grant agreements to expend 100 percent of their grant funds within 48 months of award. NSP2 and NSP3 grantees are statutorily required to expend an amount of NSP funds equal to 50 percent of their grant (grant plus program income) within 24 months and an amount equal to 100 percent of their grant within 36 months from the date HUD signed their grant agreement. One of the sanctions for failure to expend NSP grant funds by the relevant deadline is recapture.

HUD is providing that any NSP1 or NSP3 recaptured funds may be used in accordance with the provisions of section 106(c)(4) of the HCD Act (42 U.S.C. 5306(c)(4)) for the purpose of providing disaster relief. Although HUD had originally proposed to reallocate NSP1 funds for this purpose, in the subsequent Notice of Neighborhood Stabilization Program Reallocation Process Changes, dated August 23, 2010, HUD recognized that NSP1 recaptured funds are not required to be reallocated under the disaster relief provisions and could instead be reallocated by formula. Upon further reflection and based on the limited funds to be recaptured, HUD has determined that recaptured funds should be used for disaster relief and is amending the Unified Notice to clarify reallocation options.

Revised Requirement

Section I.B.2.g. of the Unified NSP Notice at page 64324 is amended to read as follows:

HUD may reallocate recaptured funds by formula or under the provisions of 42 U.S.C. 5306(c)(4).

Section I.B.3 of the Unified NSP Notice at page 64324 is amended to read as follows:

NSP3 grantees must expend 50 percent of their grants within 2 years and 100 percent of their grants within 3 years. HUD will recapture and reallocate the amount of funds not expended by those deadlines or provide for other corrective action(s) or sanction. HUD may reallocate recaptured funds by formula or under the provisions of 42 U.S.C. 5306(c)(4).

II. Other Technical Corrections

A. Demolition Eligible Activities and Jobs National Objective

Background

The Unified NSP Notice sets forth a table of eligible activities that are correlated with the statutory eligible uses of NSP. The table provides that ''24 CFR 570.201(d) Clearance for blighted structures only'' is a correlated activity for the demolition of blighted structures. HUD has recognized since publishing the last NSP Notice that acquisition and disposition are also eligible activities that are regularly correlated with using NSP funds for demolition. 24 CFR 570.201(a), (b).

The June 19, 2009 Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008; Revisions to Neighborhood Stabilization Program (NSP) and Technical Corrections at 74 FR 29223 (''Bridge Notice'') clarified that job creation or retention was not an activity that could meet the HERA low- and moderate-income national objective. In this notice, HUD is revising its position to reflect market change and better support mixed use development to allow for NSP activities that create or maintain jobs for persons whose household

incomes are at or below 120 percent of median income (LMMJ).

Revised Requirement

On page 64330 of the Unified Notice, and Appendix 1, section H.3.a of the NSP2 NOFA, modify the second full paragraph of the middle column to read:

Other than the change in the applicable low- and moderate-income qualification level from 80 percent to 120 percent and this notice's change to the calculation at 570.483(b)(3), the area benefit, housing, jobs, and limited clientele benefit requirements at 24 CFR 570.208(a) and 570.483(b) remain unchanged, as does the required documentation.

On page 64333 of the Unified Notice, and Appendix 1, section H.3.a of the NSP2 NOFA, revise the table of NSP eligible uses and activities to read:

NSP-eligible uses	Correlated eligible activities from the CDBG entitlement regulations
(A) Establish financing mechanisms for purchase and redevelopment of *foreclosed upon homes and residential properties,* including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.	• As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206. • Also, the eligible activities listed below to the extent financing mechanisms are used to carry them out.
(B) Purchase and rehabilitate *homes and residential properties that have been abandoned or foreclosed upon,* in order to sell, rent, or redevelop such homes and properties.	• 24 CFR 570.201(a) Acquisition (b) Disposition, (i) Relocation, and (n) Direct homeownership assistance (as modified below); • 24 CFR 570.202 eligible rehabilitation and preservation activities for homes and other residential properties. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost. • 24 CFR 570.203 Special economic development activities.
(C) Establish and operate land banks for *homes and residential properties that have been foreclosed upon*.	• 24 CFR 570.201(a) Acquisition and (b) Disposition. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost.
(D) Demolish *blighted structures*	• 24 CFR 570.201(a) Acquisition, (b) Disposition, and (d) Clearance for blighted structures only.
(E) Redevelop *demolished or vacant properties* as housing*.	• 24 CFR 570.201(a) Acquisition, (b) Disposition, (c) Public facilities and improvements, (e) Public services for housing counseling, but only to the extent that counseling beneficiaries are limited to prospective purchasers or tenants of the redeveloped properties, (i) Relocation, and (n) Direct homeownership assistance (as modified below). • 24 CFR 570.202 Eligible rehabilitation and preservation activities for demolished or vacant properties. • 24 CFR 570.204 Community based development organizations. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost. • NSP1 Only: 24 CFR 570.203 Special economic development activities.

* NSP1 funds used under eligible use (E) may be used for nonresidential purposes, while NSP2 and NSP3 funds must be used for housing.

B. Low-Income Set-Aside for NSP2

Background

This notice is revising the NSP2 NOFA to explicitly require NSP2 grantees to use an amount equal to 25 percent of program income before grant close-out for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income. Although this requirement was stated in Unified NSP Notice, there was some confusion among NSP2 grantees whether the requirement applied to their program income. The law requires that 25% of the original grant amount plus program income be used for families at 50% of AMI and below, so this language is intended to eliminate any confusion.

Revised Requirement

Appendix I, Section E.2.e of the NSP2 NOFA Is Revised to Read:

Not less than 25 percent of any NSP grant (initial allocation plus any program income) shall be used to house individuals or families whose incomes do not exceed 50 percent of area median income. Each NSP2 grantee must spend an amount equal to 25 percent of any NSP program income in accordance with this requirement.

Duration of Funding

The appropriation accounting provisions in 31 U.S.C. 1551–1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510), limit the availability of certain appropriations for expenditure. Such a limitation may not be waived. The appropriations acts for NSP1 and NSP3 grants direct that these funds be available until expended. However, HUD is imposing a shorter deadline on the expenditure of NSP funds in this notice.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for grants made under NSP1 are as follows: 14.218; 14.225; and 14.228.

Paperwork Reduction Act

HUD has approval from OMB for information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). OMB approval is under OMB control number 2506–0165. In

accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor and a person is not required to respond to, a collection of information, unless the collection displays a valid control number.

Finding of No Significant Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)(2)). The Finding of No Significant Impact is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10276, Washington, DC 20410–0500.

Dated: November 16, 2012.

Mark Johnston,

Acting Assistant Secretary for Community Planning and Development.

[FR Doc. 2012–28642 Filed 11–26–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Secretarial Commission on Indian Trust Administration and Reform Meeting Cancellation

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of meeting cancellation.

SUMMARY: The meeting of the Secretarial Commission on Indian Trust Administration and Reform (the Commission) scheduled for December 6, 2012, from 8 a.m. to 5 p.m. and December 7, 2012, from 8 a.m. to 4 p.m. is cancelled. The Commission's public youth outreach session scheduled for December 6, 2012, from 7 p.m. to 9 p.m. is also cancelled. Notice of this meeting was published in the November 14, 2012, issue of the **Federal Register** (77 FR 67827).

FOR FURTHER INFORMATION CONTACT: The Designated Federal Official, Lizzie Marsters, Chief of Staff to the Deputy Secretary, Department of the Interior, 1849 C Street NW., Room 6118, Washington, DC 20240; or email to *Lizzie_Marsters@ios.doi.gov.*

SUPPLEMENTARY INFORMATION: The Secretarial Commission on Indian Trust Administration and Reform was established under Secretarial Order No. 3292, dated December 8, 2009. The Commission plays a key role in the Department's ongoing efforts to empower Indian nations and strengthen nation-to-nation relationships. Future meetings will be announced through a separate notice in the **Federal Register**. The meetings cancelled by this notice will be rescheduled for a later date.

Dated: November 20, 2012.

David J. Hayes,

Deputy Secretary.

[FR Doc. 2012–28691 Filed 11–26–12; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2012–N200; BAC–4311–K9–S3]

Presquile National Wildlife Refuge, Chesterfield County, VA; Final Comprehensive Conservation Plan and Finding of No Significant Impact

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for Presquile National Wildlife Refuge (NWR, refuge) in Chesterfield County, Virginia. Presquile NWR is administered by the Eastern Virginia Rivers NWR Complex in Warsaw, Virginia. In this final CCP, we describe how we will manage the refuge for the next 15 years.

ADDRESSES: You may view or obtain copies of the final CCP and FONSI by any of the following methods. You may request a hard copy or a CD–ROM.

Agency Web site: Download a copy of the document at: *http://www.fws.gov/northeast/planning/presquile/ccphome.html.*

Email: Send requests to *EasternVirginiaRiversNWRC@fws.gov.* Include ''Presquile CCP'' in the subject line of your email.

Mail: Andy Hofmann, Project Leader, Eastern Virginia Rivers NWR Complex, U.S. Fish and Wildlife Service, P.O. Box 1030, 335 Wilna Road, Warsaw, VA 22572.

Fax: Attention: Andy Hofmann, 804–333–1470.

In-Person Viewing or Pickup: Call Andy Hofmann, Project Leader, at 804–333–1470 extension 112 during regular business hours to make an appointment to view the document.

FOR FURTHER INFORMATION CONTACT: Andy Hofmann, Project Leader, Eastern Virginia Rivers NWR Complex, U.S. Fish and Wildlife Service; mailing address: P.O. Box 1030, 335 Wilna Road, Warsaw, VA 22572; 804–333–1470 (phone); 804–333–3396 (fax); *EasternVirginiaRiversNWRC@fws.gov* (email) (please put ''Presquile CCP'' in the subject line).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for Presquile NWR. We started this process through a notice of intent in the **Federal Register** (76 FR 21001) on April 14, 2011. We announced the release of the draft CCP and environmental assessment (EA) to the public and requested comments in a notice of availability in the **Federal Register** (77 FR 47433) on August 8, 2012.

The 1,329-acre Presquile NWR is an island in the James River near Hopewell, Virginia, 20 miles southeast of Richmond. The refuge was established in 1953 as ''an inviolate sanctuary, or for any other management purpose, for migratory birds.'' It is one of many important migratory bird stopover sites along the Atlantic Flyway and provides protected breeding habitat for Federal and State-listed threatened and endangered species, as well as many neotropical migrant bird species. The refuge is comprised of a variety of wildlife habitats, including the open backwaters of the James River, tidal swamp forest, tidal freshwater marshes, grasslands, mixed mesic forest, and river escarpment.

Presquile NWR also offers a range of wildlife-dependent recreational opportunities, including environmental education programs for approximately 120 school-aged students each year, and a 3-day deer hunt each fall.

We announce our decision and the availability of the FONSI for the final CCP for Presquile NWR in accordance with National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.) requirements. We completed a thorough analysis of impacts on the human environment, which we included in the draft CCP/EA.

The CCP will guide us in managing and administering Presquile NWR for the next 15 years. Alternative B, as described for the refuge in the draft CCP/EA, and with minor modifications described below, is the foundation for the final CCP.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a

CCP for each refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing to the mission of the National Wildlife Refuge System (Refuge System), consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, environmental education, and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

CCP Alternatives, Including the Selected Alternative

Our draft CCP/EA (77 FR 47433) addressed several key issues, including:

- Managing refuge forests, grasslands, marshes, and aquatic habitats to benefit species of conservation concern, including Federal- and State-listed species.
- Protecting the water quality of wildlife habitats, including open water, tidal freshwater marsh, and tidal swamp forest, affecting the James River and Chesapeake Bay.
- Providing more public access opportunities on Presquile NWR.
- Balancing the protection of historic resources with wildlife and habitat conservation.

To address these issues and develop a plan based on the refuge's establishing purposes, vision, and goals, we evaluated two alternatives for Presquile NWR in the draft CCP/EA. The alternatives identify several actions in common. Both alternatives include measures to continue to share staff across the Eastern Virginia Rivers NWR Complex, require a permit for refuge access, maintain existing facilities, control invasive species, protect cultural resources, monitor for climate change impacts, distribute refuge revenue sharing payments, support research on the refuge, and participate in conservation and education partnerships. There are other actions that differ among the alternatives. The draft CCP/EA provides a full description of both alternatives and relates each to the issues and concerns that arose during the planning process. Below, we provide summaries of the two alternatives.

Management Alternatives

Alternative A (Current Management)

This alternative is the ''no action'' alternative required by NEPA. Alternative A defines our current management activities, including those planned, funded, or underway, and serves as the baseline against which to compare alternative B. Under alternative A, we will continue to protect tidal swamp forest and marsh habitats for priority refuge resources of concern on the refuge, such as the bald eagle, prothonotary warbler, American black duck and other waterfowl, and the federally threatened sensitive joint-vetch. We would accomplish this through continued partnerships with universities and the Virginia Department of Game and Inland Fisheries, and by limiting public access in sensitive areas. For James River aquatic resources, we would continue to improve riparian habitat, work with the James River Association (JRA) on water quality monitoring, and support efforts by Virginia Commonwealth University and other partners to restore sustainable, healthy populations of the federally endangered Atlantic sturgeon. We would also continue to maintain approximately 200 acres of grassland habitat for breeding and migrating songbirds.

Additionally, we would continue to provide environmental education programs both on- and off-refuge in partnership with the JRA, support wildlife-dependent recreation, and implement the 3-day fall deer hunt.

Alternative B (Focus on Species of Conservation Concern; Service-Preferred Alternative)

Alternative B is the Service-preferred alternative. It combines the actions we believe would best achieve the refuge's purposes, vision, and goals and respond to public issues. Under alternative B, we would emphasize the management of specific refuge habitats to support priority species whose habitat needs would benefit other species of conservation concern that are found in the area. Species of conservation concern include migrating waterfowl, waterbirds, and forest-dependent birds, the federally endangered Atlantic sturgeon, and the federally threatened sensitive joint-vetch. We would emphasize maintaining and restoring the forest integrity of tidal freshwater marsh, tidal swamp forest, the James River and associated backwater habitats, and mature mixed mesic forest habitats through increased monitoring and data collection, and a more aggressive response to habitat changes associated with invasive species, global climate change, or storm events. We would promote natural succession on 200 acres of grassland habitat, resulting in its conversion to transitional mixed mesic forest habitat over the long term, for the benefit of migratory bird species. We would also expand our conservation, research, monitoring, and management partnerships to help restore and conserve the refuge.

This alternative would enhance our visitor services programs to improve opportunities for environmental education and wildlife-dependent recreation. The improvements would include expanding the on-refuge environmental education program through a partnership with the JRA and enhancing interpretive materials. We would also evaluate opportunities to expand the hunting program to include turkey hunting and deer and/or turkey hunting opportunities for youth.

Comments

We solicited comments on the draft CCP/EA for Presquile NWR from August 2 to September 7, 2012 (77 FR 47433). During the comment period, we received 19 written responses. We evaluated all of the substantive comments we received, and include a summary of those comments, and our responses to them, as appendix F in the final CCP.

Selected Alternative

After considering the comments we received on our draft CCP/EA, we have made several minor changes to alternative B, including minor editorial, formatting, and typographical errors. These changes are described in the FONSI (appendix G in the final CCP) and in our response to public comments (appendix F in the final CCP).

We have selected alternative B to implement for Presquile NWR, with these minor changes, for several reasons. Alternative B comprises a mix of actions that, in our professional judgment, work best towards achieving the refuge's purposes, vision, and goals, Refuge System policies, and the goals of other State and regional conservation plans. We also believe that alternative B most effectively addresses key issues raised during the planning process. The basis of our decision is detailed in the FONSI (appendix G in the final CCP).

Public Availability of Documents

You can view or obtain the final CCP, including the FONSI, as indicated under **ADDRESSES**.

Dated: October 9, 2012.

Deborah Rocque,

Acting Regional Director, Northeast Region.

[FR Doc. 2012–28752 Filed 11–26–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Indian Education (BIE) is announcing that the Advisory Board for Exceptional Children (Advisory Board) will hold its next meeting in Washington, DC. The purpose of the meeting is to meet the mandates of the Individuals with Disabilities Education Act of 2004 (IDEA) for Indian children with disabilities.

DATES: The Advisory Board will meet on Thursday, January 10, 2013, from 9:00 a.m. to 5:00 p.m. and Friday, January 11, 2013, from 9:00 a.m. to 5:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held at 1849 C Street NW., Main Interior Building, Room 3624, Washington, DC; telephone number (202) 208–6123.

FOR FURTHER INFORMATION CONTACT: Sue Bement, Designated Federal Officer, Bureau of Indian Education, Albuquerque Service Center, Division of Performance and Accountability, 1011 Indian School Road NW., Suite 332, Albuquerque, NM 87104; telephone number (505) 563–5274.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act, the BIE is announcing that the Advisory Board will hold its next meeting in Washington, DC. The Advisory Board was established under the Individuals with Disabilities Education Act of 2004 (20 U.S.C. 1400 *et seq.*) to advise the Secretary of the Interior, through the Assistant Secretary—Indian Affairs, on the needs of Indian children with disabilities. The meetings are open to the public.

The following items will be on the agenda:

- Report from Acting BIE Director;
- Report from Supervisory Education Specialist, Special Education, BIE, Division of Performance and Accountability;
- Updates from the BIE, Division of Performance and Accountability;
- Group work on Board Priorities;
- Stakeholder Input on the BIE Special Education Annual Performance Report;
- Public Comment (via conference call, January 11, 2013, meeting only *); and
- BIE Advisory Board—Advice and Recommendations.

Dated: November 20, 2012.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2012–28692 Filed 11–26–12; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMA00000.L12200000.DF0000]

Notice of Public Meeting, Albuquerque District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Albuquerque District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting date is December 10, 2012, at the BLM Albuquerque District Office, 435 Montano Rd., Albuquerque, NM, from 9 a.m.–4 p.m. The public may send written comments to the RAC, 435 Montano Rd., Albuquerque, NM 87107.

FOR FURTHER INFORMATION CONTACT: Chip Kimball, BLM Albuquerque District Office, 435 Montano Rd., Albuquerque, NM 87107, 505–761–8734. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in New Mexico.

Planned agenda items include a welcome and introduction of new Council members, election of a chair and vice chair, discussion of charter and operating procedures, and presentations by the Socorro and Rio Puerco Field Office Managers.

The comment period during which the public may address the RAC is scheduled to begin at 2:30 p.m. on December 10, 2012. All RAC meetings are open to the public. Depending on the number of individuals wishing to comment and time available, the time for individual oral comments may be limited.

Thomas E. Gow,

Acting District Manager.

[FR Doc. 2012–28731 Filed 11–26–12; 8:45 am]

BILLING CODE 4310–AG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTC 00900.L16100000.DP0000]

Notice of Public Meeting, Eastern Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The next regular meeting of the Eastern Montana RAC will be held on December 6, 2012, in Billings, Montana. The meeting will start at 8:00 a.m. and adjourn at approximately 3:30 p.m.

ADDRESSES: When determined, the meeting location will be announced in a news release.

FOR FURTHER INFORMATION CONTACT: Mark Jacobsen, Public Affairs Specialist, BLM Eastern Montana/Dakotas District, 111 Garryowen Road, Miles City, Montana, 59301, (406) 233–2831, mark_jacobsen@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

* During the January 11, 2013 meeting, time has been set aside for public comment via conference call from 1:00 p.m. to 1:30 p.m. Eastern Time. The call-in information is: Conference Number 1–888–417–0376, Passcode 1509140.

SUPPLEMENTARY INFORMATION: The 15-member council advises the Secretary of the Interior through the BLM on a variety of planning and management issues associated with public land management in Montana. At these meetings, topics will include: Miles City and Billings Field Office manager updates, subcommittee briefings, work sessions and other issues that the council may raise. All meetings are open to the public and the public may present written comments to the council. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations should contact the BLM as provided above.

Dated: November 2, 2012.

Diane Friez,

Eastern Montana—Dakotas District Manager.

[FR Doc. 2012–28644 Filed 11–26–12; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–EQD–11735; PPPWSAMOR6 PPMRSNR1Z.Y00000]

Agency Information Collection Activities: Assessment Tools for Park-Based Youth Education and Employment Experience Programs at Santa Monica Mountains National Recreation Area

AGENCY: National Park Service, Interior.

ACTION: Notice and request for comments.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we (the National Park Service) are notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) for a proposed new collection. This notice provides the public and other Federal agencies an opportunity to comment on the paperwork burden of this collection.

DATES: To ensure that your comments on this ICR are considered, please submit them on or before December 27, 2012.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via email to *OIRA_SUBMISSION@omb.eop.gov* or fax at 202–395–5806; and identify your submission as 1024–SAMO. Please also send a copy your comments to Phadrea Ponds, Information Collections Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email).

FOR FURTHER INFORMATION CONTACT: *Antonio_Solorio@nps.gov* (email); or by mail at Santa Monica Mountains National Recreation Area, 401 W. Hillcrest Drive; Thousand Oaks, CA 91360. You may also access this ICR at *www.reginfo.gov*.

I. Abstract

The Santa Monica Mountains National Recreation Area (SAMO) has three programs that provide continuous education and employment experience opportunities for students in the vicinity of the park. We use a series of surveys to objectively evaluate the short and long-term success of these environmental education programs. Areas of interest include: (1) Understanding and concern for natural and cultural resource conservation and stewardship and resulting behavior changes both inside and outside parks; (2) Awareness and feelings toward the National Park Service; (3) Recreational interests and activities; (4) Influences on family and friends' attitudes and behaviors; (5) Education and career choices; and (6) Usefulness of work experience.

The SHRUB program provides education and in-depth involvement for students and their families in grade school. The EcoHelpers program provides one-day service learning programs to high schools students. The SAMO Youth program provides progressive integrated work experience for high school and college students. While SAMO has many observational and anecdotal indications of success, no formal tools have been developed to evaluate these programs. The goal of this collection is to provide scientifically sound and reliable measures of outcomes for the three youth education and employment experience programs at SAMO. This assessment will be used to build the capacity of park youth program managers to help the park achieve its goal of continual program improvement and expanded documentation of program impact.

II. Data

OMB Number: 1024–NEW.

Title: Assessment Tools for Park-Based Youth Education and Employment Experience Programs at Santa Monica Mountains National Recreation Area.

Type of Request: This is a new collection.

Affected Public: General Public; College students, school aged children (elementary and high school), and teachers.

Respondent Obligation: Voluntary.

Estimated Annual Number of Responses: We expect to receive a total of 1,224 annual responses (1,204 students and 20 teachers).

	EcoHelpers	SHRUBS	SAMO Youth program	Total
Teachers	12	8	0	20
Students	720	384	100	1,204

Estimated Total Annual Burden Hours: 408 hours. We estimate an average of 20 minutes per response (2 minutes to read the instructions and 18 minutes to complete the survey instrument).

	EcoHelpers	SHRUBS	SAMO Youth program	Total
Annual Burden Hours	135	240	33	408

Estimated Time and Frequency of Response: The EcoHelper, SHRUBS and SAMO students will be required to take two surveys (a pre-and post-visit survey); the teachers and SAMO Alumni participants will respond to one survey.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have not identified any ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, et seq.) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number.

III. Request for Comments

On January 30, 2012, we published a **Federal Register** notice (77 FR 4577) announcing that we would submit this ICR to OMB for approval and soliciting comments. The comment period closed on March 30, 2012. We did not receive any comments.

Comments are again invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden to respondents, including use of automated information techniques or other forms of information technology. All comments will become a matter of public record. While you can ask us in your comment to withhold personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 14, 2012.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2012–28748 Filed 11–26–12; 8:45 am]

BILLING CODE 4312–EH–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–EQD–11735; PPPWSAMOR6 PPMRSNR1Z.Y00000]

Agency Information Collection Activities: Assessment Tools for Park-Based Youth Education and Employment Experience Programs at Santa Monica Mountains National Recreation Area

AGENCY: National Park Service, Interior.

ACTION: Notice and request for comments.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we (the National Park Service) are notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) for a proposed new collection. This notice provides the public and other Federal agencies an opportunity to comment on the paperwork burden of this collection.

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Dated: November 14, 2012.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2012–28702 Filed 11–26–12; 8:45 am]

BILLING CODE 4312–EH–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–11653; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before October 27, 2012. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by December 12, 2012. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 2, 2012.

Alexandra M. Lord,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

ALABAMA

Fayette County

Fayette County Courthouse Historic District (Boundary Increase), Temple Ave. N. & S., 1st Ave. E. & W., 2nd St. S., 1st St. N., Fayette, 12001020

Marengo County

Demopolis Historic District (Boundary Increase), E. Gaines, N. Ash, W. Pettus, & S. Stewart Sts., Demopolis, 12001021

Marshall County

Downtown Guntersville Historic District, Gunter & Blount Aves., Ringold & Scott Sts., Guntersville, 12001022

MARYLAND

Prince George's County

College Heights Estates Historic District, (Historic Residential Suburbs in the United States, 1830–1960 MPS) Roughly bounded by Adelphi Rd., U. of Maryland College Park, University Park, Van Buren St., Wells Pkwy., University Park, 12001023

Early Family Historic District, 13900–13902–13904 & 13907 Cherry Tree Crossing & 14134 Brandywine Rds., Brandywine, 12001024

University Park Historic District (Boundary Increase), Roughly bounded by Adelphi, Queens Chapel & Toledo Rds., Wells Pkwy., Van Buren & Underwood Sts., University Park, 12001025

Upper Marlboro Residential Historic District, Bounded by 14204 Old Marlboro Pike, 14519 Elm & 14508 Main Sts., Western Branch & 5600 Old Crain Hwy., Upper Marlboro, 12001026

MICHIGAN

Bay County

Center Avenue Neighborhood Historic District (Boundary Increase), Roughly bounded by N. Madison, Green & Center Aves., 4th, 5th, 6th & 10th Sts., Carroll Rd. & Nurmi Dr., Bay City, 12001027

Dickinson County

Upper Twin Falls Bridge, Upper Twin Falls Rd. over the Menominee R. (Breitung Township), Iron Mountain, 12001028

Ingham County

Williamston Downtown Historic District, 1st blks. of E. & W. Grand River Ave. & S. Putnam St., Williamston, 12001029

Jackson County

Hanover High School Complex, 105 Fairview St., Hanover, 12001030

Kalamazoo County

Drake, Benjamin and Maria (Ogden), Farm, 927 N. Drake Rd. (Oshtemo Charter Township), Kalamazoo, 12001031

Kent County

Grand Rapids Storage and Van Company Building, 1415 Lake Dr. SE., Grand Rapids, 12001032

NEW JERSEY

Monmouth County

Portland Place, 220 Hartshorne Rd. (Middletown Township), Highland, 12001033

Morris County

First Reformed Church of Pompton Plains, 529 Newark-Pompton Tpk. (Pequannock Township), Pompton Plains, 12001034

NEW YORK

Cattaraugus County

Randolph Historic District, Jct. of Main & Jamestown to Borden Sts., Randolph, 12001035

New York County

Riverside Church, 478, 490 Riverside Dr. & 81 Claremont Ave., New York, 12001036

Suffolk County

Cold Spring Harbor Beach Club, 101 Shore Rd., New York, 12001037

OKLAHOMA

Kay County

Aupperle, Bennie L., Dairy Barn, 8700 N. LA Cann Rd., Newkirk, 12001038

Payne County

Gillespie Drilling Company Building, 317 W. Broadway, Cushing, 12001039

Texas County

Baker, Elmer, Barn, Mile 47 Rd., Hooker, 12001040

Tulsa County

Tulsa Race Riot of 1921 Historic District, Roughly N. Cincinnati, E. King, N. & S. Greenwood, Archer, Boston, Boulder, Brady, Main, 1st, 2nd, 4th & 6th Sts., Tulsa, 12001041

PENNSYLVANIA

Chester County

St. Paul African Methodist Episcopal Church, 703 Merchant St., Coatesville, 12001042

Philadelphia County

Drueding Brothers Company Building, 437–441 W. Master St., Philadelphia, 12001043
Penn Towers, 1815 John F. Kennedy Blvd., Philadelphia, 12001045
Quaker City Dye Works, (Textile Industry in the Kensington Neighborhood of Philadelphia, Pennsylvania MPS) 100–118 W. Oxford St., Philadelphia, 12001044
Yorktown Historic District, Roughly bounded by Cecil B. Moore Ave., N. 10th, W. Oxford, N. 11th, W. Stiles, W. Flora & N. 13th St., Philadelphia, 12001046

WEST VIRGINIA

Greenbrier County

Edgefield, 461 Brownstone Rd., Renick, 12001047

Hampshire County

Capon Chapel, Christian Church Rd., Capon Bridge, 12001048
Old Pine Church, Old Pine Church Rd., Purgitsville, 12001049
Valley View, Depot Valley Rd., Romney, 12001050

Marshall County

Spencer Cemetery, 668 Burley Hill Rd., Cameron, 12001051

Pocahontas County

Pleasant Green Methodist Episcopal Church, Seebert Rd., Seebert, 12001052
Seebert Lane Colored School, Seebert Rd., Seebert, 12001053

WYOMING

Fremont County

Carpenter Hotel Historic District, 290 Atlantic City Rd., Atlantic City, 12001054

[FR Doc. 2012–28690 Filed 11–26–12; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended (''CERCLA''), 42 U.S.C. § 9601 et seq.

On November 16, 2012, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of New Jersey in the lawsuit entitled *United States* v. *Honeywell International, Inc., Civil Action No.* 2:12–cv–7091–SRC–CLW. The proposed consent decree provides for the performance of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'') remedial action selected by the United States Environmental Protection Agency (''EPA'') for the Quanta Resources Superfund Site located in Edgewater, New Jersey (''Site''), and payment of EPA's unreimbursed past costs and future response costs at the Site related to the Operable Unit 1 (''OU1'') remedy.

The proposed consent decree is between Plaintiff the United States of America, and the following Defendants: Honeywell International, Inc., Hudson River Associates, LLC, Metropolitan Consom, LLC, Quanta Resources Corporation, BASF Corporation, Beazer East, Inc., BFI Waste Systems of New Jersey, Inc., Borgwarner Inc., Buckeye Partners, LP, Quality Carriers, Colonial Pipeline Company, Consolidated Rail Corporation, Exxon Mobil Corporation, Ford Motor Company, General Dynamics Land Systems Inc., Miller Brewing Company, NEAPCO, Inc., Northrop Grumman Systems Corporation, Petroleum Tank Cleaners, Inc., Rome Strip Steel Company, Inc., Stanley Black & Decker, Inc., United Technologies Corporation, Hess Corporation, and Textron, Inc.

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. Honeywell International, Inc., D.J. Ref. No. 90–11–3–10445. 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 $60.75 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $12.00.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–28734 Filed 11–26–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Formerly Utilized Sites Remedial Action Program and the Comprehensive Environmental Response, Compensation, and Liability Act

On November 21, 2012, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Massachusetts in the lawsuit entitled *United States* v. *Texas Instruments Incorporated,* Civil Action No. 1:12–cv–12175.

The United States filed this lawsuit under the Formerly Utilized Sites Remedial Action Program and the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''). The United States' complaint seeks to recover from defendant Texas Instruments, Inc.

response costs incurred by the United States in connection with the release of radiological waste at the Shpack Landfill Superfund Site located in the Town of Norton, Massachusetts and the City of Attleboro, Massachusetts. Pursuant to the Consent Decree resolving the lawsuit, Texas Instruments, Inc. agrees to pay $15 million of the United States' response costs.

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. *Texas Instruments Incorporated,* D.J. Ref. No. 90–11–2–08360/1. 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 $6.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Ronald Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–28743 Filed 11–26–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Star Atlantic Waste Holdings, L.P., Veolia Environnement S.A. and Veolia ES Solid Waste, Inc.

Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Star Atlantic Waste Holdings, L.P., Veolia Environnement S.A. and Veolia ES Solid Waste, Inc.,* Civil Action No. 1:12–cv–01847–RWR. On November 15, 2012, the United States filed a Complaint alleging that the proposed acquisition by Star Atlantic Waste Holdings, L.P. of Veolia Environnement S.A.'s U.S. subsidiary, Veolia ES Solid Waste, Inc., would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires the defendants to divest three specified transfer stations in northern New Jersey; a landfill and two transfer stations in central Georgia; and three commercial waste collection routes in the Macon, Georgia metropolitan area.

Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr*, and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the U.S. Department of Justice, Antitrust Division's Internet Web site, filed with the Court and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 8700, Washington, DC 20530 (telephone: 202–307–0924).

Patricia A. Brink,

Director of Civil Enforcement.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, United States Department of Justice, Antitrust Division, 450 Fifth Street, N.W., Suite 8700, Washington, D.C. 20530, Plaintiff, v. *STAR ATLANTIC WASTE HOLDINGS, L.P., 277 Park Avenue, 45th Floor, New York, NY 10172, VEOLIA ENVIRONNEMENT S.A., 36/38 avenue Kléber, Paris, 75116 France,* and *VEOLIA ES SOLID WASTE, INC., 200 E. Randolph Street, Suite 7900, Chicago, IL 60601,* Defendants

Case No. 1:12–cv–01847

Complaint

Plaintiff, the United States of America (''United States''), acting under the direction of the Attorney General of the United States, brings this civil antitrust action against defendants Star Atlantic Waste Holdings, L.P. (''Star Atlantic'') and Veolia Environnement S.A. to enjoin Star Atlantic's proposed acquisition of Veolia Environnment S.A.'s U.S. subsidiary, Veolia ES Solid Waste, Inc. (''Veolia''). Plaintiff complains and alleges as follows:

I. NATURE OF THE ACTION

1. Pursuant to a share purchase agreement dated July 18, 2012, Star Atlantic proposes to acquire all of the outstanding shares of Veolia's common stock. Defendants Star Atlantic and Veolia currently compete to provide small container commercial waste collection and municipal solid waste (''MSW'') disposal in certain geographic areas in the United States. The proposed transaction would substantially lessen competition for small container commercial waste collection services as a result of Star Atlantic's acquisition of Veolia in the Macon, Georgia area. The proposed transaction also would substantially lessen competition for MSW disposal service as a result of Star Atlantic's acquisition of Veolia's MSW disposal assets in Northern New Jersey and Central Georgia.

2. Defendants Star Atlantic and Veolia are two of only a few significant providers of small container commercial waste collection services in the Macon Metropolitan Area and MSW disposal services in Northern New Jersey and Central Georgia. Unless the acquisition is enjoined, consumers of small container commercial waste collection and/or MSW disposal services in these areas likely will pay higher prices and receive fewer services as a consequence

of the elimination of vigorous competition between Star Atlantic and Veolia. Accordingly, Star Atlantic's acquisition of Veolia would violate Section 7 of the Clayton Act, 15 U.S.C. § 18.

II. THE DEFENDANTS AND THE TRANSACTION

3. Star Atlantic is a Delaware limited partnership with its headquarters in New York, New York. Star Atlantic provides collection, transfer, recycling, and disposal services in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee through its subsidiary Advanced Disposal Services, Inc., and in Massachusetts, Vermont, New York, New Jersey, Pennsylvania, Maryland, and West Virginia through its subsidiary, Interstate Waste Services, Inc. In 2011, Star Atlantic had estimated total revenues of $563 million.

4. Veolia Environnement S.A. is a French corporation, with a wholly-owned subsidiary, Veolia ES Solid Waste, Inc., that offers collection, transfer, recycling, and disposal services in Florida, Georgia, Alabama, Kentucky, Missouri, Illinois, Minnesota, Wisconsin, Michigan, Indiana, Pennsylvania, and New Jersey. In 2011, Veolia ES Solid Waste, Inc. had estimated total revenues of $818 million.

5. On July 18, 2012, defendants Star Atlantic and Veolia entered into a share purchase agreement pursuant to which Star Atlantic proposes to acquire all of the outstanding shares of Veolia's common stock in a transaction valued at $1.9 billion.

III. JURISDICTION AND VENUE

6. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. § 25, as amended, to prevent and restrain defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

7. Defendants Star Atlantic and Veolia collect MSW from residential, commercial, and industrial customers, and they own and operate transfer stations and landfills that process and dispose of MSW. In their small container commercial waste collection and MSW disposal businesses, Star Atlantic and Veolia make sales and purchases in interstate commerce, ship waste in the flow of interstate commerce, and engage in activities substantially affecting interstate commerce. The Court has jurisdiction over this action and over the parties pursuant to 15 U.S.C. § 22, and 28 U.S.C. §§ 1331 and 1337.

8. Defendants have consented to venue and personal jurisdiction in the District of Columbia. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(c).

IV. TRADE AND COMMERCE

A. The Relevant Service Markets

1. Small Container Commercial Waste Collection

9. Waste collection firms, or ''haulers,'' collect MSW from residential, commercial, and industrial establishments and transport the waste to a disposal site, such as a transfer station, landfill, or incinerator, for processing and disposal. Private waste haulers typically contract directly with customers for the collection of waste generated by commercial accounts. MSW generated by residential customers, on the other hand, often is collected either by local governments or by private haulers pursuant to contracts bid by, or franchises granted by, municipal authorities.

10. ''Small container commercial waste collection'' means the business of collecting MSW from commercial and industrial accounts, usually in dumpsters (*i.e.,* a small container with one to ten cubic yards of storage capacity), and transporting or ''hauling'' such waste to a disposal site by use of a front-end or rear-end load truck. Typical small container commercial waste collection customers include office and apartment buildings and retail establishments (*e.g.,* stores and restaurants). As used herein, ''small container commercial waste collection'' does not include the collection of roll-off containers or residential collection service.

11. Small container commercial waste collection service differs in many important respects from the collection of residential or other types of waste. An individual commercial customer typically generates substantially more MSW than a residential customer. To handle this high volume of MSW efficiently, haulers often provide commercial customers with small containers, also called dumpsters, for storing the waste. Haulers organize their commercial accounts into routes, and collect and transport the MSW generated by these accounts in front-end load (''FEL'') trucks uniquely well-suited for commercial waste collection. Less frequently, haulers may use more maneuverable, but less efficient, rear-end load (''REL'') trucks, especially in those areas in which a collection route includes narrow alleyways or streets. FEL trucks are unable to navigate narrow passageways easily and cannot efficiently collect the waste located in them.

12. On a typical small container commercial waste collection route, an operator drives a FEL vehicle to the customer's container, engages a mechanism that grasps and lifts the container over the front of the truck, and empties the container into the vehicle's storage section where the waste is compacted and stored. The operator continues along the route, collecting MSW from each of the commercial accounts, until the vehicle is full. The operator then drives the FEL truck to a disposal facility, such as a transfer station, landfill, or incinerator, and empties the contents of the vehicle. Depending on the number of locations and the amount of waste collected on the route, the operator may make one or more trips to the disposal facility in the servicing of the route.

13. In contrast to a small container commercial waste collection route, a residential waste collection route is significantly more labor-intensive. The customer's MSW is stored in much smaller containers (*e.g.,* garbage bags or trash cans) and, instead of FEL trucks, waste collection firms routinely use REL or side-load trucks manned by larger crews (usually, two-person or three-person teams). On residential routes, crews generally hand-load the customer's MSW, typically by tossing garbage bags and emptying trash cans into the vehicle's storage section. Because of the differences in the collection processes, residential customers and commercial customers usually are organized into separate routes.

14. Likewise, other types of collection activities, such as the use of roll-off containers (typically used for construction debris) and the collection of liquid or hazardous waste, are rarely combined with small container commercial waste collection. This separation of routes is due to differences in the hauling equipment required, the volume of waste collected, health and safety concerns, and the ultimate disposal option used.

15. The differences in the types and volume of MSW collected and in the equipment used in collection services distinguish small container commercial waste collection from all other types of waste collection activities. Absent competition from other small container commercial waste collection firms, a small container commercial waste collection service provider profitably could increase its charges without losing significant sales or revenues to firms engaged in the provision of other

types of waste collection services. Thus, small container commercial waste collection is a line of commerce, or relevant service, for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act, 15 U.S.C. § 18.

2. Disposal of Municipal Solid Waste

16. ''MSW'' means municipal solid waste, a term of art used to describe solid putrescible waste generated by households and commercial establishments such as retail stores, offices, restaurants, warehouses, and non-manufacturing activities in industrial facilities. MSW does not include special handling waste (*e.g.,* waste from manufacturing processes, regulated medical waste, sewage, and sludge), hazardous waste, or waste generated by construction or demolition sites. MSW has physical characteristics that readily distinguish it from other liquid or solid waste.

17. In order to be disposed of lawfully, MSW must be disposed in a landfill or an incinerator, and such facilities must be located on approved sites and operated under prescribed procedures. Federal, state, and local safety, environmental, zoning, and permit laws and regulations dictate critical aspects of storage, handling, transportation, processing, and disposal of MSW in each market. In less densely populated areas of the country, MSW often is disposed of directly into landfills that are permitted and regulated by the state. Landfill permit restrictions often impose limitations on the type and amount of waste that can be deposited. In many urban and suburban areas, landfills are scarce due to high population density and the limited availability of suitable land. Accordingly, MSW generated in such areas often is burned in an incinerator or taken to a transfer station. A transfer station is an intermediate disposal site for the processing and temporary storage of MSW before transfer, in bulk, to more distant landfills or incinerators for final disposal. Anyone who fails to dispose of MSW in a lawful manner can be subject to severe civil and criminal penalties.

18. Because of the strict laws and regulations that govern the disposal of MSW, there are no good substitutes for MSW disposal in landfills or incinerators, or at transfer stations located near the source of the waste. Absent competition from other providers of MSW disposal services, a firm providing MSW disposal services profitably could increase its charges to haulers of MSW without losing significant sales to any other firm. Thus, disposal of MSW is a line of commerce, or relevant service, for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act, 15 U.S.C. § 18.

B. Relevant Geographic Markets

1. Small Container Commercial Waste Collection

19. Small container commercial waste collection is generally provided in highly localized areas because, to operate efficiently and profitably, a hauler must have sufficient density (*i.e.,* a large number of commercial accounts that are reasonably close together) in its small container commercial waste collection operations. If a hauler has to drive significant distances between customers, it earns less money for the time the truck is operating. For the same reason, the accounts must be near the operator's base of operations. It is economically impractical for a small container commercial waste collection firm to service metropolitan areas from a distant base, which requires that the FEL truck travel long distances just to arrive at its route. Haulers, therefore, generally establish garages and related facilities within each major local area served.

20. In Bibb, Jones, Peach, Monroe, and Crawford Counties in Georgia (the ''Macon Metropolitan Area''), a local small container commercial waste collection firm, absent competition from other small container commercial waste collection firms, profitably could increase charges to local customers without losing significant sales to more distant competitors. Accordingly, the Macon Metropolitan Area is a section of the country, or relevant geographic market, for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act, 15 U.S.C. § 18.

2. Disposal of Municipal Solid Waste

21. MSW is transported by collection trucks to landfills and transfer stations, and the price and availability of disposal sites close to a hauler's routes is a major factor that determines a hauler's competitiveness and profitability. The cost of transporting MSW to a disposal site often is a substantial component of the cost of disposal. The cost advantage of local disposal sites limits the areas where MSW can be transported economically and disposed of by haulers and creates localized markets for MSW disposal services.

22. In Bergen and Passaic Counties in New Jersey (''Northern New Jersey'') and in Bibb, Jones, Peach, Monroe, Crawford, Twiggs, Taylor, Macon, and Houston Counties in Georgia (''Central Georgia''), the high costs of transporting MSW, and the substantial travel time to other disposal facilities based on distance, natural barriers, and congested roadways, limit the distance that haulers of MSW generated in those areas can travel economically to dispose of their waste. The firms that compete for the disposal of MSW generated in each of these areas own landfills or transfer stations located within the area. In each area, absent competition from other local MSW disposal operators, a firm providing MSW disposal services profitably could increase its charges for the disposal of MSW generated in the area without losing significant sales to more distant disposal sites. Accordingly, Northern New Jersey and Central Georgia are relevant geographic markets for purposes of analyzing the competitive effects of the acquisition under Section 7 of the Clayton Act, 18 U.S.C. § 15.

C. Anticompetitive Effects of the Proposed Acquisition

23. The acquisition of Veolia by Star Atlantic would remove a significant competitor in small container commercial waste collection or the disposal of MSW in already highly concentrated and difficult-to-enter markets. In each of these markets, the resulting significant increase in concentration, loss of competition, and absence of any reasonable prospect of significant new entry or expansion by market incumbents likely will result in higher prices for the collection of small container commercial waste or the disposal of MSW.

1. Small Container Commercial Waste Collection Service in the Macon Metropolitan Area

24. In the Macon Metropolitan Area, the proposed acquisition would reduce from four to three the number of significant competitors in the collection of small container commercial waste. Annual revenue from small container commercial waste collection in the Macon Metropolitan Area is approximately $7.1 million. After the acquisition, Star Atlantic would have approximately 80 percent of the total number of small container commercial waste collection routes in the market. Using a standard measure of market concentration called the ''HHI'' (defined and explained in Appendix A), incorporating market shares based on small container commercial waste collection routes, the post-merger HHI for small container commercial waste collection in the Macon Metropolitan Area would be approximately 6,595, an

increase of 1,714 points over the pre-merger HHI of 4,881.

2. MSW Disposal in Central Georgia

25. In Central Georgia, the proposed acquisition would reduce from four to three the number of significant competitors for the disposal of MSW. After the acquisition, defendants would have approximately 77 percent of the MSW disposal market based on waste tonnages accepted by the landfills in 2011. The post-merger HHI for MSW disposal service in Central Georgia would be approximately 6,093, an increase of 2,942 points over the premerger HHI of 3,151.

3. MSW Disposal in Northern New Jersey

26. In Northern New Jersey, the proposed acquisition would reduce from four to three the number of significant competitors for the disposal of MSW. Annual revenue from MSW disposal in this market is approximately $65 million. After the acquisition, defendants would have approximately 40 percent of the MSW disposal market. Using market shares based on 2011 tonnages as a measure of concentration, the post-merger HHI for MSW disposal service would be approximately 2,701, an increase of 719 points over the pre-merger HHI of 1,982.

D. Entry into Small Container Commercial Waste Collection in the Macon Metropolitan Area

27. Significant new entry into small container commercial waste collection is difficult and time-consuming in the Macon Metropolitan Area. A new entrant into small container commercial waste collection cannot provide a significant competitive constraint on the prices charged by market incumbents until it achieves minimum efficient scale and operating efficiencies comparable to existing firms. In order to obtain a comparable operating efficiency, a new firm must achieve route densities similar to those of firms already competing in the market. However, the incumbent's ability to engage in price discrimination and to enter into long-term contracts with collection customers is often effective in preventing new entrants from winning a large enough base of customers to achieve efficient routes in sufficient time to constrain the post-acquisition firm from significantly raising prices. Differences in the service provided by an incumbent hauler to each customer permit the incumbent easily to meet competition from new entrants by pricing its services lower to any individual customer that wants to switch to the new entrant. Incumbent firms frequently also use three- to five-year contracts, which may automatically renew or contain large liquidated damage provisions for contract termination. Such contracts make it more difficult for a customer to switch to a new hauler in order to obtain lower prices for its collection service. By making it more difficult for new haulers to obtain customers, these practices increase the cost and time required by an entrant to form an efficient route, reducing the likelihood that the entrant ultimately will be successful.

E. Entry into MSW Disposal in Northern New Jersey and Central Georgia

28. Significant new entry into the disposal of MSW in Northern New Jersey and Central Georgia would be difficult and time-consuming. Obtaining a permit to construct a new disposal facility or to expand an existing one is a costly and time-consuming process that typically takes many years to conclude. First, suitable land is scarce. Second, even when land is available, local public opposition often increases the time and uncertainty of successfully permitting a facility. Last, it is also difficult to overcome environmental concerns and satisfy other governmental requirements.

29. Where it is not practical to construct and permit a landfill, it is necessary to use a transfer station to facilitate the use of more distant disposal options. Many of the problems associated with the permitting and construction of a landfill likewise make it difficult to permit and construct a transfer station.

30. In Northern New Jersey and Central Georgia, entry by constructing and permitting a new MSW disposal facility would be costly and time-consuming, and unlikely to prevent market incumbents from significantly raising prices for the disposal of MSW following the acquisition.

V. VIOLATIONS ALLEGED

31. Star Atlantic's proposed acquisition of Veolia's outstanding shares likely would lessen competition substantially for small container commercial waste collection services in the Macon Metropolitan Area and for MSW disposal services in Northern New Jersey and Central Georgia, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

32. Unless enjoined, the proposed acquisition likely would have the following anticompetitive effects relating to small container commercial waste collection services, among others:

(a) actual and potential competition between Star Atlantic and Veolia would be eliminated;

(b) competition likely would be lessened substantially; and

(c) prices likely would increase.

33. Unless enjoined, the proposed acquisition likely would have the following anticompetitive effects relating to MSW disposal, among others:

(a) actual and potential competition between Star Atlantic and Veolia would be eliminated;

(b) competition likely would be lessened substantially; and

(c) prices likely would increase.

VI. REQUESTED RELIEF

34. Plaintiff requests that this Court:

(a) adjudge and decree that Star Atlantic's acquisition of Veolia would be unlawful and violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

(b) permanently enjoin and restrain defendants and all persons acting on their behalf from consummating the proposed acquisition of Veolia by Star Atlantic, or from entering into or carrying out any other contract, agreement, plan, or understanding, the effect of which would be to combine Star Atlantic with Veolia;

(c) award the United States such other and further relief as the Court deems just and proper; and

(d) award the United States its costs for this action.

FOR PLAINTIFF UNITED STATES OF AMERICA:

/s/ _____

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/s/ _____

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Dated: November 15, 2012

APPENDIX A

The term ''HHI'' means the Herfindahl-Hirschman Index, a

commonly accepted measure of market concentration. The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2{,}600$). The HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 points when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1,500 and 2,500 points are considered to be moderately concentrated, and markets in which the HHI is in excess of 2,500 points are considered to be highly concentrated. *See* U.S. Department of Justice & FTC, *Horizontal Merger Guidelines* § 5.3 (2010). Transactions that increase the HHI by more than 200 points in highly concentrated markets presumptively raise antitrust concerns under the *Horizontal Merger Guidelines* issued by the Department of Justice and the Federal Trade Commission. *See id.*

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. *STAR ATLANTIC WASTE HOLDINGS, L.P., VEOLIA ENVIRONNEMENT S.A.* and *VEOLIA ES SOLID WASTE, INC.,*

Defendants

Case No. 1:12–cv–01847

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b)-(h), files this Competitive Impact Statement relating to the Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

Pursuant to a share purchase agreement dated July 18, 2012, Star Atlantic Waste Holdings, L.P. (''Star Atlantic'') proposes to acquire all of the outstanding shares of common stock of Veolia Environnement S.A.'s U.S. subsidiary, Veolia ES Solid Waste, Inc. (''Veolia'') in a transaction valued at approximately $1.9 billion.

The United States filed a civil antitrust Complaint on November 15, 2012, seeking to enjoin the proposed acquisition. The Complaint alleges that the proposed acquisition likely would substantially lessen competition for small container commercial waste collection service in the area of Macon, Georgia and for municipal solid waste (''MSW'') disposal service in Northern New Jersey and Central Georgia in violation of Section 7 of the Clayton Act. This loss of competition would result in consumers paying higher prices and receiving fewer services for the collection and disposal of MSW.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, defendants are required to divest specified small container commercial waste collection and MSW disposal assets. Under the terms of the Hold Separate Stipulation and Order, Star Atlantic and Veolia are required to take certain steps to ensure that the assets to be divested will be preserved and held separate from other assets and businesses.

The United States and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATIONS

A. The Defendants

Star Atlantic is a Delaware limited partnership with its headquarters in New York, New York. Star Atlantic provides collection, transfer, recycling, and disposal services in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee through its subsidiary Advanced Disposal Services, Inc., and in Massachusetts, Vermont, New York, New Jersey, Pennsylvania, Maryland, and West Virginia through its subsidiary, Interstate Waste Services, Inc. In 2011, Star Atlantic had estimated total revenues of $563 million.

Veolia Environnement S.A. is a French corporation, with a wholly-owned subsidiary, Veolia ES Solid Waste, Inc., that offers collection, transfer, recycling, and disposal services in Florida, Georgia, Alabama, Kentucky, Missouri, Illinois, Minnesota, Wisconsin, Michigan, Indiana, Pennsylvania, and New Jersey. In 2011, Veolia ES Solid Waste, Inc. had estimated total revenues of $818 million.

B. The Competitive Effects of the Transaction

MSW is solid, putrescible waste generated by households and commercial establishments. Waste collection firms, or haulers, contract to collect MSW from residential and commercial customers and transport the waste to private and public MSW disposal facilities (*e.g.,* transfer stations and landfills), which, for a fee, process and legally dispose of the waste. Small container commercial waste collection is one component of MSW collection, which also includes residential and other waste collection. Star Atlantic and Veolia compete in the collection of small container commercial waste and the disposal of MSW.

1. The Effect of the Transaction on Competition in Small Container Commercial Waste Collection in the Macon Metropolitan Area

Small container commercial waste collection service is the collection of MSW from commercial businesses such as office and apartment buildings and retail establishments (*e.g.,* stores and restaurants) for shipment to, and disposal at, an approved disposal facility. Because of the type and volume of waste generated by commercial accounts and the frequency of service required, haulers organize commercial accounts into routes, and generally use specialized equipment to store, collect, and transport MSW from these accounts to approved MSW disposal sites. This equipment (*e.g.,* one to ten-cubic-yard containers for MSW storage, and front-end load vehicles commonly used for collection and transportation of MSW) is uniquely well-suited for providing small container commercial waste collection service. Providers of other types of waste collection services (*e.g.,* residential and roll-off services) are not good substitutes for small container commercial waste collection firms. In these types of waste collection efforts, firms use different waste storage equipment (*e.g.,* garbage cans or semi-stationary roll-off containers) and different vehicles (*e.g.,* rear-load, side-load, or roll-off trucks), which, for a variety of reasons, cannot be conveniently or efficiently used to store, collect, or transport MSW generated by commercial accounts and, hence, are rarely used on small container commercial waste collection routes. In the event of a small but significant

increase in price for small container commercial waste collection services, customers would not switch to any other alternative. Thus, the Complaint alleges that the provision of small container commercial waste collection services constitutes a line of commerce, or relevant service, for purposes of analyzing the effects of the transaction.

The Complaint alleges that the provision of small container commercial waste collection service takes place in compact, highly localized geographic markets. It is expensive to transport MSW long distances between collection customers or to disposal sites. To minimize transportation costs and maximize the scale, density, and efficiency of their MSW collection operations, small container commercial waste collection firms concentrate their customers and collection routes in small areas. Firms with operations concentrated in a distant area cannot easily compete against firms whose routes and customers are locally based. Distance may significantly limit a remote firm's ability to provide commercial waste collection service as frequently or conveniently as that offered by local firms with nearby routes. Also, local small container commercial waste collection firms have significant cost advantages over other firms, and can profitably increase their charges to local small container commercial waste collection customers without losing significant sales to firms outside the area.

Applying this analysis, the Complaint alleges that in Bibb, Jones, Peach, Monroe and Crawford Counties in Georgia (the ''Macon Metropolitan Area''), a local small container commercial waste collection monopolist, absent competition from other small container commercial waste collection firms, profitably could increase charges to local customers without losing significant sales to more distant competitors. Accordingly, the Macon Metropolitan Area is a section of the country or a relevant geographic market for the purpose of assessing the competitive effects of a combination of Star Atlantic and Veolia in the provision of small container commercial waste collection services.

There are significant entry barriers into small container commercial waste collection. A new entrant into small container commercial waste collection services must achieve a minimum efficient scale and operating efficiencies comparable to those of existing firms in order to provide a significant competitive constraint on the prices charged by market incumbents. In order to obtain comparable operating efficiencies, a new firm must achieve route density similar to existing firms. However, the incumbent's ability to price discriminate and to enter into long-term contracts with existing small container commercial waste collection firms can leave too few customers available to the entrant to create an efficient route in a sufficiently confined geographic area. The incumbent firm can selectively and temporarily charge an unbeatably low price to specified customers targeted by new entrants. Long-term contracts often run for three to five years and may automatically renew or contain large liquidated damage provisions for contract termination. Such terms make it more costly or difficult for a customer to switch to a new small container commercial waste collection firm and obtain lower prices for its collection service. Because of these factors, a new entrant may find it difficult to compete by offering its services at pre-entry price levels comparable to the incumbent and may find an increase in the cost and time required to form an efficient route, thereby limiting a new entrant's ability to build an efficient route and reducing the likelihood that the entrant will ultimately succeed.

The need for route density, the use of long-term contracts with restrictive terms, and the ability of existing firms to price discriminate raise significant barriers to entry by new firms, which likely will be forced to compete at lower than pre-entry price levels. In the past, such barriers have made entry and expansion difficult by new or smaller-sized competitors in small container commercial waste collection markets.

In the Macon Metropolitan Area, the proposed acquisition would reduce from four to three the number of significant competitors in the collection of small container commercial waste. Annual revenue from small container commercial waste collection in the Macon Metropolitan Area is approximately $7.1 million. After the acquisition, Star Atlantic would have approximately 80 percent of the total number of small container commercial waste collection routes in the market.

2. The Effects of the Transaction on Competition in the Disposal of Municipal Solid Waste in Northern New Jersey and Central Georgia

A number of federal, state, and local safety, environmental, zoning, and permit laws and regulations dictate critical aspects of storage, handling, transportation, processing and disposal of MSW. In order to be disposed of lawfully, MSW must be disposed in a landfill or an incinerator permitted to accept MSW, and such facilities must be located on approved sites and operated under prescribed procedures. Federal, state, and local safety, environmental, zoning, and permit laws and regulations dictate critical aspects of storage, handling, transportation, processing, and disposal of MSW in each market. In less densely populated areas of the country, MSW often is disposed of directly into landfills that are permitted and regulated by the state. Landfill permit restrictions often impose limitations on the type and amount of waste that can be deposited. In many urban and suburban areas, landfills are scarce due to high population density and the limited availability of suitable land. Accordingly, MSW generated in such areas often is burned in an incinerator or taken to a transfer station. A transfer station is an intermediate disposal site for the processing and temporary storage of MSW before transfer, in bulk, to more distant landfills or incinerators for final disposal. Anyone who fails to dispose of MSW in a lawful manner can be subject to severe civil and criminal penalties.

Because of the strict laws and regulations that govern the disposal of MSW, there are no good substitutes for MSW disposal in landfills or incinerators, or at transfer stations located near the source of the waste. A local monopolist providing MSW disposal services, absent competition from other providers of MSW disposal services, profitably could increase its charges to haulers of MSW by a small but significant amount without losing significant sales to any other firm. Thus the disposal of MSW constitutes a line of commerce, or relevant service, for purposes of analyzing the effects of the acquisition. MSW is transported by collection trucks to landfills and transfer stations, and the price and availability of disposal sites close to a hauler's routes is a major factor that determines a hauler's competitiveness and profitability. The cost of transporting MSW to a disposal site often is a substantial component of the cost of disposal. The cost advantage of local disposal sites limits the areas where MSW can be transported economically and disposed of by haulers and creates localized markets for MSW disposal services.

In Bergen and Passaic Counties in New Jersey (''Northern New Jersey'') and in Bibb, Jones, Peach, Monroe, Crawford, Twiggs, Taylor, Macon, and Houston Counties in Georgia (''Central Georgia''), the high costs of transporting MSW, and the substantial travel time to other disposal facilities based on distance, natural barriers, and congested

roadways, limit the distance that haulers of MSW generated in those areas can travel economically to dispose of their waste. The firms that compete for the disposal of MSW generated in each of those areas own landfills or transfer stations located within the area. In the event that all of the owners of those local disposal facilities imposed a small but significant increase in the price of MSW disposal, haulers of MSW generated in each area could not profitably turn to more distant disposal facilities. Firms that compete for the disposal of MSW generated in each area, absent competition from other local MSW disposal operators, profitably could increase their charges for disposal of MSW generated in the area without losing significant sales to more distant disposal sites. Accordingly, Northern New Jersey and Central Georgia are relevant geographic markets for purposes of analyzing the competitive effects of the acquisition under Section 7 of the Clayton Act, 18 U.S.C. § 15.

There are significant barriers to entry in MSW disposal. Obtaining a permit to construct a new disposal facility or to expand an existing one is a costly and time-consuming process that typically takes many years to conclude. Local public opposition often increases the time and uncertainty of successfully permitting a facility. It is also difficult to overcome environmental concerns and satisfy other governmental requirements. Likewise, many of the problems associated with the permitting and construction of a landfill make it difficult to permit and construct a transfer station. In Northern New Jersey and Central Georgia, entry by a new MSW disposal facility would be costly and time-consuming, and unlikely to prevent market incumbents from significantly raising prices for the disposal of MSW following the acquisition.

In Northern New Jersey, the proposed acquisition would reduce from four to three the number of significant competitors for the disposal of MSW. Annual revenue from MSW disposal in this market is approximately $65 million. After the acquisition, defendants would have approximately 40 percent of the MSW disposal market. In Central Georgia, the proposed acquisition would reduce from four to three the number of significant competitors for the disposal of MSW. After the acquisition, defendants would have approximately 77 percent of the MSW disposal market based on waste tonnages accepted by the landfills in 2011.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture requirements of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in small container commercial waste collection service in the Macon Metropolitan Area and MSW disposal service in Northern New Jersey and Central Georgia. The requirements will remove sufficient small container commercial waste collection and/or MSW disposal assets from the merged firm's control and place them in the hands of a firm that is independent of the merged firm and capable of preserving the competition that otherwise would have been lost as a result of the acquisition.

The proposed Final Judgment requires defendants, within 90 days after the filing of the Complaint, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, to divest, as a viable ongoing business or businesses: (a) small container commercial waste collection assets (routes, trucks, containers, and customer lists) in the Macon Metropolitan Area; and (b) MSW disposal assets (landfills, transfer stations, material recovery facilities,[1] leasehold rights, garages and offices, trucks and vehicles, scales, permits and intangible assets such as customer lists and contracts) in Northern New Jersey and in Central Georgia. The assets must be divested to purchasers approved by the United States and in such a way as to satisfy the United States that they can and will be operated by the purchaser or purchasers as part of a viable, ongoing business or businesses that can compete effectively in each relevant market. Defendants must take all reasonable steps necessary to accomplish the divestitures quickly and shall cooperate with prospective purchasers.

In the event that defendants do not accomplish the divestitures within the period prescribed in the proposed Final Judgment, the Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestitures. If a trustee is appointed, the proposed Final Judgment provides that defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestitures are accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States, setting forth his or her efforts to accomplish the divestitures. At the end of six months, if the divestitures have not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

To eliminate the anticompetitive effects of the acquisition in the market for small container commercial waste collection service in the Macon Metropolitan Area, defendants must divest: (1) Veolia's small container commercial waste collection routes 801 and 802 and, at the acquirer's option, the Veolia hauling facility in Byron, Georgia and (2) Veolia's small container commercial waste collection route 710 and, at the acquirer's option, the Veolia hauling facility in Thomaston, Georgia.

To eliminate the anticompetitive effects of the acquisition in the market for MSW disposal service in Northern New Jersey and Central Georgia, defendants must divest: (1) Veolia's two transfer stations in Paterson, New Jersey and its transfer station in Totowa, New Jersey, and (2) Veolia's two transfer stations in Byron, Georgia and Thomaston, Georgia and the Veolia landfill in Mauk, Georgia.

The proposed Final Judgment provides that divestiture of the divestiture assets may be made to one or more acquirers, so long as the Northern New Jersey disposal assets are divested to a single acquirer and the Central Georgia disposal assets and the Macon Metropolitan Area waste collection assets are divested to a single acquirer. In Central Georgia and the Macon Metropolitan Area, this provision is intended to encourage the continued operation of an efficient, vertically integrated competitor whose participation in each market would replicate closely the competition existing prior to the acquisition. In Northern New Jersey, buyers of MSW disposal and recycling services generally prefer to have a single supplier of both, and owners of transfer stations that also can recycle have an advantage over those that cannot. The single acquirer provision for the Northern New Jersey disposal assets ensures that the acquirer will be able to offer customers MSW disposal services through each of the three divested transfer stations, as well as recycling services through the material recovery facility associated with the Veolia River Street transfer station, one of the three

[1] A material recovery facility is a facility permitted to accept and recover those recyclable portions of a commercial waste stream, such as paper, plastic, and glass.

stations to be divested. The ability of the acquirer to offer customers both MSW disposal and recycling services will allow it to operate more effectively and replicate closely the competition existing in Northern New Jersey prior to the acquisition.

In addition, Star Atlantic, for the duration of its contracts with any of its current small container commercial waste collection service customers in the Macon Metropolitan Area, shall not initiate new contracts or lengthen or alter any material term of such contracts, except when a customer seeks a contractual change without prompting or encouragement from Star Atlantic. This provision is intended to prevent Star Atlantic from using its acquisition of Veolia as a justification for extending the contracts of its small container commercial waste customers in the Macon Metropolitan Area, thereby precluding competition in a large segment of this market.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site, and, under certain circumstances, published in the **Federal Register**. Written comments should be submitted to: Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 450 Fifth Street NW., Suite 8700, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions preventing Star Atlantic's acquisition of Veolia. The United States is satisfied, however, that the divestiture of the assets described in the proposed Final Judgment will preserve competition for small container commercial waste collection service in the Macon Metropolitan Area and for MSW disposal service in Northern New Jersey and Central Georgia. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but would avoid the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B).

In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. InBev N.V./S.A.,* 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, No. 08–1965 (JR), at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable.'').[2]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the

[2] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for a court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004) *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States v. BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States v. Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[3] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States v. Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.''' *United States v. Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States,* 460 U.S. 1001 (1983); *see also United States v. Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; see also *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged'') (citations omitted). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[4]

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment. Dated: November 15, 2012

Respectfully submitted,

/s/_____

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. STAR ATLANTIC WASTE HOLDINGS, L.P., VEOLIA ENVIRONNEMENT S.A. and VEOLIA ES SOLID WASTE, INC., Defendants
Case No. 1:12-cv-01847

PROPOSED FINAL JUDGMENT

WHEREAS, plaintiff, the United States of America, having filed its Complaint on November 15, 2012, and plaintiff and defendants, Star Atlantic Waste Holdings, L.P. (''Star Atlantic'') and Veolia Environnement S.A. (''Veolia''), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

AND WHEREAS, defendants have agreed to be bound by the provisions of

[3] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'''').

[4] *See United States v. Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States v. Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of the Divestiture Assets to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires certain divestitures to be made for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to the United States that the divestitures required below can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture or other injunctive provisions contained below;

NOW, THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is hereby ORDERED, ADJUDGED, AND DECREED:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

II. Definitions

As used in this Final Judgment:

A. ''Acquirer'' or ''Acquirers'' means the entity or entities to which the defendants divest the Divestiture Assets.

B. ''Star Atlantic'' means defendant Star Atlantic Waste Holdings, L.P., a Delaware limited partnership with its headquarters in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Veolia'' means defendant Veolia Environnement S.A., a French corporation with its headquarters in Paris, France, and its wholly owned subsidiary, Veolia ES Solid Waste, Inc., their successors and assigns, and their subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''Disposal'' means the business of disposing of waste into approved disposal sites, including the use of transfer stations to facilitate shipment of waste to other disposal sites.

E. ''Divestiture Assets'' means the Relevant Disposal Assets and the Relevant Collection Assets.

F. ''Route'' means a group of customers receiving regularly scheduled small container commercial waste collection service and all tangible and intangible assets relating to the route, as of October 1, 2012 (except for *de minimis* changes, such as customers lost or gained in the ordinary course of business), including capital equipment, trucks and other vehicles; containers; supplies; and if requested by the Acquirer, the real property and improvements to real property (*e.g.,* garages and buildings that support the route) as specified in Paragraph II(L) below, customer lists; customer and other contracts; leasehold interests; permits/licenses and accounts receivable.

G. ''MSW'' means municipal solid waste, a term of art used to describe solid putrescible waste generated by households and commercial establishments. MSW does not include special handling waste (*e.g.,* waste from manufacturing processes, regulated medical waste, sewage, and sludge), hazardous waste, or waste generated by construction or demolition sites.

H. ''Small container commercial waste collection service'' means the business of collecting MSW from commercial and industrial accounts, usually in ''dumpsters'' (*i.e.* a small container with one to ten cubic yards of storage capacity), and transporting or ''hauling'' such waste to a disposal site by use of a front- or rear-end loader truck.

I. ''Northern New Jersey'' means Bergen and Passaic Counties in New Jersey.

J. ''Central Georgia'' means Bibb, Crawford, Peach, Jones, Monroe, Twiggs, Taylor, Macon and Houston Counties in Georgia.

K. ''Macon Metropolitan Area'' means Bibb, Jones, Peach, Monroe, and Crawford Counties in Georgia.

L. ''Relevant Disposal Assets'' means, with respect to each transfer station and landfill listed and described herein, all of defendants' rights, titles and interests in any tangible asset related to each transfer station and landfill listed, including all fee simple or ownership rights to offices, garages, related facilities, including material recovery facilities, capital equipment, trucks and other vehicles, scales, power supply equipment, and supplies; and all of defendants' rights, titles and interests in any related intangible assets, including all leasehold interests and renewal rights thereto, permits, customer lists, contracts, and accounts, or options to purchase any adjoining property. Relevant Disposal Assets, as used herein, includes each of the following:

1. Northern New Jersey Disposal Assets

(a) Veolia's River Street transfer station located at 178 River Street, Paterson, New Jersey 07544;

(b) Veolia's Fulton Street transfer station located at 30–25 Fulton Street, Paterson, New Jersey 07544; and

(c) Veolia's Totowa transfer station located at 301 Maltese Drive, Totowa, New Jersey 07512.

2. Central Georgia Disposal Assets

(a) Veolia's Peach County transfer station located at 750 Dunbar Road, Byron, Georgia 31008;

(b) Veolia's Taylor County landfill located at County Road 33, Stewart Road, Mauk, Georgia 31058; and

(c) Veolia's Upson County transfer station located at 2616 Waymanville Road, Thomaston, Georgia 30286.

M. ''Relevant Collection Assets'' means the small container commercial waste collection routes and other assets listed below:

Macon Metropolitan Area Collection Assets

1. Veolia's small container commercial waste collection routes 801 and 802 and, at the Acquirer's option, the hauling facility located at 750 Dunbar Road, Byron, Georgia 31008; and

2. Veolia's small container commercial waste collection route 710 and, at the Acquirer's option, the hauling facility located at 2616 Waymanville Road, Thomaston, Georgia 30286.

III. Applicability

A. This Final Judgment applies to Star Atlantic and Veolia, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Sections IV and V of this Final Judgment, defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the defendants' Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer of the assets divested pursuant to the Final Judgment.

IV. Divestitures

A. Defendants are ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is

later, to divest all Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer(s) acceptable to the United States in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period of up to sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to accomplish the divestitures ordered by this Final Judgment as expeditiously as possible.

B. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making an inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall also offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer(s) and the United States information relating to the personnel involved in the operation and management of the Divestiture Assets to enable the Acquirer(s) to make offers of employment. Defendants shall not interfere with any negotiations by the Acquirer(s) to employ or contract with any defendant employee whose primary responsibility is the operation or management of the Divestiture Assets.

D. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of the Divestiture Assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirers of the Divestiture Assets that each asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

G. Defendants shall warrant to each Acquirer that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each asset, and that following the divestiture of the Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

H. Unless the United States otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer(s) as part of a viable, ongoing disposal or hauling business in each relevant area. Divestiture of the Divestiture Assets may be made to one or more Acquirers, provided that the Northern New Jersey Disposal Assets are divested to a single Acquirer, that the Central Georgia Disposal Assets and the Macon Metropolitan Area Collection Assets are divested to a single Acquirer, and that in each instance it is demonstrated to the sole satisfaction of the United States that the Divestiture Assets will remain viable and the divestiture of such assets will achieve the purposes of this Final Judgment and remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment:

(1) shall be made to an Acquirer(s) that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the relevant disposal and/or hauling business; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer(s) and defendants gives defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer(s) to compete effectively.

V. Appointment of Trustee

A. If defendants have not divested the Divestiture Assets within the time period specified in Paragraph IV(A), defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer(s) acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Paragraph V(D) of this Final Judgment, the trustee may hire at the cost and expense of defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objection by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the United States approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which it is accomplished, but timeliness is paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the

trustee's accomplishment of the divestitures.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent that such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the trustee has not accomplished the divestitures ordered under this Final Judgment within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth: (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations. To the extent that such report contains information that the trustee deems confidential, such report shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States, which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, defendants or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer(s), any other third party, or the trustee if applicable, additional information concerning the proposed divestiture, the proposed Acquirer(s), and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer(s), any third party, and the trustee, whichever is later, the United States, in its sole discretion, shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Paragraph V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Paragraph V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Contractual Restrictions

Defendant Star Atlantic, for the duration of its contracts with any of its current small container commercial waste collection service customers in the Macon Metropolitan Area, shall not initiate new contracts or lengthen or alter any material term of such contracts, except when a customer seeks a contractual change without prompting or encouragement from Star Atlantic.

VIII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

IX. Hold Separate

Until the divestitures required by this Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

X. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestitures have been completed under Section IV or V, defendants shall deliver to the United States an affidavit as to the fact and manner of their compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitation on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section IX of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestitures have been completed.

XI. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice,

including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) access during defendants' office hours to inspect and copy, or at the option of the United States, to require defendants to provide hard copies or electronic copies of, all books, ledgers, accounts, records, data and documents in the possession, custody or control of defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of an authorized representative the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit such written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States shall give defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XII. No Reacquisition

During the term of this Final Judgment, defendants may not reacquire any part of the Divestiture Assets, nor may any defendant participate in any other transaction that would result in a combination, merger, or other joining together of any parts of the Divestiture Assets with assets of the divesting company.

XIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon, and the United States's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

_____

United States District Judge

[FR Doc. 2012–28730 Filed 11–26–12; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application; Johnson Matthey, Inc.

Pursuant to Title 21 Code of Federal Regulations 1301.34(a), this is notice that on September 10, 2012, Johnson Matthey, Inc., Pharmaceutical Materials, 2003 Nolte Drive, West Deptford, New Jersey 08066–1742, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the following basic classes of controlled substances:

Drug	Schedule
Coca Leaves (9040)	II
Thebaine (9333)	II
Opium, raw (9600)	II
Noroxymorphone (9668)	II
Poppy Straw Concentrate (9670)	II

The company plans to import the listed controlled substances as raw materials, to be used in the manufacture of bulk controlled substances, for distribution to its customers.

No comments, objections, or requests for any hearings will be accepted on any application for registration or re-registration to import crude opium, poppy straw, concentrate of poppy straw, and coca leaves. Comments and requests for hearings on applications to import narcotic raw material are not appropriate, in accordance with 72 FR 3417 (2007).

In reference to the non-narcotic raw material, the company plans to import gram amounts to be used as reference standards for sale to its customers. Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedule I or II, which fall under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952(a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than December 27, 2012.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745, all applicants for registration to import a basic class of any controlled substance in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: November 19, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–28667 Filed 11–26–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application; Siegfried (USA), LLC

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 5, 2012, Siegfried (USA) LLC, 33 Industrial Park Road, Pennsville, New Jersey 08070, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Dihydromorphine (9145)	I
Hydromorphinol (9301)	I
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Oripavine (9330)	II
Oxymorphone (9652)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR § 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than January 28, 2013.

Dated: November 19, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–28664 Filed 11–26–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application; Norac

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 31, 2012, Norac, DBA: Norac Pharma, 405 S. Motor Avenue, Azusa, California 91702–3232, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Tetrahydrocannabinols (7370)	I
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Nabilone (7379)	II

With regard to gamma hydroxybutyric acid (2010), tetrahydrocannabinols (7370), and methamphetamine (1105) only, the company manufactures these controlled substances in bulk solely for domestic distribution within the United States to customers engaged in dosage-form manufacturing.

With regard to Nabilone (7379), the company presently manufactures a small amount of this controlled substance in bulk solely to conduct manufacturing process development internally within the company. It is the company's intention that, when the manufacturing process is refined to the point that its Nabilone bulk product is available for commercial use, the company will export the controlled substance in bulk solely to customers engaged in dosage-form manufacturing outside the United States. The company is aware of the requirement to obtain a DEA registration as an exporter to conduct this activity.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than January 28, 2013.

Dated: November 19, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–28662 Filed 11–26–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; DOL Generic Solution for Customer Satisfaction Surveys and Conference Evaluations

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the information collection request (ICR) titled, ''DOL Generic Solution for Customer Satisfaction Surveys and Conference Evaluations,'' 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 December 27, 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-Departmental Management, 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 DOL periodically conducts customer satisfaction surveys and conference evaluations that help assess Departmental products and services. Responses help lead to improvements in areas deemed necessary. These information collections 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 DOL obtains OMB approval for this information collection under Control Number 1225–0059. The current approval is scheduled to expire on November 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on September 30, 2012 (77 FR 55506).

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 1225–0059. 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.

Title of Collection: DOL Generic Solution for Customer Satisfaction Surveys and Conference Evaluations.

OMB Control Number: 1225–0059.

Affected Public: Individuals or Households; Private Sector—businesses or other for profits, farms, and not-for-profit institutions; Federal Government; and State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 375,000.

Total Estimated Number of Responses: 375,000.

Total Estimated Annual Burden Hours: 37,500.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 19, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–28622 Filed 11–26–12; 8:45 a.m.]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Uniform Billing Form

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, ''Uniform Billing Form,'' (Form OWCP–04) to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995.

DATES: Submit comments on or before December 27, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain*, on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The OWCP requires an institutional medical provider providing any services to a beneficiary covered under the Federal Employee's Compensation Act, Black Lung Benefits Act, or Energy Employees Occupational Illness Compensation Program Act of 2000 to bill using a form based on the industry standard, Form UB–04. Form OWCP–04 identifies the beneficiary, the type of services provided, the conditions being treated, and the billed amounts. This information enables the OWCP to pay providers for covered services.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240–0019. The current approval is scheduled to expire on November 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on August 27, 2012 (77 FR 51830).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1240–0019. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OWCP.

Title of Collection: Uniform Billing Form.

OMB Control Number: 1240–0019.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 6,947.

Total Estimated Number of Responses: 229,997.

Total Estimated Annual Burden Hours: 26,599.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 19, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–28658 Filed 11–26–12; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Request to the Department of Labor for Expedited Review of Denial of COBRA Premium Reduction

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Request to the Department of Labor for Expedited Review of Denial of COBRA Premium Reduction,'' 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 December 27, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, 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: American Recovery and Reinvestment Act of 2009 (ARRA) section 3001 provides an assistance eligible individual with the right to pay reduced health benefits premiums under the Consolidated Omnibus Budget Reconciliation Act of 1986, commonly called COBRA, for up to 9 months. If an individual requests treatment as an assistance eligible individual and is denied such treatment because of COBRA continuation coverage ineligibility, ARRA section 3001(a)(5) requires the Secretary of Labor to provide for expedited review of the denial upon application to the Secretary in the form and manner the Secretary provides. The Secretary of Labor is required to act in consultation with the Secretary of the Treasury and must make a determination within 15 business days after receipt of an individual's application for review. The Application to the Department of Labor for Expedited Review of Denial of COBRA Premium Reduction is the form used by individuals to file their expedited review appeals. Such individuals must complete all information requested on the Application in order to file their review requests with the EBSA. The ICR relates to the Application.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0135. The current approval is scheduled to expire on November 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on June 25, 2012 (77 FR 37920).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0135. The OMB is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Request to the Department of Labor for Expedited Review of Denial of COBRA Premium Reduction.

OMB Control Number: 1210–0135.

Affected Public: Individuals or Households and Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 184.

Total Estimated Number of Responses: 184.

Total Estimated Annual Burden Hours: 171.

Total Estimated Annual Other Costs Burden: $104.

Dated: November 20, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–28687 Filed 11–26–12; 8:45 a.m.]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; DOL Generic Solution for Solicitations for Grant Applications

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the information collection request (ICR) titled, ''DOL Generic Solution for Solicitations for Grant Applications,'' 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 December 27, 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-Departmental Management, Office of Management and Budget, Room 10235, 725 17th Street, NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The DOL periodically solicits grant applications by issuing a Solicitation for Grant Applications (SGA). To ensure grants are awarded to the applicant(s) best suited to perform the functions of the grant, applicants are generally required to submit a two-part application. The first part of DOL grant applications consists of submitting Standard Form 424, Application for Federal Assistance, which is approved by the OMB under Control Number 4040–0004. The second part of a grant application usually requires a technical proposal demonstrating the applicant's capabilities, in accordance with a statement of work and/or selection criteria. This ICR is a generic solution for SGAs that extend information collection requirements beyond what is collected on currently approved standard forms.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1225–0086. The current approval is scheduled to expire on November 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on November 10, 2012 (77 FR 55505).

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 1225–0086. 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-Departmental Management.

Title of Collection: DOL Generic Solution for Solicitations for Grant Applications.

OMB Control Number: 1225–0086.

Affected Public: Private Sector—not-for-profit institutions—and State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 7,500.

Total Estimated Number of Responses: 7,500.

Total Estimated Annual Burden Hours: 187,500.

Total Estimated Annual Other Costs Burden: $0.

Dated: September 20, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–28686 Filed 11–26–12; 8:45 a.m.]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Requests Submitted for Public Comment

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting

comments on the proposed extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the **ADDRESSES** section of this notice. ICRs also are available at reginfo.gov (*http://www.reginfo.gov/public/do/PRAMain*).

DATES: Written comments must be submitted to the office shown in the Addresses section on or before January 28, 2013.

ADDRESSES: G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Washington, DC 20210, (202) 693–8410, FAX (202) 693–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: This notice requests public comment on the Department's request for extension of the Office of Management and Budget's (OMB) approval of ICRs contained in the rules and prohibited transaction exemptions described below. The Department is not proposing any changes to the existing ICRs at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Notice of Medical Necessity Criteria under the Mental Health Parity and Addition Equity Act of 2008.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0138.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 446,400.

Responses: 446,400.

Estimated Total Burden Hours: 949.

Estimated Total Burden Cost (Operating and Maintenance): $562,506.

Description: MHPAEA includes disclosure provisions for group health plans and health insurance coverage offered in connection with a group health plan. The criteria for medical necessity determinations made under a group health plan with respect to mental health or substance use disorder benefits (or health insurance coverage offered in connection with the plan with respect to such benefits) must be made available in accordance with regulations by the plan administrator (or the health insurance issuer offering such coverage) to any current or potential participant, beneficiary, or contracting provider upon request (''medical necessity disclosure''). The ICR contained in MHPAEA was approved by the Office of Management and Budget (OMB) under OMB Control No. 1210–0138, which currently is scheduled to expire on January 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: PTE 2006–16 (Securities Lending by Employee Benefit Plans).

Type of Review: Extension of a currently approved information collection.

OMB Number: 1210–0065.

Affected Public: Individuals or households; business or other for-profit institutions; not-for-profit institutions.

Respondents: 100.

Responses: 1,000.

Estimated Total Burden Hours: 191.

Estimated Total Burden Cost (Operating and Maintenance): $5,600.

Description: This ICR covers information collections contained in PTE 2006–16. In 1981 and 1982, the Department issued two related prohibited transaction class exemptions, PTE 81–6 and PTE 82–63, that permit employee benefit plans to lend securities owned by the plans as investments to banks and broker-dealers and to make compensation arrangements for lending services provided by a plan fiduciary in connection with securities loans. In 2006, the Department promulgated PTE 2006–16, which combines and amends the exemptions previously provided under PTE 81–6 and PTE 82–63. The new exemption expands the categories of exempted transactions to include securities lending to foreign banks and broker-dealers that are domiciled in specified countries and to allow the use of additional forms of collateral, all subject to specified conditions.

Among other conditions, the class exemption requires that a bank or broker-dealer that borrows securities from a plan must provide the plan with its most recent audited financial statement. The borrower must also affirm, when the loan is negotiated, that there has been no material adverse change in its financial condition since the previously audited statement.

The exemption also requires the agreements regarding the securities loan transaction or transactions and the compensation arrangement for the lending fiduciary to be contained in written documents. Individual agreements are not required for each transaction; rather the compensation agreement may be made in the form of a master agreement covering a series of transactions. The ICRs contained in PTE 2006–16 were approved by the Office of Management and Budget (OMB) under OMB Control No. 1210–0065, which currently is scheduled to expire on February 28, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Multiemployer Plan Access to Information.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0131.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 3,000.

Responses: 255,000.

Estimated Total Burden Hours: 32,000.

Estimated Total Burden Cost (Operating and Maintenance): $457,000.

Description: This final rule implements section 101(k) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended by the Pension Protection Act of 2006. Section 101(k) requires the administrator of a multiemployer plan to provide copies of certain actuarial and financial documents about the plan to participants, beneficiaries, employee representatives and contributing employers upon request. The final rule affects plan administrators, participants and beneficiaries and contributing employers of multiemployer plans. In connection with publication of this final rule, the Department submitted an ICR to OMB for its request of a new collection. OMB approved the ICR on February 21, 2010, under OMB Control Number 1210–0131, which expires on February 28, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: ERISA Investment Manager Electronic Registration.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0125.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 10.

Responses: 10.

Estimated Total Burden Hours: 12.

Estimated Total Burden Cost (Operating and Maintenance): $730.

Description: Section 3(38)(B) of ERISA imposes certain registration requirements on an investment adviser that wishes to be considered an investment manager under ERISA. In 1997, section 3(38) was amended to permit advisers to satisfy the registration requirements by registering

electronically with the Investment Adviser Registration Depository (IARD) established and maintained by the Securities Exchange Commission (SEC). The Department promulgated a final regulation (69 FR 52120, Aug. 24, 2004) to implement the statutory change. The final regulation is codified at 29 CFR 2510.3–38. EBSA submitted an ICR requesting OMB approval of the information collection contained in 29 CFR 2510.3–38, and OMB approved the information collection under OMB control number 1210–0125. The approval is scheduled to expire on March 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Summary Plan Description Requirements under ERISA.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0039.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 3,507,787.

Responses: 108,006,000.

Estimated Total Burden Hours: 262,000.

Estimated Total Burden Cost (Operating and Maintenance): $295,148,000.

Description: Section 104(b) of ERISA requires the administrator of an employee benefit plan to furnish plan participants and certain beneficiaries with a Summary Plan Description (SPD) that describes, in language understandable to an average plan participant, the benefits, rights, and obligations of participants in the plan. The information required to be contained in the SPD is set forth in section 102(b) of ERISA. To the extent that there is a material modification in the terms of the plan or a change in the required content of the SPD, section 104(b)(1) of ERISA requires the administrator to furnish participants and specified beneficiaries a summary of material modifications (SMM) or summary of material reductions (SMR). The Department of Labor (Department) has issued regulations providing guidance on compliance with the requirements to furnish SPDs, SMMs, and SMRs. These regulations, which are codified at 29 CFR 2520.102–2, 102–3, and 29 CFR 104b-2 and 104b-3, contain information collections for which the Department has obtained OMB approval under the OMB Control No. 1210–0039. The current approval is scheduled to expire on April 30, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Employee Benefit Plan Claims Procedure under ERISA.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0053.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 6,646,164.

Responses: 334,015,402.

Estimated Total Burden Hours: 506,808.

Estimated Total Burden Cost (Operating and Maintenance): $509,877,037.

Description: Section 503 of ERISA requires each employee benefit plan to provide, pursuant to regulations promulgated by the Secretary of Labor, notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied. The notice must set forth the specific reasons for the denial and must be written in a manner calculated to be understood by the claimant. Plans must also give a participant or beneficiary whose claim has been denied a reasonable opportunity to obtain a full and fair review of any benefit claim denial by the appropriate named fiduciary.

The Department issued a regulation pertaining to benefit claims procedures in 1977 and amended that regulation in a Notice of Final Rulemaking (NFRM) published on November 21, 2000 (65 FR 70246). The regulation pertaining to benefit claims procedures is codified at 29 CFR 2560.503–1. The regulation requires plans to establish reasonable claims procedures that meet specified standards governing the timing and content of notices and disclosures. EBSA submitted an ICR for the information collections in 29 CFR 2560.503–1 to the Office of Management and Budget (OMB) for review and clearance in connection with publication of the NFRM, and OMB approved the information collections under OMB control number 1210–0053. That approval is scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: PTE 80–83—Sale of Securities to Reduce Indebtedness of Party in Interest.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0064.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 25.

Responses: 25.

Estimated Total Burden Hours: 15.

Estimated Total Burden Cost (Operating and Maintenance): $0.

Description: PTE 80–83 provides an exemption from certain prohibited transaction provisions of ERISA and from certain taxes imposed by the Internal Revenue Code of 1986 (Code) for transactions in which an employee benefit plan purchases securities when the proceeds from such purchase may be used to reduce or retire a debt owed by a party in interest with respect to such plan, provided that specified conditions are met. Among other conditions, PTE 80–83 requires that adequate records pertaining to an exempted transaction be maintained for six years. The Department has approval from the Office of Management and Budget (OMB) for this information collection requirement under OMB Control No. 1210–0064. This approval is currently scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 75–1 Security Transactions with Broker-Dealers, Reporting Dealers and Banks.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0092.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 8,376.

Responses: 8,376.

Estimated Total Burden Hours: 1,396.

Estimated Total Burden Cost (Operating and Maintenance): $0.

Description: PTE 75–1 provides exemptions from certain prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA), and the Code for specified types of transactions between employee benefit plans and broker-dealers, reporting dealers and banks relating to securities purchases and sales, provided specified conditions are met. The exempted transactions include an employee benefit plan's purchase of securities from broker-dealers' inventories of stocks, from underwriting syndicates in which a plan fiduciary is a member, from banks, from reporting dealers, and from a market-maker even if a market-maker is a plan fiduciary. The exempted transactions also include, under certain conditions, a plan's accepting an extension of credit from a broker-dealer for the purpose of facilitating settlement of a securities transaction. Among other conditions, PTE 75–1 requires that a party seeking

to rely on the exemption with respect to a transaction maintain adequate records of the transaction for a period of six years. The Department has obtained approval from the Office of Management and Budget (OMB) for this information collection under OMB Control No. 1210–0092. This approval is currently scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: PTE 88–59—Residential Mortgage Financing Arrangements Involving Employee Benefit Plans.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0095.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 2,237.

Responses: 11,184.

Estimated Total Burden Hours: 932.

Estimated Total Burden Cost (Operating and Maintenance): $0.

Description: PTE 88–59 provides an exemption from certain prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Code for transactions in which an employee benefit plan provides mortgage financing to purchasers of residential dwelling units, provided specified conditions are met. Among other conditions, PTE 88–59 requires that adequate records pertaining to exempted transactions be maintained for the duration of the pertinent loan. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210–0095. The OMB approval is currently scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Petition for Finding under Section 3(40) of ERISA.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0119.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 45.

Responses: 45.

Estimated Total Burden Hours: 225.

Estimated Total Burden Cost (Operating and Maintenance): 163,268.

Description: Rules codified beginning at 29 CFR 2570.150 set forth an administrative procedure (''procedural rules'') for obtaining a determination by the Department as to whether a particular employee benefit plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of section 3(40) of ERISA. These procedural rules concern specific criteria set forth in 29 CFR 2510.3–40 (''criteria rules''), which, if met, constitute a finding by the Department that a plan is collectively bargained. Plans that meet the requirements of the criteria rules are not subject to state law. Among other requirements, the procedural rules require submission of a petition and affidavits by parties seeking a finding. The Department has obtained approval from the Office of Management and Budget (OMB), under OMB Control No. 1210–0119, for the information collections contained in its rules for a finding under section 3(40). This approval is currently scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Statutory Exemption for Cross-Trading of Securities.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0130.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 274.

Responses: 2,462.

Estimated Total Burden Hours: 2,859.

Estimated Total Burden Cost (Operating and Maintenance): $12,309.

Description: The Interim Final Rule on Statutory Exemption for Cross-Trading of Securities implements the content requirements for the written cross-trading policies and procedures required under section 408(b)(19)(H) of ERISA, as added by section 611(g) of the Pension Protection Act of 2006, Public Law 109–280 (PPA). Section 611(g)(1) of the PPA created a new statutory exemption, added to section 408(b) of ERISA as subsection 408(b)(19), that exempts from the prohibitions of sections 406(a)(1)(A) and 406(b)(2) of ERISA those cross-trading transactions involving the purchase and sale of a security between an account holding assets of a pension plan and any other account managed by the same investment manager, provided that certain conditions are satisfied. Section 611(g)(3) of the PPA further directed the Secretary of Labor to issue regulations, within 180 days after enactment, regarding the content of the policies and procedures to be adopted by an investment manager to satisfy the conditions of the new statutory exemption.

The Department issued a final cross-trading regulation on October 7, 2008. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210–0130. The OMB approval is currently scheduled to expire on May 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Final Amendment to PTE 84–14 for Plan Asset Transactions Determined by Independent Qualified Professional Asset Managers.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0128.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 4,400.

Responses: 8,800.

Estimated Total Burden Hours: 108,900.

Estimated Total Burden Cost (Operating and Maintenance): $44,130,900.

Description: The Final Amendment to PTE 84–14, a class exemption that permits various parties that are related to employee benefit plans to engage in transactions involving plan assets if, among other conditions, the assets are managed by ''qualified professional asset managers'' (QPAMs) that are independent of the parties in interest and which meet specified financial standards provides additional exemptive relief for employers to furnish limited amounts of goods and services to a managed fund in the ordinary course of business. Limited relief is also provided for leases of office or commercial space between managed funds and QPAMs or contributing employers. Finally, relief is provided for transactions involving places of public accommodation owned by a managed fund. The amendment permits a QPAM to manage an investment fund containing the assets of the QPAM's own plan or an affiliate's plan.

The Department issued a final amendment on July 6, 2010. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210–0128. The OMB approval is currently scheduled to expire on July 31, 2013.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Final Amendment to Prohibited Transaction Exemption 96–23 for Plan Asset Transactions Determined by In-House Asset Managers.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0145.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 20.

Responses: 40.

Estimated Total Burden Hours: 1,240.

Estimated Total Burden Cost (Operating and Maintenance): $400,000.

Description: This final amendment to PTE 96–23, a class exemption, permits various transactions involving employee benefit plans whose assets are managed by in-house asset managers (INHAMs), provided the conditions of the exemption are met. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA 95), the Department submitted the information collection request (ICR) included in the Proposed Amendment to PTE 96–23 for Plan Asset Transactions Determined by In-House Asset Managers to OMB for review and clearance at the time the Notice of the proposed exemption was published in the **Federal Register** (June 14, 2010, 75 FR 33642). OMB approved the amendment under OMB control number 1210–0145, on July 26, 2010. The approval will expire on July 31, 2013.

II. Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are 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 collections 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., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICRs for OMB approval of the extension of the information collection; they will also become a matter of public record.

Dated: November 16, 2012.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 2012–28464 Filed 11–26–12; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Trade Adjustment Assistance (TAA) Reserve Funding Request Form, Extension Without Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the proposed extension of, with no revisions, data collections using the ETA Form 9117, Trade Adjustment Assistance (TAA) Reserve Funding Request Form (OMB Control Number 1205–0275). The current expiration date is February 28, 2013.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before January 28, 2013.

ADDRESSES: Submit written comments to Caroline Hertel, Office of Trade Adjustment Assistance, Room N–5428, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3236 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–3584. Email: *Hertel.Caroline@dol.gov.* A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The administration of the Trade Act of 1974 (Trade Act), as amended by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), is the responsibility of the Secretary of Labor. Through agreements (Governor-Secretary Agreements) established with States, States serve as agents of the Department in making payments to workers who have lost their jobs as a result of foreign trade and been certified for the TAA Program. Section 241 of the Trade Act provides that: ''the Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating state the sums necessary to enable such State as agents of the United States to make payments provided for by this chapter.''

As such, states may request reserve funds before the Final Distribution to cover the costs of Training, Job Search Allowances, Relocation Allowances, Employment and Case Management Services, and State Administration of these benefits. Reserve funds will be distributed to states in accordance with 20 CFR 618.920 on an as-needed basis in response to reserve fund requests to provide funds to those states that experience large, unexpected layoffs or otherwise have training needs that are not met by their initial allocation. These funds must be requested using the Form ETA–9117 (OMB No. 1205–0275).

II. Review Focus

The Department is particularly interested in comments which:

- 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 submissions of responses.

III. Current Actions

Type of Review: Extension with no revisions.

Title: Investigative Data Collections for the Trade Act of 1974, as amended

OMB Number: 1205–0275

Affected Public: Individuals or Households, Businesses, State, Local or Tribal Governments.

Form(s): ETA 9117, Trade Adjustment Assistance (TAA) Reserve Funding Request Form (1205–0275).

Total Annual Respondents: 25

Annual Frequency: On occasion

Total Annual Responses: 25

Average Time per Response: 2 Hours

Estimated Total Annual Burden Hours: 50

Total Annual Burden Cost for Respondents: $0

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they will also become a matter of public record.

Signed in Washington, DC, this 17th day of October, 2012.

Jane Oates,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2012–28736 Filed 11–26–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection on the ETA 9048, Worker Profiling and Reemployment Services Activity, and the ETA 9049, Worker Profiling and Reemployment Services Outcomes, Extension Without Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data on the ETA 9048, Worker Profiling and Reemployment Services Activity, and the ETA 9049, Worker Profiling and Reemployment Services Outcomes, which expires March 31, 2013.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before January 28, 2013.

ADDRESSES: Submit written comments to Scott Gibbons, Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3008 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Email: *gibbons.scott@dol.gov.* A copy of the proposed information collection request (ICR) can be obtained by contacting Mr. Gibbons.

SUPPLEMENTARY INFORMATION:

I. Background

The Worker Profiling and Reemployment Services (WPRS) program allows for the targeting of reemployment services to those most in need of services. The ETA 9048 and ETA 9049 are the only means of tracking the activities in the WPRS program. The ETA 9048 report describes flows of claimants at various points in the WPRS system from initial profiling through the completion of specific reemployment services. The ETA 9049 describes the reemployment experience of profiled claimants who were referred to services by examining the state's existing wage record files to see in which quarter the individuals who received reemployment services became employed, what wages they earned, and whether they changed industries.

II. Review Focus

The Department is particularly interested in comments which:

- 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 submissions of responses.

III. Current Actions

Type of Review: Extension without changes.

Title: Worker Profiling and Reemployment Services Activity and Outcomes.

OMB Number: 1205–0353.

Affected Public: State Workforce Agencies.

Form(s): ETA 9048, ETA9049.

Total Annual Respondents: 53.

Annual Frequency: Quarterly.

Total Annual Responses: 424.

Average Time per Response: 0.25 Hours.

Estimated Total Annual Burden Hours: 106 Hours.

Total Annual Burden Cost for Respondents: There is no burden cost for respondents.

Signed in Washington, DC, this 23rd day of October, 2012.

Jane Oates,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2012–28737 Filed 11–26–12; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection, Equal Employment Opportunity in Apprenticeship and Training, Extension Without Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and

the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about Title 29 CFR Part 30, Equal Employment Opportunity in Apprenticeship and Training, Complaint Form—Equal Employment Opportunity In Apprenticeship Programs, ETA–9039 which expires on February 28, 2013.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before January 28, 2013.

ADDRESSES: Submit written comments to John V. Ladd, Administrator, Office of Apprenticeship, Room N–5311, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–2796 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–3799. Email: *oa.administrator@dol.gov.* A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The National Apprenticeship Act of 1937 (Act), Section 50 (29 U.S.C. 50), authorizes and directs the Secretary of Labor (Secretary) ''to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship, and to cooperate with the Secretary of Education in accordance with Section 17 of Title 20.'' Section 50a of the Act authorizes the Secretary to ''publish information relating to existing and proposed labor standards of apprenticeship,'' and to ''appoint national advisory committees * * *'' (29 U.S.C. 50a).

Title 29 CFR Part 30 sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the Department and recognized State Apprenticeship Agencies. These policies and procedures apply to recruitment and selection of apprentices, and to all conditions of employment and training during apprenticeship. The procedures provide for review of apprenticeship programs, for registering apprenticeship programs, for processing complaints, and for deregistering non-complying apprenticeship programs. This part also provides policies and procedures for continuation or withdrawal of recognition of State agencies which register apprenticeship programs for Federal purposes.

The Complaint Form—Equal Employment Opportunity in Apprenticeship Programs, ETA Form 9039, is used by applicants and/or apprentices to file a complaint of discrimination with the Department. Since this form expires on February 28, 2013, ETA is seeking an extension of this form without revisions.

II. Review Focus

The Department is particularly interested in comments which:

- 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 submissions of responses.

III. Current Actions

Type of Review: Extension without changes.

Title: Title 29 CFR Part 30, Equal Employment Opportunity in Apprenticeship and Training.

OMB Number: 1205–0224.

Affected Public: Applicants, Apprentices, Sponsors, State Apprenticeship Agencies or Councils, Tribal Governments.

Form(s): ETA Form 9039.

Total Annual Burden Cost for Respondents: $0.00.

Data collection activity	Number of respondents	Frequency	Total responses	Average time per response	Burden hours
30.3	760 New program sponsors with 5 or less apprentices in their programs.	1-time basis	760	½ hr./Sponsors	380
30.4	87 New program sponsors with 5 or more apprentices in their programs.	1-time basis	87	1 hr./Sponsors	87
30.5	2,700 Active program sponsors with 5 or more apprentices.	1-time basis	2,700	½ hr./Sponsors	1,350
30.6	50 Existing list of eligibles and public notice.	1-time basis	50	5 hrs./Sponsors	250
30.8	23,600 Active program sponsors	1-time/program	23,600	1 min./Sponsors	393
30.8	27 State Agencies	On occasion	13,160	5 min./Sponsors	1,097
30.11	23,600 Active program sponsors	1 time	23,600	Handout Complaint Procedures.	
ETA 9039 EEO Complaint Form.	50 Applicants/Apprentices	1-time basis	50	½ hr.	25
30.15	30 State Agencies	1-time	Completed In 1978		
30.19	27 State Agencies	Varies			
Totals	23,676		40,407		3,582

Total Respondents: 23,677 = (23,600 Program Sponsors + 27 State Agencies + 50 Applicants/Apprentices).

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they will also become a matter of public record.

Dated: Signed in Washington, DC, on this 3rd day of October, 2012.

Jane Oates,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2012–28738 Filed 11–26–12; 8:45 am]

BILLING CODE 4510–FR–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Centennial Challenges 2013 Sample Return Robot Challenge

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice .

NOTICE: (12–103).

SUMMARY: This notice is issued in accordance with 51 U.S.C. 20144(c). The 2013 Sample Return Robot Challenge is scheduled and teams that wish to compete may register. Centennial Challenges is a program of prize competitions to stimulate innovation in technologies of interest and value to NASA and the nation. The 2013 Sample Return Robot Challenge is a prize competition designed to encourage development of new technologies or application of existing technologies in unique ways to create robots that can autonomously seek out samples and return to a designated point in a set time period. Worcester Polytechnic Institute (WPI) of Worcester, Massachusetts administers the Challenge for NASA. NASA is providing the prize purse.

DATES: 2013 Sample Return Robot Challenge will be held June 4–7, 2013.

ADDRESSES: 2013 Sample Return Robot Challenge will be conducted at Worcester Polytechnic Institute, Worcester, MA.

FOR FURTHER INFORMATION CONTACT: To register for or get additional information regarding the 2013 Sample Return Robot Challenge, please visit: *http://challenge.wpi.edu.*

For general information on the NASA Centennial Challenges Program please visit: *www.nasa.gov/challenges.* General questions and comments regarding the program should be addressed to Dr. Larry Cooper, Centennial Challenges Program, NASA Headquarters 300 E Street SW., Washington, DC, 20546–0001. Email address: *larry.p.cooper@nasa.gov.*

SUPPLEMENTARY INFORMATION:

Summary

Autonomous robot rovers will seek out samples and return them to a designated point in a set time period. Samples will be randomly placed throughout the roving area. They may be placed close to obstacles, both movable and immovable. Robots will be required to navigate over unknown terrain, around obstacles, and in varied lighting conditions to identify, retrieve, and return these samples. Winners will be determined based on the number of samples returned to the designated collection point as well as the value assigned to the samples.

I. Prize Amounts

The total Sample Return Robot Challenge purse is $1,500,000 (one million five hundred thousand U.S. dollars). Prizes will be offered for entries that meet specific requirements detailed in the Rules.

II. Eligibility

To be eligible to win a prize, competitors must (1) register and comply with all requirements in the rules and team agreement; (2) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and (3) shall not be a Federal entity or Federal employee acting within the scope of their employment.

III. Rules

The complete rules and team agreement for the 2013 Sample Return Robot Challenge can be found at: *http://challenge.wpi.edu*

Dated: November 20, 2012.

Michael J. Gazarik,

Director, Space Technology Program, National Aeronautics and Space Administration.

[FR Doc. 2012–28732 Filed 11–26–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before December 27, 2012. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, Records Management Services (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1799. Email: *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this

accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Defense, Defense Logistics Agency (N1–361–10–2, 1 item, 1 temporary item). Master files of an electronic information system containing reference copies of material safety data sheets and transportation and logistical information related to handling hazardous materials

2. Department of Homeland Security, U.S. Immigration and Customs Enforcement (N1–567–12–1, 1 item, 1 temporary item). Master files of an electronic information system used for financial data analysis and reporting.

3. Department of the Interior, Bureau of Land Management (N1–49–11–1, 1 item, 1 temporary item). Records documenting compliance with Federal information technology laws and regulations.

4. Department of State, Bureau of Diplomatic Security (DAA–0059–2012–0001, 6 items, 6 temporary items). Records of the Office of Domestic Facilities Protection documenting the application, authorization, and implementation of personnel identification cards, administrative records related to agents credentials, personnel services and contractors, property receipt and survey records, and master files of electronic information systems used to store facility security information and create access profiles for individuals with access to department domestic facilities.

5. Department of State, Bureau of Educational and Cultural Affairs (DAA–0059–2012–0009, 3 items, 3 temporary items). Records related to the International Visitor Leadership Program, including project files, grants, and agreement files.

6. Department of Transportation, Federal Transit Administration (N1–408–12–1, 1 item, 1 temporary item). Master files of an electronic information system related to grants management.

7. Department of Veterans Affairs, Veterans Health Administration (N1–15–12–01, 1 item, 1 temporary item). Records related to quality control of tissue transplantation activities.

8. Office of the Director of National Intelligence, Public Affairs Office (N1–576–11–4, 14 items, 8 temporary items). Records include invitations for speaking engagements, internal communications, daily news clips, internal and external Web page material, review logs, non-substantive drafts, and reference materials. Proposed for permanent retention are policy and strategic plans, outreach files, press releases, official agency communications, and substantive working papers.

9. Office of Personnel Management, Federal Investigative Services (DAA–0478–2012–0002, 2 items, 2 temporary items). Training manuals, syllabi, textbooks, and other materials used to evaluate and accredit law enforcement training programs.

10. Office of Personnel Management, Federal Investigative Services (DAA–0478–2012–0003, 2 items, 2 temporary items). Master files of an electronic information system used to support background investigations.

Dated: November 19, 2012.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2012–28663 Filed 11–26–12; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Cyberinfrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Cyberinfrastructure (25150).

Date and Time: December 12, 2012—11:30 a.m.–5:30 p.m. December 13, 2012—8:30 a.m.–12:30 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Marc Rigas, Office of the Director, Office of Cyberinfrastructure (OD/OCI), National Science Foundation, 4201 Wilson Blvd., Suite 1145, Arlington, VA 22230, Telephone: 703–292–8970.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities in the CI community. To provide advice to the Director/NSF on issues related to long-range planning.

Agenda: Updates on NSF wide Cyberinfrastructure activities.

Dated: November 21, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–28707 Filed 11–26–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Notice of Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, December 11, 2012.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The two items are open to the public.

MATTER TO BE CONSIDERED:

8453 Special Investigation Report: Wrong-Way Driving.

8431A Highway Accident Report—Highway-Railroad Grade Crossing Collision U.S. Highway 95, Miriam, Nevada June 24, 2011. (RESCHEDULED from 10/30/2012.)

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Friday, December 7, 2012.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov*.

Schedule updates including weather-related cancellations are also available at *www.ntsb.gov*.

FOR MORE INFORMATION CONTACT: Candi Bing, (202) 314–6403 or by email at *bingc@ntsb.gov*.

FOR MEDIA INFORMATION CONTACT: Peter Knudson (202) 314–6219 or by email at *peter.knudson@ntsb.gov*.

Dated: Friday, November 23, 2012.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2012–28846 Filed 11–23–12; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0283]

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 November 1 to November 14, 2012. The last biweekly notice was published on November 13, 2012 (77 FR 67679).

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and is publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0283. You may submit comments by the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0283. 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 NRC–2012–0283 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 is publicly available, by the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0283.
- *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 NRC–2012–0283 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 in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS, and the NRC does not 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 in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC will not 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. NRC regulations are accessible electronically from the NRC Library on the NRC 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 information (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 Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC 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 NRC guidance available on the NRC 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 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 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 PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

Carolina Power and Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant (HNP), Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: October 22, 2012.

Description of amendment request: The proposed amendment would modify Technical Specification (TS) requirements for missed surveillances in Surveillance Requirement (SR) 4.0.3 and TS SR 4.0.1 to address how a SR is met. The changes are consistent with the NRC-approved Industry/Technical Specification Task Force (TSTF) Standard Technical Specifications (STS) change TSTF–358 Revision 6, ''Missed Surveillance Requirements.'' The availability of this TS improvement was published in the **Federal Register** on September 28, 2001, as part of the consolidated line item improvement process.

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?

Response: No.

The proposed change to incorporate the requirements of improved STS SR 3.0.1 into corresponding HNP TS SR 4.0.1, does not affect the design or operation of the plant. The proposed change involves revising the existing HNP TS to be consistent with

NUREG–1431, Revision 4, to facilitate the incorporation of TSTF–358 into the TS. The proposed change involves no technical changes to the existing TS as it merely clarifies how SRs are met. As such, these changes are administrative in nature and do not affect initiators of analyzed events or assumed mitigation of accident or transient events. 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 accident previously evaluated?

Response: No.

The proposed change to incorporate the requirements of improved STS SR 3.0.1 into corresponding HNP TS SR 4.0.1, does not involve a physical alteration to the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The proposed change revises the existing HNP TS to be consistent with NUREG–1431, Revision 4, to clarify how SRs are met and facilitates the incorporation of TSTF–358 for addressing missed surveillances. As such, the proposed change will not impose any new or different requirements or eliminate any existing requirements. 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 change involve a significant reduction in the margin of safety?

Response: No.

The proposed change to incorporate the requirements of improved STS SR 3.0.1 into corresponding HNP TS SR 4.0.1, does not affect plant operation or safety analysis assumptions in any way. The change provides additional clarification on how a surveillance is met and facilitates the incorporation of TSTF–358 for addressing missed surveillances. The change is administrative in nature and does not affect the operation of safety-related systems, structures, or components. 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: David T. Conley, Manager—Senior Counsel—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Acting Branch Chief: Jessie F. Quichocho.

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2 (HBRSEP), Darlington County, South Carolina

Date of amendment request: September 6, 2012.

Description of amendment request: The proposed change will delete Function 14, SG [Steam Generator] Water Level—Low, Coincident with Steam Flow/Feedwater Flow Mismatch, from Technical Specifications Table 3.3.1–1, Reactor Protection System Instrumentation. The licensee has installed median signal selector (MSS) modules during the most recent refueling outage. The installation of MSS modules enables the feedwater control system design to meet the requirements of the Institute of Electrical and Electronics Engineers (IEEE)–279 ''IEEE Standard Criteria for Protection Systems for Nuclear Power Generating Stations'' related to the potential for adverse control and protection system interactions and eliminates the need for the SG Water Level—Low Coincident with Steam Flow/Feedwater Flow Mismatch Reactor Protection System reactor trip function to meet IEEE–279 criteria.

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?

Response: No.

The initiating conditions and assumptions for accidents described in the Updated Final Safety Analyses Report remain as previously analyzed. The proposed change does not introduce a new accident initiator nor does it introduce changes to any existing accident initiators or scenarios described in the Updated Final Safety Analyses Report. The SG Water Level—Low, Coincident with Steam Flow/Feedwater Flow Mismatch reactor trip function is not credited for accident mitigation in any accident analyses described in the Updated Final Safety Analyses Report. The SG Water Level—Low, Coincident with Steam Flow/Feedwater Flow Mismatch reactor trip function was designed to meet the control and protection systems interaction criteria of IEEE–279. The MSS modules prevent adverse control and protection system interaction such that it replaces the need for the SG Water Level—Low, Coincident with Steam Flow/Feedwater Flow Mismatch reactor trip function to satisfy the IEEE–279 requirements. As such, the affected control and protection systems will continue to perform their required functions without adverse interaction, and maintain the capability to shut down the reactor when required on Low—Low Steam Generator water level. The ability to mitigate a loss of heat sink accident previously evaluated is unaffected.

Based on the above, 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 accident previously evaluated?

Response: No.

The substitution of the MSS modules for the SG Water Level—Low, Coincident with Steam Flow/Feedwater Flow Mismatch reactor trip function will not introduce any new failure modes to the required protection functions. The MSS modules only interact with the feedwater control system. The Steam Generator Water Level Low—Low protection function is not affected by this change. Isolation devices upstream of the MSS modules ensure that the Steam Generator Water Level Low—Low protection function is not affected. The MSS modules utilize highly reliable components in a configuration that relies on a minimum of additional equipment. Components used in the MSS modules are of a quality consistent with low failure rates and minimum maintenance requirements, and conform to protection system requirements. Furthermore, the design provides the capability for complete unit testing that provides determination of credible system failures. It is through these features that the overall design of the MSS modules minimizes the occurrence of undetected failures that may exist between test intervals.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the change involve a significant reduction in the margin of safety?

Response: No.

The proposed amendment does not involve revisions to any safety analysis limits or safety system settings that will adversely impact plant safety. The proposed amendment does not alter the functional capabilities assumed in a safety analysis for any system, structure, or component important to the mitigation and control of design bases accident conditions within the facility. Nor does this amendment revise any parameters or operating restrictions that are assumptions of a design basis accident. In addition, the proposed amendment does not affect the ability of safety systems to ensure that the facility can be placed and maintained in a shutdown condition for extended periods of time.

The ability of the Steam Generator Water Level Low—Low reactor trip function credited in the safety analysis to protect against a sudden loss of heat sink event is not affected by the proposed change. Since the Steam Generator Low—Low Level trip is credited alone as providing complete protection for the accident transients that result in low steam generator level, eliminating the SG Water Level—Low, Coincident with Steam Flow/Feedwater Flow

Mismatch reactor trip function will not change any safety analysis conclusion for any analyzed accident described in the Updated Final Safety Analyses Report.

The MSS modules prevent adverse control and protection system interaction such that it replaces the need for the SG Water Level—Low, Coincident with Steam Flow/Feedwater Flow Mismatch reactor trip function and satisfies the IEEE–279 requirements. The proposed change improves the margin of safety since removal of the SG Water Level—Low, Coincident with Steam Flow/Feedwater Flow Mismatch reactor trip function decreases the potential for challenges to plant safety systems. These changes result in a reduction in the potential for unnecessary plant transients.

The Technical Specifications continue to assure that the applicable operating parameters and systems are maintained within the design requirements and safety analysis assumptions. Therefore, the elimination of this trip function will not result in a significant reduction in the margin of safety as defined in the Updated Final Safety Analyses Report or Technical Specifications.

Therefore, the proposed change does not involve a significant reduction in any 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: David T. Conley, Manager—Senior Counsel—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Acting Branch Chief: Jessie F. Quichocho.

Entergy Nuclear Operations, Inc., Docket No. 50–255, Palisades Nuclear Plant, Van Buren County, Michigan

Date of amendment request: September 6, 2012.

Description of amendment request: The proposed amendment would modify Technical Specifications (TS) requirements for inoperable snubbers by adding limiting condition for operation (LCO) 3.0.8. The changes are consistent with Nuclear Regulatory Commission (NRC) approved Technical Specification Task Force (TSTF) Standard Technical Specifications (STS) change TSTF–372, Revision 4. The availability of this TS improvement was published in the **Federal Register** on May 4, 2005 (70 FR 23252), as part of the consolidated line item improvement process (CLIIP).

Basis for proposed no significant hazards consideration determination: The licensee has reviewed the proposed no significant hazards consideration determination published in the **Federal Register** as part of the CLIIP and has concluded that the proposed no significant hazards consideration determination presented in the **Federal Register** notice is applicable to Palisades Nuclear Plant. The analysis of the issue of no significant hazards consideration is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change allows a delay time before declaring supported TS systems inoperable when the associated snubber(s) cannot perform its required safety function. Entrance into Actions or delaying entrance into Actions is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident while relying on the delay time allowed before declaring a TS supported system inoperable and taking its Conditions and Required Actions are no different than the consequences of an accident under the same plant conditions while relying on the existing TS supported system Conditions and Required Actions. Therefore, the consequences of an accident previously evaluated are not significantly increased by this change. Therefore, this 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 accident previously evaluated?

Response: No.

The proposed change allows a delay time before declaring supported TS systems inoperable when the associated snubber(s) cannot perform its required safety function. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. Thus, this 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?

Response: No.

The proposed change allows a delay time before declaring supported TS systems inoperable when the associated snubber(s) cannot perform its required safety function. The proposed change restores an allowance in the pre-ISTS [Improved Standard Technical Specifications] conversion TS that was unintentionally eliminated by the conversion. The pre-ISTS TS were considered to provide an adequate margin of safety for plant operation, as does the post-ISTS conversion TS. Therefore, this 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. William Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Ave., White Plains, NY 10601.

NRC Branch Chief: Robert Carlson.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: September 12, 2012.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 5.5.7, ''Reactor Coolant Pump Flywheel Inspection Program,'' to extend the reactor coolant pump (RCP) motor flywheel examination frequency from the currently approved 10-year examination frequency to an interval not to exceed 20 years, in accordance with NRC-approved Technical Specifications Task Force (TSTF) change traveler TSTF–421–A, Revision 0, ''Revision to RCP Flywheel Inspection Program (WCAP–15666),'' that has been approved generically for the Westinghouse Standard Technical Specifications (STSs), NUREG–1431.

A notice announcing the availability of this proposed TS change using the Consolidated Line Item Improvement Process was published in the **Federal Register** on October 22, 2003 (68 FR 60422). The TSTF–421 model safety evaluation, model no significant hazards consideration (NSHC) determination, and model license amendment request were published in the **Federal Register** on June 24, 2003 (68 FR 37590). In its letter dated September 12, 2012, the licensee affirmed the applicability of the model NSHC determination, which is presented below.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC adopted by the licensee is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change to the RCP flywheel examination frequency does not change the response of the plant to any accidents. The RCP will remain highly reliable and the proposed change will not result in a significant increase in the risk of plant operation. Given the extremely low failure probabilities for

the RCP motor flywheel during normal and accident conditions, the extremely low probability of a loss-of-coolant accident (LOCA) with loss of offsite power (LOOP), and assuming a conditional core damage probability (CCDP) of 1.0 (complete failure of safety systems), the core damage frequency (CDF) and change in risk would still not exceed the NRC's acceptance guidelines contained in RG 1.174 (<1.0E–6 per year). Moreover, considering the uncertainties involved in this evaluation, the risk associated with the postulated failure of an RCP motor flywheel is significantly low. Even if all four RCP motor flywheels are considered in the bounding plant configuration case, the risk is still acceptably low.

The proposed change does not adversely affect accident initiators or precursors, nor alter the design assumptions, conditions, or configuration of the facility, or the manner in which the plant is operated and maintained; alter or prevent the ability of structures, systems, components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits; or affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the type or amount of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposure. The proposed change is consistent with the safety analysis assumptions and resultant consequences. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change in flywheel inspection frequency does not involve any change in the design or operation of the RCP. Nor does the change to examination frequency affect any existing accident scenarios, or create any new or different accident scenarios. Further, the change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or alter the methods governing normal plant operation. In addition, the change does not impose any new or different requirements or eliminate any existing requirements, and does not alter any assumptions made in the safety analysis. The proposed change is consistent with the safety analysis assumptions and current plant operating practice. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by this change. The proposed change will not result in plant operation in a configuration outside of the design basis. The calculated impact on risk is insignificant and meets the acceptance criteria contained in RG 1.174. There are no significant mechanisms for inservice degradation of the RCP flywheel. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis adopted by the licensee 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 requests involve no significant hazards consideration.

Attorney for licensee: Jennifer Post, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Branch Chief: Michael T. Markley.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: September 18, 2012.

Description of amendment request: The proposed amendments would change Technical Specification (TS) Surveillance Requirements 3.8.1.9, 3.8.1.11, 3.8.1.12 and 3.8.1.19 in TS 3.8.1, ''AC Sources-Operating.'' Specifically, the proposed amendments will increase Diesel Generator (DG) acceptable minimum steady state voltage when operating in emergency/isochronous mode.

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 increase of the DG surveillance minimum steady state isochronous voltage does not adversely affect DGs or any other Systems Structures, and Components (SSCs) design function or an analysis that verifies the capability of an SSC to perform its design function. Implementation of the proposed change does neither involve physical work activity to the DGs, nor change the safety function of the diesel generators. This change only affects one of the surveillance criteria to determine acceptable steady state operation of the diesel following simulated or actual load rejection, Loss Of Offsite Power (LOOP), Emergency Core Cooling System (ECCS) initiation and LOOP in conjunction with ECCS signals. As such, the proposed amendment would not change any of the previously evaluated accidents in the FSAR [final safety analysis report]. The DG capability to provide highly reliable and self-contained source of power, in the event of a complete loss of offsite power to the associated 4.16kV bus, for the electrical loads required for a simultaneous shutdown of both reactors remains unaffected. Affected SSCs, operating procedures, and administrative controls do not have the function of preventing or mitigating any of the accidents as described in the FSAR.

The proposed amendment does not adversely affect current plant operation parameters. Therefore, the proposed amendment does not result in a significant increase in the probability or consequences of any previously evaluated accident.

2. Does the proposed amendment create the possibility of a new or different kind of, accident from any accident previously evaluated?

Response: No.

The proposed amendment will not adversely affect the design function or operation of the diesel generators as described in the FSAR. Implementation of this TS change will not require installation of new system component, construction activities, and performance of testing or maintenance that will affect the DGs operation or their ability to perform their design function. Changes in affected surveillance procedures have been made to increase the DG surveillance minimum steady state isochronous voltage from 3793 V to 4000V. This change represents only an increase in the minimum acceptable steady state isochronous voltage and does not affect steps performed within these procedures or any other plant document used to demonstrate DGs capability to perform their design function. Credible new failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing bases of SSES [Susquehanna Steam Electric Station] would not be added by the proposed amendment. As such, the proposed change would not create the possibility of a new or different kind of accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed increase of the DG surveillance minimum steady state isochronous voltage would only adjust minimum acceptable steady state voltage since DGs surveillances historical data have shown minimum steady state voltage above 3793V. This TS change will tighten DGs surveillance steady state voltage acceptable band and lessen the potential adverse effect on degraded grid relays operation. As such, it would represent a conservative increase of the DG surveillance minimum steady state voltage when operating in isochronous (emergency) mode. No changes to the DG surveillance maximum steady state voltage or its surveillance requirements when operating in test (droop) mode will be implemented as part of this proposed amendment.

PPL Susquehanna, LLC operation safety margin is established and maintained through the design of its SSCs, parameters of operation, and component actuation setpoints. The proposed change does not exceed or alter an existing design basis or safety limit as established in the FSAR or the license. Thus, it does not significantly reduce previously existing safety margin.

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: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Branch Chief: Meena K. Khanna.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: September 18, 2012.

Description of amendment request: The proposed amendments would change Surveillance Requirements 3.8.1.19 in Technical Specification (TS) 3.8.1, ''AC Sources-Operating.'' Specifically, the proposed amendments will increase the minimum steady state frequency for Diesel Generator E during the loss of offsite power (LOOP) & Emergency Core Cooling System surveillance.

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. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This LAR [license amendment request] proposes to provide more a restrictive minimum frequency requirement for Diesel Generator E during a LOCA [loss-of-coolant accident]/LOOP surveillance. The minimum steady state frequency would be changing from 2% to approximately 1% below nominal (60Hz).

This change has no influence on the probability or consequences of any accident previously evaluated. The minimum steady state frequency change does not affect the operation of Diesel Generator E or connected equipment. The change only affects the minimum allowable value for the steady state frequency and does not change the actual setting, which is the setting that protects the Diesel Generator loads.

This change does not affect the probability or consequences of an accident previously evaluated because the proposed change does not make a change to any accident initiator, initiating condition, or assumption. The proposed action does not involve physical changes to the Diesel Generator, nor does it change the safety function of the Diesel Generator.

The proposed TS revision involves no significant changes to the operation of any systems or components in normal or accident operating conditions and no changes to existing structures, systems, or components.

The proposed action does not change any other behavior or operation of any Diesel Generator, and, therefore, has no significant impact on reactor operation. It also has no significant impact on response to any perturbation of reactor operation including transients and accidents previously analyzed in the Final Safety Analysis Report (FSAR).

Therefore, the proposed amendment does not result in a significant increase in the probability or consequences of any previously evaluated accident.

2. Do the proposed changes create the possibility of a new or different kind of, accident from any accident previously evaluated?

Response: No.

The proposed increase in the minimum steady state frequency only affects the minimum allowable value, and not the steady state frequency setpoint.

The proposed minimum steady state frequency does not adversely affect the operation of any safety-related components or equipment. Since the proposed action does not involve hardware changes, significant changes to the operation of any systems or components, nor change to existing structures, systems, or components, there is no possibility that a new or different kind of accident is created.

The proposed change does not involve physical changes to Diesel Generator E, nor does it change the safety function of Diesel Generator E. The proposed change does not require any physical change or alteration of any existing plant equipment. No new or different equipment is being installed, and installed equipment is not being operated in a new or different manner. There is no alteration to the parameters within which the plant is normally operated. This change does not alter the manner in which equipment operation is initiated, nor will the functional demands on credited equipment be changed. No alterations in the procedures that ensure the plant remains within analyzed limits are being proposed, and no changes are being made to the procedures relied upon to respond to an off-normal event as described in the FSAR. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed increase in the minimum steady state frequency only affects the minimum allowable value, and not the actual steady state frequency nominal setpoint, which will remain at 60 Hz. The increase in the minimum steady state frequency is a change to increase conservatism.

The margin of safety is established through the design of the plant structures, systems, and components, the parameters within which the plant is operated, and the establishment of the setpoints for the actuation of equipment relied upon to respond to an event. The proposed change does not significantly impact the condition or performance of structures, systems, and components relied upon for accident mitigation. The proposed change does not reduce the margin of safety that exists in the present Technical Specifications or the Final Safety Analysis Report.

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: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Branch Chief: Meena K. Khanna.

Southern Nuclear Operating Company Docket Nos.: 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: September 28, 2012.

Description of amendment request: The proposed change would amend Combined License Nos.: NPF–91 and

NPF–92 for Vogtle Electric Generating Plant (VEGP) Units 3 and 4, respectively, by adding four non-Class 1E containment electrical penetration assemblies (EPAs). Containment EPAs are a passive extension of containment which provide the passage of the electric conductors through a single aperture in the nuclear containment structure, while providing a pressure barrier between the inside and the outside of the containment structure.

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 additional containment EPAs are a passive extension of containment and provide a pathway for passage of non-Class 1E electrical conductors between the Auxiliary Building and Containment. The proposed containment EPAs are similar in form, fit and function to the current non-Class 1E containment EPAs. The maximum allowable leakage rate allowed by Technical Specifications is unchanged by this activity. The new EPAs will meet the same design function as current EPAs.

Therefore, the proposed activity 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.

The proposed containment EPAs are similar in form, fit, and function to the current non-Class 1E containment EPAs. The new EPAs will meet the same design function as current EPAs. Because the new EPAs are virtually identical in design and function to the current EPAs, no new type of failure modes exist.

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 a margin of safety?

Response: No.

The proposed containment EPAs are similar in form, fit and function to the current non-Class 1E containment EPAs. The additional EPAs are an engineered passive extension of containment, and, therefore, do not affect containment or its ability to perform its design function. The addition of the new EPAs does not exceed or alter a design basis or safety limit.

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. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Mark E. Tonacci.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant (BFN), Units 1, 2, and 3, Limestone County, Alabama

Date of amendment request: August 28, 2012 (TS–475).

Description of amendment request: The proposed amendment would allow the licensee to delete the references to Section XI of the American Society of Mechanical Engineers Code (ASME Code) and add references to the ASME Code Operation and Maintenance of Nuclear Power Plants to Section 5.5.6 to the Technical Specifications (TSs). More specifically, the revision will allow the application of a 25 percent extension of surveillance interval to the accelerated frequencies used in the Inservice Test (IST) program.

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?

Response: No.

The proposed change revises BFN, Units 1, 2, and 3, TS 5.5.6, Inservice Testing Program, for consistency with the requirements of 10 CFR 50.55a(f)(4) for pumps and valves, which are classified as American Society of Mechanical Engineers (ASME) Code Class 1, Class 2, and Class 3. The proposed change incorporates revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves. The proposed change also includes an administrative change to include application of the allowances provided by TS Surveillance Requirement (SR) 3.0.2 for IST SR frequencies of 2 years or less.

The proposed change does not impact any accident initiators or analyzed events or assumed mitigation of accident or transient events. The proposed change does not involve the addition or removal of any equipment, or any design changes to the facility. Therefore, this proposed change does not represent 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 accident previously evaluated?

Response: No.

The proposed change revises BFN, Units 1, 2, and 3, TS 5.5.6, Inservice Testing Program, for consistency with the requirements of 10 CFR 50.55a(f)(4) for pumps and valves, which are classified as American Society of Mechanical Engineers (ASME) Code Class 1, Class 2, and Class 3. The proposed change incorporates revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves. The proposed change also includes an administrative change to include application of the allowances provided by TS Surveillance Requirement (SR) 3.0.2 for IST SR frequencies of 2 years or less.

The proposed change does not involve a modification to the physical configuration of the plant (i.e., no new equipment will be installed) or change in the methods governing normal plant operation. The proposed change will not impose any new or different requirements or introduce a new accident initiator, accident precursor, or malfunction mechanism. Additionally, there is no change in the types or increases in the amounts of any effluent that may be released off-site, and there is no increase in individual or cumulative occupational exposure. Therefore, this proposed change does not create the possibility of an accident of a different kind than previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises BFN, Units 1, 2, and 3, TS 5.5.6, Inservice Testing Program, for consistency with the requirements of 10 CFR 50.55a(f)(4) for pumps and valves, which are classified as American Society of Mechanical Engineers (ASME) Code Class 1, Class 2, and Class 3. The proposed change incorporates revisions to the ASME Code that result in a net improvement in the measures for testing pumps and valves. The proposed change also includes an administrative change to include application of the allowances provided by TS Surveillance Requirement (SR) 3.0.2 for IST SR frequencies of 2 years or less. The safety function of the affected pumps and valves are maintained. Therefore, this 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: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Acting Branch Chief: Jessie F. Quichocho.

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 Commission'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.*

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: June 22, 2012. A publicly available version is available at ADAMS Accession No. ML12184A047.

Brief description of amendment: The amendment revised the Cyber Security Plan Implementation Schedule as approved in license amendment issued on July 20, 2011 (ADAMS Accession No. ML11152A043).

Date of issuance: November 13, 2012.

Effective date: This license amendment is effective as of the date of its issuance and shall be implemented by December 31, 2012.

Amendment No.: 238.

Facility Operating License No. DPR–35: The amendment revised the License.

Date of initial notice in ***Federal Register:*** September 11, 2012 (77 FR 55870).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 13, 2012.

No significant hazards consideration comments received: No.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: July 2, 2012. A publicly available version is available at ADAMS Accession No. ML121910298.

Brief description of amendment: The amendments revised the Cyber Security Plan Implementation Schedule as approved in license amendment issued on July 20, 2011 (ADAMS Accession No. ML11152A013).

Date of Issuance: November 13, 2012.

Effective date: This license amendment is effective as of the date of its issuance and shall be implemented by December 31, 2012.

Amendment No.: 251.

Renewed Facility Operating License No. DPR–28: The amendment revised the License.

Date of initial notice in ***Federal Register:*** September 11, 2012 (77 FR 55870).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated November 13, 2012.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Station (TPN), Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of application for amendments: April 30, 2012, as supplemented by letters dated October 10 and 18, 2012.

Brief description of amendments: The amendments revised Technical Specification (TS) 6.8.4.j, ''Steam Generator (SG) Program,'' and TS 6.9.1.8, ''Steam Generator Tube Inspection Report.'' The changes establish permanent SG tube alternate repair criteria for tubing flaws located in the lower region of the tubesheet and accompanying inspection and reporting requirements. The alternate repair criteria replace previous temporary alternate repair criteria and accompanying inspection and reporting requirements for TPN Unit Nos. 3 and 4.

Date of issuance: November 5, 2012.

Effective date: As of the date of issuance and shall be implemented prior to entering COLD SHUTDOWN conditions for refueling outage 27.

Amendment Nos.: Unit No. 3–254 and Unit No. 4–250.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** August 7, 2012 (77 FR 47126). The supplements dated October 10 and 18, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 5, 2012.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Station, Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of application for amendments: July 16, 2012, as supplemented by letter dated August 10, 2012.

Brief description of amendments: The amendments revised Technical Specification (TS) ¾.4.5, ''Steam Generator (SG) Tube Integrity,'' TS 6.8.4.j, ''Steam Generator (SG) Program,'' and TS 6.9.1.8, ''Steam Generator Tube Inspection Report,'' in accordance with TS Task Force Traveler (TSTF)–510, ''Revision to Steam Generator Program Inspection

Frequencies and Tube Sample Selection.''

Date of issuance: November 6, 2012.

Effective date: As of the date of issuance and shall be implemented within 7 days.

Amendment Nos.: Unit No. 3–255 and Unit No. 4–251.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** September 4, 2012 (77 FR 53929).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 6, 2012.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of application for amendments: August 7, 2012.

Brief description of amendments: The amendments modified Technical Specification (TS) 3.7.5, ''Control Room Emergency Ventilation System.'' The proposed TS change added a footnote that modifies system requirements for operations during MODES 5 and 6.

Date of issuance: November 5, 2012.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: Unit No. 3–253 and Unit No. 4–249.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** October 2, 2012 (77 FR 60151).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 5, 2012.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 30, 2012, as supplemented by letters dated October 3 and 31, 2012.

Brief description of amendment: The amendment modified Technical Specification (TS) Section 2.0, ''Safety Limits,'' by revising the two recirculation loop and single recirculation loop safety limit Minimum Critical Power Ratio (MCPR) values to reflect results of a cycle-specific calculation. Specifically, the amendment revised the safety limit in TS 2.1.1.2 by changing the value of MCPR for two-loop operation from ≥ 1.10 to ≥ 1.11 and the value of MCPR for single-loop operation from ≥ 1.12 to ≥ 1.13.

Date of issuance: November 9, 2012.

Effective date: As of the date of issuance and shall be implemented prior to startup from Refueling Outage RE27.

Amendment No.: 243.

Renewed Facility Operating License No. DPR–46: Amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** August 7, 2012 (77 FR 47127). It was re-noticed in the **Federal Register** on November 5, 2012 (77 FR 66489). The supplemental letters dated October 3 and 31, 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**. The second notice also provided an opportunity to request a hearing by January 4, 2013, but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are contained in a Safety Evaluation dated November 9, 2012.

No significant hazards consideration comments received: No.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: June 20, 2012.

Description of amendment request: The amendment revised the scope of the Cyber Security Plan Implementation Schedule Milestone #6 and the existing license condition in the facility operating license.

Date of issuance: November 2, 2012.

Effective date: As of its date of issuance and shall be implemented within 30 days.

Amendment No.: 132.

Facility Operating License No. NPF–86: The amendment revised the License.

Date of initial notice in ***Federal Register:*** August 14, 2012 (77 FR 48560).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 2, 2012.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc. Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: February 14, 2012, and revised on March 12, 2012, and supplemented by letter dated August 9, 2012.

Brief description of amendment: The amendment revised the Vogtle Units 3 and 4 plant-specific design control document Figure 3.8.3–8, Sheet 1, Note 2 by revising the structural module shear stud size and spacing requirements.

Date of issuance: November 6, 2012.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: Unit 3–3, and Unit 4–3.

Facility Combined Licenses No. NPF–91 and NPF–92: Amendment revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register:*** April 17, 2012 (77 FR 22817).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 6, 2012.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 16th day of November 2012.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–28566 Filed 11–23–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0285]

Regulatory Guide 1.182, ''Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or Commission), is withdrawing Regulatory Guide (RG)1.182, Revision (Rev.) 0, ''Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants,'' published in May 2000. The document is redundant due to the inclusion of its subject matter in Rev. 3 of RG 1.160, ''Monitoring the Effectiveness of Maintenance at Nuclear Power Plants.''

ADDRESSES: Please refer to Docket ID NRC–2012–0285 when contacting the

NRC about the availability of information on this document. You may access information related to this document, which the NRC possesses and are publicly available, using any of the following methods:

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0285. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

• NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

• NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Aron Lewin, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–2259, email to *Aron.Lewin@nrc.gov* or Rick Jervey, telephone: 301–251–7404, email to *Richard.Jervey@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is withdrawing RG 1.182, Rev. 0, ''Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants,'' published in May 2000. The requirements in 10 CFR 50.65 address the requirements for monitoring the effectiveness of maintenance at nuclear power plants. RG 1.160, Rev. 2, ''Monitoring the Effectiveness of Maintenance at Nuclear Power Plants,'' dated March 1997, described methods which are acceptable to the NRC staff for complying with the provisions of 10 CFR 50.65 at that time. In 1999, the NRC amended 10 CFR 50.65 to include a new requirement in paragraph (a)(4) that the licensee manage and assess risk prior to conducting maintenance. The NRC issued RG 1.182 to identify methods that are acceptable to the NRC staff for implementing the provisions of 10 CFR 50.65 associated with managing and assessing the risk of maintenance activities, in lieu of revising RG 1.160 Rev. 2.

The NRC has now revised RG 1.160, (Rev. 3) to include the guidance in RG 1.182 on acceptable methods to meet the provisions of 10 CFR 50.65(a)(4) associated with managing and assessing risk. RG 1.160, Rev. 3 was issued on May 21, 2012 (77 FR 30030). Therefore, RG 1.182 is no longer needed, as the guidance in Regulatory Guide 1.182 is already contained in Regulatory Guide 1.160. The withdrawal of RG 1.182 does not alter any prior or existing licensing commitments or conditions based on its use or reference.

II. Additional Information

The withdrawal of RG 1.182 does not alter any prior or existing licensing commitments based on its use. The guidance provided in this RG is no longer necessary. Regulatory guides may be withdrawn when their guidance no longer provides useful information, or is superseded by technological innovations, congressional actions, or other events.

Regulatory guides are revised for a variety of reasons and the withdrawal of an RG should be thought of as the final revision of the guide. Although an RG is withdrawn, current licensees may continue to use it, and withdrawal does not affect any existing licenses or agreements. Withdrawal of a guide means that the guide should not be used for future NRC licensing activities. However, although a regulatory guide is withdrawn, changes to existing licenses can be accomplished using other regulatory products.

Regulatory guides and publicly available NRC documents are available on line in the NRC Library at: *http://www.nrc.gov/reading-rm/doc-collections/.* The documents can also be viewed online for free or printed for a fee in the NRC's PDR at 11555 Rockville Pike, Rockville, MD; the mailing address is USNRC PDR, Washington, DC 20555–0001; telephone: 301–415–4737, or 1–800–397–4209; fax 301–415–3548; or by email to *PDR.Resource@nrc.gov.* Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Regulatory Guide 1.182 is a rule as designated in the Congressional Review Act (5 USC 801–808). However, withdrawal of this regulatory guide is not a change in a rule under the Congressional Review Act, inasmuch as the guidance in Regulatory Guide 1.182 is also provided in Regulatory Guide 1.160, Rev. 3, which continues to be effective.

III. Backfitting and Issue Finality

The withdrawal of RG 1.182 does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR Part 52. As discussed above under ''Further Information,'' withdrawal of RG 1.182 does not alter the acceptability of the guidance contained in that RG on compliance with 10 CFR 50.65(a)(4), inasmuch as that guidance is now contained in RG 1.160, Revision 3. There is no change in NRC [staff's] position on the acceptability of the guidance formerly included in RG 1.182, which is now included in RG 1.160, Rev. 3.

Dated at Rockville, Maryland, this 16th day of November, 2012.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Branch Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2012–28719 Filed 11–26–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–247; NRC–2012–0284]

Entergy Nuclear Indian Point 2, LLC; Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Unit No. 2, Request for Action

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for Action; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is giving notice that by petition dated April 16, 2012; the Natural Resources Defense Council, Inc. (the petitioner) has requested that the NRC take action with regard to Indian Point Nuclear Generating Unit No. 2. The petitioner's requests are included in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Please refer to Docket ID NRC–2012–0284 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 is publicly available, using the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0284. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov*. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION:

On April 16, 2012, the petitioner requested that the NRC take action with regard to Indian Point Nuclear Generating Unit No. 2. The petitioner requests that the NRC order the licensee of Indian Point Nuclear Generating Unit No. 2 to remove the passive autocatalytic recombiners (PARs) because the PAR system could have unintended ignitions in the event of a severe accident, which, in turn, could cause a hydrogen detonation. As the basis for this request, the petitioner references experimental data where PARs malfunction in environments containing high concentrations of combustible gases by having ignitions. The petitioner asserts that the PARs could be overwhelmed by the production of hydrogen following a severe reactor accident and a resulting ignition could lead to a detonation that challenges the structural integrity of the containment structure.

The request is being treated pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 2.206, ''Requests for Action Under this Subpart,'' of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation (NRR). As provided by 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time. The petitioner met with the NRR petition review board on June 14 (transcript at ADAMS Accession No. ML12300A412) and September 12, 2012 (transcript at ADAMS Accession No. ML12300A428), to discuss the petition. The results of that discussion were considered in the board's determination regarding the petitioner's request for action and in establishing the schedule for the review of the petition. A copy of the petition is available for inspection under ADAMS Accession No. ML12108A052.

Dated at Rockville, Maryland, this 16th day of November 2012.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–28718 Filed 11–26–12; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Renewal: Information Collection 3206–0150; Fingerprint Chart Standard Form 87 (SF 87)

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: Federal Investigative Services (FIS), U. S. Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an expiring information collection request (ICR), Office of Management and Budget (OMB) Control No. 3206–0150, Fingerprint Chart Standard Form 87 (SF 87). As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

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 submissions of responses.

DATES: Comments are encouraged and will be accepted until January 28, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Federal Investigative Services, U.S. Office of Personnel Management, 1900 E. Street NW., Washington, DC 20415, Attention: Donna McLeod or sent via electronic mail to *FISFormsComments@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Federal Investigative Services, U.S. Office of Personnel Management, 1900 E. Street NW., Washington, DC 20415, Attention: Michele DeMarion or sent via electronic mail to *FISFormsComments@opm.gov.*

SUPPLEMENTARY INFORMATION: The SF 87 is a fingerprint card, which is utilized to conduct a national criminal history check, which is a component of the background investigation. The SF 87 is completed by applicants who are under consideration for Federal or Federal contract employment, or continued such employment, and by persons seeking long-term access to Federal facilities and systems. The SF 87 fingerprint chart is used in background investigations to establish that such persons are eligible for logical and physical access to Government facilities and systems; suitable or fit to perform work for, on behalf of, the Federal Government; suitable for employment or retention in a public trust position, suitable for employment or retention in a national security position, and/or eligible for access to classified national security information. The SF 87 form is only utilized when a hardcopy fingerprint chart must be obtained, as opposed to the electronic collection of fingerprints. Modifications to the SF 87 include the addition of three blocks, Submitting Office Number (SON), Security Office Identifier (SOI) and Intra-Government Payment and Collection Code (IPAC) and the removal of the printed ORI number, USOPMOOOZ–FIPC Boyer, PA. The addition of the SON, SOI and IPAC blocks support billing and processing enhancements. The printed ORI number is no longer necessary because SF 87 forms are converted to images and transmitted to the FBI electronically.

Because OPM is eliminating the printed ORI number, a separate collection that does not have an ORI number, the SF 87A is redundant. Accordingly, OPM is eliminating the SF 87A form.

Due to the SF 87 form's small size and the fact that it may be maintained in multiple systems of records, it does not list all potentially applicable routine

uses under the Privacy Act. Accordingly 5 U.S.C. 552a(e)(3)(C) requires that an agency issuing the SF 87 form must also give the subject a copy of the routine uses for the applicable system of records.

It is estimated that 210,533 SF 87 forms are provided to individuals annually. The SF 87 takes approximately 5 minutes to complete. The estimated annual burden is 17,544 hours.

The 2009 OMB Terms of Clearance required an accurate reflection of the number of people who incur a cost for submitting their fingerprints to federal agencies and the total cost per annum. Calculations derived from Federal agency survey data and OPM data estimated that, at a maximum, 52,633 forms are submitted to federal agencies annually by individuals, who may incur a financial burden to obtain fingerprints at local police departments, when security offices are unable to conduct the fingerprinting. The estimated individual financial burden is $17.00. The estimated maximum annual financial burden is $894,765.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2012–28735 Filed 11–26–12; 8:45 am]

BILLING CODE 6325–53P

POSTAL REGULATORY COMMISSION

[Docket No. R2013–2; Order No.1550]

International Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning a Type 2 rate adjustment in conjunction with a mail contract with China Post. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments Are Due:* November 29, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filing
III. Ordering Paragraphs

I. Introduction

Background. On November 15, 2012, the Postal Service filed a notice, pursuant to 39 CFR 3010.40 *et seq.,* announcing a Type 2 rate adjustment in conjunction with a new negotiated service agreement.[1] The Notice concerns the inbound portion of a Multi-Product Bilateral Agreement with China Post Group (Agreement), which the Postal Service seeks to include within the existing Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. Notice at 1.

Contract history and scope. The Agreement is a successor to the existing China Post 2011 Agreement, which was included within Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 by operation of Order No. 871. *Id.* at 2. Rates under the Agreement are intended to take effect January 1, 2013 following expiration, on December 31, 2012, of rates now in effect under the China Post 2011 Agreement. *Id.* at 3. The Agreement pertains only to inbound market dominant rates; rates paid by the Postal Service to China Post Group for outbound delivery of Postal Service products in China are not in included. *Id.* at 6.

Applicable rules. Subpart D of 39 CFR 3010 addresses rate adjustments for negotiated service agreements (Type 2 adjustments). The rules in this subpart specify, among other things, the scope and nature of the data, information, and explanations the Postal Service is to provide in a notice of Type 2 rate adjustment; the action the Commission is to take upon receipt of such Notice; and the nature of Commission review. *See* 39 CFR 3010.42 through 3010.44.

II. Notice of Filing

Compliance with filing requirements. The Postal Service's filing consists of the Notice, two attachments, and a public Excel file. Attachment 1 to the Notice is an application for non-public treatment of material filed under seal with the Commission (Application).[2] This material consists of the unredacted text of the Agreement and unredacted supporting financial documentation. *Id.* at 2. Attachment 2 is a redacted copy of the China Post 2013 Agreement. *Id.* The public Excel file is a redacted version of the supporting financial documentation. *Id.*

The Postal Service identifies January 1, 2013 as the effective date; asserts that the requisite 45 days' advance notice is being provided; and identifies a Postal Service official as a contact for further information. *Id.* at 3. It identifies the parties to the Agreement as the United States Postal Service and China Post Group, the postal operator for China. *Id.* at 4. It states that the Agreement includes delivery confirmation scanning for Letter Post small packets, a service also included in the China Post 2010 and China Post 2011 Agreements. *Id.*

The Postal Service states that information about expected financial improvements, costs, volumes, and revenues in financial workpapers has been filed with the Commission under seal. *Id.* It identifies two components of the Agreement that are expected to enhance operational performance: continuation of delivery confirmation service for Letter Post small packets and use of business rules for international mail settlement. *Id.* at 4–5.

The Postal Service presents several reasons why the instant Agreement will not result in unreasonable harm to the marketplace, including China Post Group's status as the only entity in a position to avail itself of an agreement of this type and the role of the Postal Service and China Post Group as their countries' designated operators for exchange of mail. *Id.* at 5–6.

Rule 3010.43—data collection plan. Rule 3010.43 requires the Postal Service to submit a detailed data collection plan. In lieu of a special data collection for the Agreement, the Postal Service states that it intends to provide information via the Annual Compliance Report and, pursuant to this alternative, to provide any necessary information about mail flows from China in the course of the annual review process. *Id.* at 7. The Postal Service further asks that the Commission except the Agreement from the separate performance reporting requirement under 39 CFR 3055.3(a)(3). *Id.* It notes that the Commission has granted such exceptions for similar agreements.[3]

Consistency with applicable statutory criteria. The Postal Service observes that Commission review of a negotiated service agreement addresses three statutory criteria: whether the agreement (1) improves the Postal Service's net financial position or enhances the

[1] Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, November 15, 2012 (Notice).

[2] The Application was filed pursuant to 39 CFR 3007.21. *See* Notice at 12.

[3] The Postal Service cites exceptions granted for the China Post 2010 Agreement, the TNT Agreement, the Hongkong Post 2011 Agreement, and the China Post 2011 Agreement. *Id.*

performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly-situated mailers. *Id.* at 7–8 (citing 39 U.S.C. 3622(c)(10)). The Postal Service asserts that it addresses the first two criteria in its Notice and that the third is inapplicable, as there are no similarly situated mailers. *Id.* at 8.

Functional equivalency. The Postal Service asserts that the Agreement is functionally equivalent to the China Post 2010 Agreement, the TNT Agreement, and the Hongkong Post 2011 Agreement because its terms fit within the proposed Mail Classification Schedule (MCS) language for Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1. *Id.* It therefore states that the Agreement, along with the referenced agreements, conform to a common description. *Id.* at 8–9. The Postal Service also asserts that all four agreements are constructed from a similar template; contain many similar terms and conditions; provide rates for Letter Post tendered to the Postal Service from each foreign operator's territory, along with ancillary services to accompany inbound Letter Post; are with a foreign postal operator; and provide comparable benefits. *Id.* at 9. It therefore claims that because the agreements incorporate the same attributes and methodology, the relevant characteristics are similar, if not the same. *Id.*

The Postal Service acknowledges the existence of differences that distinguish the Agreement from previous agreements; identifies new and revised elements with specificity; and briefly describes the nature of the changes.[4] *Id.* at 10–12. However, it asserts that the Agreement is nevertheless functionally equivalent to the previously approved agreements referenced in its Notice, and that the differences do not affect either the fundamental service being offered or the fundamental structure of the contracts. *Id.* at 12.

III. Notice of Proceeding

The Commission, in conformance with rule 3010.44, hereby establishes Docket No. R2013–2 to consider issues raised by the Notice. The Commission invites public comments on whether the Postal Service's filing in the captioned docket is consistent with the policies of 39 U.S.C. 3622 and 39 CFR part 3010.40. Comments are due no later than November 29, 2012.[5]

The public portions of the Postal Service's filing have been posted on the Commission's Web site. They can be accessed at *http://www.prc.gov.* Information on how to obtain access to non-public material is available at 39 CFR 3007.40.

The Commission appoints James F. Callow to serve as Public Representative in this docket.

IV. Ordering paragraphs

It is ordered:

1. The Commission establishes Docket No. R2013–2 to consider matters raised by the Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, filed November 15, 2012.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons in this proceeding are due no later than November 29, 2012.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–28659 Filed 11–26–12; 8:45 am]

BILLING CODE 7710–FW–P

[4] Affected elements include the first paragraph of the Agreement; Articles 1 and 2; Articles 12, 14, 16, 22 and 23; names of the signatories; and Annexes 1 through 5. Article 2 is a new element addressing Guiding Principles; therefore, successive articles have been renumbered. Changes include, for example, updates to a street address, contact information, Web sites and label samples; revisions to the stated purposes of the Agreement; and rephrasing of indemnification and liability provisions.

[5] To provide sufficient time for interested persons to comment in these proceedings, the Commission finds it appropriate to modify the 10-day comment period specified in 39 CFR 3010.44(a)(5). The modest extension will not prejudice either party to the agreement, given that 45 days' advance notice is provided in Type 2 rate adjustments.

POSTAL REGULATORY COMMISSION

[Docket No. R2013–4; Order No.1552]

International Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning a Type 2 rate adjustment in conjunction with a mail contract with the postal operator of the Netherlands. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 29, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Filing
III. Notice of Proceeding
IV. Ordering Paragraphs

I. Introduction

Background. On November 15, 2012, the Postal Service filed a notice, pursuant to 39 CFR 3010.40 *et seq.,* announcing a Type 2 rate adjustment in conjunction with a new negotiated service agreement.[1] The Notice concerns the inbound portion of a bilateral agreement with Royal PostNL BV (PostNL) (Agreement), which the Postal Service seeks to include within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators (Docket Nos. MC2010–35, R2010–5 and R2010–6) product. Notice at 1.

Rates under the Agreement are intended to take effect January 1, 2013 following expiration of rates in the existing TNT Agreement. *Id.* at 3.

Contract history. The Agreement is a successor to the TNT Agreement, which was added by operation of Order No. 549 in Docket Nos. MC2010–35, R2010–5, and R2010–6. Both the instant Agreement and the TNT Agreement are with the postal operator of the Netherlands, however, the Postal Service's contracting partner in the TNT Agreement was TNT Post, a subsidiary of the postal operator for the Netherlands, while the instant Agreement is with PostNL, the current postal operator of the Netherlands. *Id.* at 10.

Applicable rules. 39 CFR 3010 subpart D addresses rate adjustments for negotiated service agreements (Type 2 rate adjustments). The rules in this subpart specify, among other things, the scope and nature of the data,

[1] Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, November 15, 2012 (Notice).

information, and explanations the Postal Service is to provide in a notice of Type 2 rate adjustment; the action the Commission is to take upon receipt of such Notice; and the nature of Commission review. *See* 39 CFR 3010.42 through 3010.44.

II. Notice of Filing

Compliance with filing requirements. The Postal Service's filing consists of the Notice, two attachments, and a public Excel file. Attachment 1 is an application for non-public treatment of material filed under seal with the Commission (Application).[2] This material consists of the unredacted text of the Agreement and unredacted supporting financial documentation. *Id.* at 2. Attachment 2 is a redacted copy of the Agreement. The public Excel file is a redacted version of the supporting financial documentation. *Id.*

The Postal Service identifies January 1, 2013 as the effective date; asserts that the requisite 45 days' advance notice is being provided; and identifies a Postal Service official as a contact for further information. *Id.* at 3. It identifies the parties to the Agreement as the United States Postal Service and PostNL, the postal operator for the Netherlands. *Id.* at 4. It states that the Agreement includes inbound Letter Post in the form of letters, flats, small packets, bags, and International Registered Mail service for Letter Post.

The Postal Service states that workpapers filed with the Commission under seal provide information about expected financial improvements, costs, volumes, and revenues. *Id.* It identifies three aspects of the Agreement expected to enhance performance: an anticipated revision to accounting business rules related to changes in settlement; encouragement of incentives for optional activities, such as sortation or separation changes; and identification of suggested Office of Exchange Routing Details and information about the Offices of Exchange for entry of Registered Mail. *Id.* at 4–5.

The Postal Service cites several reasons why the Agreement will not result in unreasonable harm to the marketplace. These include, among others, PostNL's dominant position in the market for Letter Post originating in its home country; Private Express Statutes (in the United States) that generally prohibit entities other than the Postal Service from carrying inbound international letters commercially after entry at a United States port, at least below certain price and weight thresholds; and the parties' status as their respective countries' designated operators for the exchange of mail, including Letter Post, under rules set by the Universal Postal Union. *Id.* at 5–6.

Rule 3010.43—data collection plan. Rule 3010.43 requires the Postal Service to submit a detailed data collection plan. In lieu of a special data collection for the Agreement, the Postal Service states that it intends to provide information via the Annual Compliance Report and, pursuant to this alternative, to provide any necessary information about mail flows from PostNL in the course of the annual review process. *Id.* at 7. The Postal Service further asks that the Commission except the Agreement from the separate performance reporting requirement under 39 CFR 3055.3(a)(3) on grounds that the Agreement covers ''merely a grouping of other products already being measured.'' *Id.* It notes that the Commission has granted such exceptions for similar agreements.[3]

Consistency with applicable statutory criteria. The Postal Service observes that Commission review of a negotiated service agreement addresses three statutory criteria: whether the agreement (1) improves the Postal Service's net financial position or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly-situated mailers. *Id.* at 8 (citing 39 U.S.C. 3622(c)(10)). The Postal Service asserts that it addresses the first two criteria in its Notice and that the third is inapplicable, as there are no entities similarly situated to PostNL in terms of their ability to tender broad-based Letter Post flows from the Netherlands. *Id.*

Functional equivalency. The Postal Service asserts that the Agreement is functionally equivalent to the China Post 2010 Agreement, TNT Agreement, Hongkong Post 2011 Agreement, and China Post 2011 Agreement because its terms fit within the proposed Mail Classification Schedule (MCS) language for Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1. *Id.* at 8–9. It therefore asserts that the Agreement and the four other referenced agreements conform to a common description. *Id.* at 9. The Postal Service also asserts that all five agreements are constructed from a similar template; contain many similar terms and conditions; provide rates for Letter Post tendered to the Postal Service from each foreign operator's territory, along with ancillary services to accompany inbound Letter Post; involve a foreign postal operator; and provide comparable benefits. *Id.* It therefore claims that because the agreements incorporate the same attributes and methodology, the relevant characteristics are similar, if not the same. *Id.*

The Postal Service acknowledges the existence of differences that distinguish the Agreement from previous agreements; uses the TNT Agreement as a basis for comparison for identifying new and revised elements; and briefly describes the nature of the changes.[4] *Id.* at 9–11. However, it asserts that the Agreement is nevertheless functionally equivalent to the previously-approved agreements, and that the differences do not affect either the fundamental service being offered or the fundamental structure of the contracts. *Id.* at 11–12.

Additional matter—blanket performance reporting exception for future contracts. In addition to seeking an exception from the separate performance reporting requirements in rule 3055.3(a)(3) for this Agreement, the Postal Service also asks that the Commission approve a blanket exception for such reporting for all contracts added to the MCS as Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators on grounds that the performance of the products covered by those agreements is already included in the measurement of other products. *Id.* at 12.

III. Notice of Proceeding

The Commission, in conformance with rule 3010.44, hereby establishes Docket No. R2013–4 to consider issues raised by the Notice. The Commission invites public comments on whether the Postal Service's filing in the captioned docket is consistent with the policies of 39 U.S.C. 3622 and 39 CFR part 3010.40. The Commission also invites comments on the Postal Service's request for a blanket exception from performance reporting requirements in 39 CFR 3055.3(a)(3) for all future contracts added to the Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1 (Docket Nos.

[2] The Application was filed pursuant to 39 CFR 3007.21. *See* Notice at 12.

[3] The Postal Service cites exceptions granted for the China Post 2010 Agreement, the TNT Agreement, the Hongkong Post 2011 Agreement, and the China Post 2011 Agreement. *Id.*

[4] In addition to the difference in the identity of the Postal Service's contracting partner in this Agreement, affected elements of the Agreement include Articles 1, 3, 8 through 10, 12, 14, and 22 through 24; the signatories; and Annexes 1 through 3. Changes include, for example, inclusion of addresses for the Postal Service and PostNL; the period the Agreement will remain in effect; and rates. Article 8 is new. Subsequent articles have been renumbered.

MC2010–35, R2010–5, and R2010–6) product.

Comments are due no later than November 29, 2012.[5]

The public portions of the Postal Service's filing have been posted on the Commission's Web site. They can be accessed at *http://www.prc.gov.* Information on how to obtain access to non-public material is available at 39 CFR 3007.40.

The Commission appoints James F. Callow to serve as Public Representative in this docket.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. R2013–4 to consider matters raised by the Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, filed November 15, 2012.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons in this proceeding are due no later than November 29, 2012.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–28661 Filed 11–26–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. R2013–3; Order No.1551]

International Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning a Type 2 rate adjustment in conjunction with a mail contract with Hongkong Post. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 29, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Filing
III. Ordering Paragraphs

I. Introduction

Background. On November 15, 2012, the Postal Service filed a notice, pursuant to 39 CFR 3010.40 *et seq.,* announcing a Type 2 rate adjustment in conjunction with a new negotiated service agreement.[1] The Notice concerns the inbound portion of a bilateral agreement with Hongkong Post (Agreement), which the Postal Service seeks to include within the existing Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. Notice at 1.

Contract history and scope. The Agreement is a successor to the existing Hongkong Post 2012 Agreement, which was included within Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 by operation of Order No. 1058. *Id.* at 2. Rates under the Agreement are intended to take effect January 1, 2013 following expiration, on December 31, 2012, of rates now in effect under the Hongkong Post 2012 Agreement. *Id.* at 3. The Agreement pertains only to inbound market dominant rates; rates paid by the Postal Service to Hongkong Post for outbound delivery of Postal Service products in Hong Kong are not included. *Id.* at 6.

Applicable rules. 39 CFR 3010 subpart D addresses rate adjustments for negotiated service agreements (Type 2 rate adjustments). The rules in this subpart specify, among other things, the scope and nature of the data, information, and explanations the Postal Service is to provide in a notice of Type 2 rate adjustment; the action the Commission is to take upon receipt of such Notice; and the nature of Commission review. *See* 39 CFR 3010.42 through 3010.44.

II. Notice of Filing

Compliance with filing requirements. The Postal Service's filing consists of the Notice, two attachments, and a public Excel file. Attachment 1 to the Notice is an application for non-public treatment of material filed under seal with the Commission (Application).[2] This material consists of the unredacted text of the Agreement and unredacted supporting financial documentation. *Id.* at 2. Attachment 2 is a redacted copy of the Agreement. The public Excel file is a redacted version of the supporting financial documentation. *Id.*

The Postal Service identifies January 1, 2013 as the effective date; asserts that the requisite 45 days' advance notice is being provided; and identifies a Postal Service official as a contact for further information. *Id.* at 3. It identifies the parties to the Agreement as the United States Postal Service and Hongkong Post, the postal operator for Hongkong. *Id.* at 4. It states that the Agreement includes inbound Letter Post, including letters, flats, small packets, bags and International Registered Mail service for Letter Post. *Id.* It also includes an ancillary service for delivery confirmation scanning for Letter Post small packets.[3]

The Postal Service states that information about expected financial improvements, costs, volumes, and revenues in financial workpapers has been filed with the Commission under seal. *Id.* It identifies two components of the Agreement that are expected to enhance operational performance: continuation of delivery confirmation service for Letter Post small packets; and simplification of the display of Letter Post mailstreams. *Id.* at 5.

The Postal Service presents several reasons why the instant Agreement will not result in unreasonable harm to the marketplace, including Hongkong Post's status as the only entity in a position to avail itself of an agreement of this type and the role of the Postal Service and Hongkong Post as their countries' designated operators for exchange of mail. *Id.* at 5–6.

Rule 3010.43—data collection plan. Rule 3010.43 requires the Postal Service to submit a detailed data collection plan. In lieu of a special data collection for the Agreement, the Postal Service states that it intends to provide information via the Annual Compliance Report and, pursuant to this alternative,

[5] To provide sufficient time for interested persons to comment in these proceedings, the Commission finds it appropriate to modify the 10-day comment period specified in 39 CFR 3010.44(a)(5). The modest extension will not prejudice either party to the agreement, given that 45 days' advance notice is provided in Type 2 rate adjustments.

[1] Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, November 15, 2012 (Notice).

[2] The Application was filed pursuant to 39 CFR 3007.21. *See* Notice at 12.

[3] The ancillary service included in the Agreement was also included in the China Post 2010 Agreement, the Hongkong Post 2011 Agreement, and the China Post 2011 Agreement. *Id.*

to provide any necessary information about mail flows from Hongkong Post in the course of the annual review process. *Id.* at 7. The Postal Service further asks that the Commission except the Agreement from the separate performance reporting requirement under 39 CFR 3055.3(a)(3). *Id.* It notes that the Commission has granted such exceptions for similar agreements.[4]

Consistency with applicable statutory criteria. The Postal Service observes that Commission review of a negotiated service agreement addresses three statutory criteria: whether the agreement (1) improves the Postal Service's net financial position or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly-situated mailers. *Id.* at 8 (citing 39 U.S.C. 3622(c)(10). The Postal Service asserts that it addresses the first two criteria in its Notice and that the third is inapplicable, as there are no similarly situated mailers. *Id.*

Functional equivalency. The Postal Service asserts that the Agreement is functionally equivalent to the China Post 2010 Agreement, the TNT Agreement, Hongkong Post 2011 Agreement, and the China Post 2011 Agreement because its terms fit within the proposed Mail Classification Schedule (MCS) language for Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1. *Id.* at 8–9. It therefore states that the Agreement, along with the referenced agreements, conform to a common description. *Id.* at 9. The Postal Service also asserts that all five agreements are constructed from a similar template; contain many similar terms and conditions; provide rates for Letter Post tendered to the Postal Service from each foreign operator's territory, along with ancillary services to accompany inbound Letter Post; are with a foreign postal operator; and provide comparable benefits. *Id.* It therefore claims that because the agreements incorporate the same attributes and methodology, the relevant characteristics are similar, if not the same. *Id.*

The Postal Service acknowledges the existence of differences that distinguish the Agreement from previous agreements, identifies new and revised elements with specificity, and briefly describes the nature of the changes.[5] *Id.* at 10–12. However, it asserts that the Agreement is nevertheless functionally equivalent to the previously approved agreements referenced in its Notice, and that the differences do not affect either the fundamental service being offered or the fundamental structure of the contracts. *Id.* at 12.

Additional matter—blanket performance reporting exception for future contracts. In addition to seeking an exception from the separate performance reporting requirements in rule 3055.3(a)(3) for this Agreement, the Postal Service also asks that the Commission approve a blanket exception from such reporting for all contracts added to the MCS as Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators on grounds that the performance of the products covered by those agreements is already included in the measurement of other products. *Id.* at 13.

III. Notice of Proceeding

The Commission, in conformance with rule 3010.44, hereby establishes Docket No. R2013–3 to consider issues raised by the Notice. The Commission invites public comments on whether the Postal Service's filing in the captioned docket is consistent with the policies of 39 U.S.C. 3622 and 39 CFR part 3010.40. The Commission also invites comments on the Postal Service's request for an exception from performance reporting requirements in 39 CFR 3055.3(a)(3) for all future contracts added to the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 (Docket Nos. MC2010–35, R2010–5, and R2010–6) product. Comments are due no later than November 29, 2012.[6]

The public portions of the Postal Service's filing have been posted on the Commission's Web site. They can be accessed at *http://www.prc.gov.* Information on how to obtain access to non-public material is available at 39 CFR 3007.40.

The Commission appoints James F. Callow to serve as Public Representative in this docket.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. R2013–3 to consider matters raised by the Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, filed November 15, 2012.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons in this proceeding are due no later than November 29, 2012.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–28660 Filed 11–26–12; 8:45 am]

BILLING CODE 7710–FW–P

[4] The Postal Service cites exceptions granted for the China Post 2010 Agreement, the TNT Agreement, the Hongkong Post 2011 Agreement, the China Post 2011 Agreement, and the Hongkong Post 2012 Agreement. Notice at 7.

[5] Affected elements include the deletion of ''Letter Post'' in the Agreement's title, names of the signatories, revised portions of Articles 1, 11, 13, 15, 19, 20, 21, 22, and Annexes 1, 2 and 5. Changes include, for example, a revision of the Agreement's purpose, contact information, clarification of certain requirements under U.S. law related to the Agreement, and rate revisions.

[6] To provide sufficient time for interested persons to comment in these proceedings, the Commission finds it appropriate to modify the 10-day comment period specified in 39 CFR 3010.44(a)(5). The modest extension will not prejudice either party to the agreement, given that 45 days' advance notice is provided in Type 2 rate adjustments.

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* November 27, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 16, 2012, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 30 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2013–20, CP2013–19.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–28669 Filed 11–26–12; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* November 27, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 16, 2012, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 27 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2013–17, CP2013–16.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–28672 Filed 11–26–12; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* November 27, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 16, 2012, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 29 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2013–19, CP2013–18.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–28670 Filed 11–26–12; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* November 27, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 16, 2012, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 28 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2013–18, CP2013–17.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–28671 Filed 11–26–12; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 17a–25; OMB Control No. 3235–0540, SEC File No. 270–482.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the existing collection of information provided for in Rule 17a–25 (17 CFR 204.17a–25) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Paragraph (a)(1) of Rule 17a–25 requires registered broker-dealers to electronically submit securities transaction information, including identifiers for prime brokerage arrangements, average price accounts, and depository institutions, in a standardized format when requested by the Commission staff. In addition, Paragraph (a)(3)(c) of Rule 17a–25 requires broker-dealers to submit, and keep current, contact person information for electronic blue sheets (''EBS'') requests. The Commission uses the information for enforcement inquiries or investigations and trading reconstructions, as well as for inspections and examinations.

The Commission estimates that it sends approximately 7169 electronic blue sheet requests per year to clearing broker-dealers, who in turn submit an average 87,454 responses.[1] It is estimated that each broker-dealer who responds electronically will take 8 minutes, and each broker-dealer who responds manually will take 1½ hours to prepare and submit the securities trading data requested by the Commission. The annual aggregate hour burden for electronic and manual response firms is estimated to be 11,780 ($87{,}454 \times 8 \div 60 = 11{,}660$ hours) + ($80 \times 1.5 = 120$ hours), respectively.[2] In addition, the Commission estimates that it will request 500 broker-dealers to supply the contact information identified in Rule 17a–25(c) and estimates the total aggregate burden hours to be 125. Thus, the annual aggregate burden for all respondents to the collection of information requirements of Rule 17a–25 is estimated at 11,905 hours (11,660 + 120 + 125).

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

[1] A single EBS request has a unique number assigned to each request (e.g. ''0900001''). However, the number of broker-dealer responses generated from one EBS request can range from one to several thousand. EBS requests are sent directly to clearing firms, as the clearing firm is the repository for trading data for securities transactions information provided by itself and correspondent firms. Clearing brokers respond for themselves and other firms they clear for.

[2] Few of respondents submit manual EBS responses. The small percentage of respondents that submit manual responses do so by hand, via email, spreadsheet, disk, or other electronic media. Thus, the number of manual submissions (80) has minimal effect on the total annual burden hours.

Background documentation for this information collection may be viewed at the following Web site: *www.reginfo.gov.*

Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC, 20503 or by sending an email to: *Shagufta_Ahmed@comb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312 or send an email to *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 20, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28641 Filed 11–26–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68274; File No. SR–MSRB–2012–09]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Revisions to the Study Outline for the Municipal Securities Principal Qualification Examination (Series 53)

November 20, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''the Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 16, 2012, the Municipal Securities Rulemaking Board (''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The MSRB has designated the proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization pursuant to Section 19(b)(3)(A)(i) [3] of the Act and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The implementation date of the proposed rule change, as well as the effective date of the revised study outline, will be December 22, 2012. 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 MSRB is filing with the Commission revisions to the study outline for the Municipal Securities Principal Qualification Examination (Series 53).

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2012-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 MSRB 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

Section 15B(b)(2)(A) of the Act [5] authorizes the MSRB to prescribe standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors, municipal entities, or obligated persons. The MSRB has developed examinations that are designed to establish that persons associated with brokers, dealers, and municipal securities dealers that effect transactions in municipal securities and those who supervise such persons have attained specified levels of competence and knowledge. The MSRB periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

MSRB Rule G–3(b) states that a municipal securities principal has responsibility to oversee the municipal securities activities of a broker, dealer, or municipal securities dealer. In this capacity, a municipal securities principal manages, directs, or supervises one or more of the following activities associated with the conduct of municipal securities business: underwriting; trading; buying or selling municipal securities to or from customers; rendering financial advisory or consultant services to issuers of municipal securities; communications to customers about any municipal securities activities; processing, clearing, and (in the case of securities firms) safekeeping of municipal securities; maintenance of records with respect to municipal securities activities; and training of municipal securities principals and municipal securities representatives. The only examination that qualifies a municipal securities principal is the Municipal Securities Principal Qualification Examination (Series 53).

The Series 53 examination is designed to determine whether an individual meets the Board's qualification standards for municipal securities principals. To do this, the examination measures a candidate's knowledge of Board rules, rule interpretations, and federal statutory provisions applicable to municipal securities activities. It also measures an individual's ability to apply these rules and interpretations to given fact situations. The examination consists of 100 multiple-choice questions. Each question is worth one point, and the passing grade is 70%. Candidates are allowed three and one-half hours for each testing session.

The study outline serves as a guide to the subject matter tested by the Series 53 examination. It lists the topics covered by the examination, and provides learning objectives associated with those topics that are intended to assist candidates preparing for the examination. The outline also provides sample questions similar to the type used in the examination. The arrangement of the subject matter in the study outline reflects the various aspects of municipal securities activity within a securities firm or bank dealer and the tasks of a municipal securities principal in supervising such activities. Reference is made to the appropriate MSRB rule or federal regulation which governs each task.

In order to assist candidates preparing for the Series 53 examination, the study outline has been updated to remove rescinded rules and include amendments and additions to MSRB

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] 15 U.S.C. 78o–4(b)(2)(A).

rules that have been promulgated since the last revision of the study outline.[6] The descriptions for some rules listed have been changed accordingly. The changes are technical in nature and will not change the specifications for the examination. The MSRB will announce the December 22, 2012 implementation date of the revised study outline in a notice to be published at least 30 days prior to such implementation date.

A summary of the changes to the study outline for the Series 53 examination, detailed by major topic headings, is provided below. Changes are stated as revisions to the current outline.

Introduction

• Fn. 1: References to ''NASD'' are changed to ''FINRA;'' FINRA URL is corrected.

Part Two—General Supervision

Definitional Rules

• ''Municipal advisory activities, D–13'' is added.

Qualification and Registration

• ''Name or address'' is added to the description for Rule A–15.
• ''Preservation'' is added to the description For Rules G–7; G–9; and Exchange Act Rule 17a–4.
• ''Municipal securities sales limited representatives'' is added to the description of Rule G–3(a)(i) and (ii) to reflect amendment to the rule.

Supervisory Responsibilities

• Rule citation for ''Written record of designations'' is changed to ''G–27(b)(ii)(B)'' to reflect amendment to the rule.
• Rule citation for ''Appropriate principal'' is changed to ''G–27(b)(ii)(C)'' to reflect amendment to the rule.
• Topic heading and rule citation is changed to ''Duty to establish, maintain and enforce supervisory control policies and written procedures'' to reflect amendment to the rule.

Conduct of Business

• ''Definitions; general standard for advertisements'' is added to the description for Rule G–21(a).
• ''Product'' is added to the topic description for Rule G–21(e).

Part Three—Sales Supervision

Opening Customer Accounts

• Rule citation for ''Review and approval by a principal'' is changed to ''G–27(c)(i)(G)(1)'' to reflect amendment to the rule.

Communications With Customers

• Rule citation for ''Review and retention of correspondence'' is changed to ''G–27(e)'' to reflect amendment to the rule.

Discretionary Accounts

• Rule citation for ''Written supervisory procedures'' is changed to ''G–27 (c)(i)'' to reflect amendment to the rule.

Part Four—Origination and Syndication

Financial Advisors

• Rule citation for ''applicability of state or local law'' is changed to G–23(f) to reflect amendment to the rule.
• ''Basis of compensation'' is deleted; ''Agreement with respect to financial advisory relationship'' is added for the description of Rule G–23(c). Changes reflect the amendment to the rule.
• The description of Rule G–23(d) is changed to ''Prohibition on engaging in underwriting activities'' in accordance with the amendment to the rule.
• ''Disclosures to customers, G–23(h)'' is deleted in accordance with the amendment to the rule.
• ''Disclosures to issuer of corporate affiliation, G–23(f)'' is deleted in accordance with the amendment to the rule.
• ''Records concerning the activities of financial advisors, G–23(g); G–9'' is deleted in accordance with the amendment to the rule.
• ''Responsibility to make official statement available'' is changed to ''Preparation of official statement by financial advisors;'' rule citation is changed to ''G–32(c)'' in accordance with the amendment to the rule.

New Issue Syndicate Practices

• ''Responsibility of managing underwriters and sole underwriters'' is replaced with ''Underwriter submissions to EMMA;'' rule citation is changed to ''G–32(b)'' in accordance with amendments to the rule.
• ''Delivery of official statements, advance refunding documents, and Forms G–36(OS) and G–36(ARD) to the Board or its designee; G–36'' is deleted. Rule was rescinded.
• Topic heading is changed to ''Records concerning primary offerings'' in accordance with amendment to Rule G–8(a)(viii).
• Topic heading is changed to ''Records concerning disclosures in connection with primary offerings pursuant to Rule G–32'' in accordance with amendment to Rule G–8(a)(xiii).
• ''Records concerning delivery of official statements, advance refunding documents and Forms G–36(OS) and G–36(ARD) to the Board or its designee; G–8(a)(xv)'' is deleted. Topic is no longer tested.
• ''Good faith deposits; G–12(i)'' is deleted. Rule was rescinded.
• Rule citation for ''Settlement of syndicate or similar account'' is changed to ''G–11(i)'' in accordance with the amendment to the rule.
• Topic heading is changed to ''Payments of designations;'' rule citation changed to ''G–11(j)'' in accordance with the amendment to the rule.

Part Five—Trading

Execution of Transactions

• Topic heading for Rule G–18 is changed to ''Transactions as agent'' to reflect amendment to the rule.
• ''Broker's brokers; G–43'' is added.

Reports of Sales or Purchases

• Rule citation for ''Definitions'' is changed to ''G–14, RTRS Procedures, Sect. (d)'' for clarification.
• Topic heading for Rule A–13(c) is changed to ''Transaction and technology assessments'' in accordance with the amendment to the rule.

Recordkeeping Responsibilities

• ''Records of secondary market trading account transactions; G–8(a)(xxiv)'' is added.
• ''Broker's brokers activities; G–8(a)(xxv)'' is added.
• ''Records for alternative trading systems; G–8(a)(xxvi)'' is added.

Part Six—Operations

Books and Records

• ''Records concerning consultants; G–8(a)(xviii)'' is deleted. No longer tested in the examination.
• ''Books and records maintained by transfer agents for municipal fund securities transactions; G–8(g)(i)'' is added.
• Correct rule citation is added to ''Compliance with SEC rules'' and ''Records to be made'' is deleted as a subtopic.

Sample Questions

One sample question is deleted and a new sample question is added.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(A) of the Act, which authorizes the MSRB to prescribe standards of training, experience, competence, and such other

[6] *See* Release No. 34–54141, File No. SR–MSRB–2006–05 (June 27, 2006).

qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons. Section 15B(b)(2)(A) of the Act also provides that the Board may appropriately classify municipal securities brokers, municipal securities dealers, and municipal advisors and persons associated with municipal securities brokers, municipal securities dealers, and municipal advisors and require persons in any such class to pass tests prescribed by the Board.

The MSRB believes that the proposed revisions to the study outline for the Series 53 examination are consistent with the provisions of Section 15B(b)(2)(A) of the Act in that the revisions will ensure that certain key concepts or rules are tested on each administration of the examination in order to test the competency of individuals seeking to qualify as municipal securities principals with respect to their knowledge of MSRB rules and the municipal securities market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The MSRB believes that the proposed rule change will provide benefits to persons seeking to become qualified as a municipal securities principal by promoting more efficient and effective preparation for such qualification without imposing any additional burdens.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange 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–MSRB–2012–09 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–MSRB–2012–09. 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 MSRB. 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–MSRB–2012–09, and should be submitted on or before December 18, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28742 Filed 11–26–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68279; File No. SR–NASDAQ–2012–117]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change With Respect to INAV Pegged Orders for ETFs

November 21, 2012.

On October 2, 2012, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') 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 amend NASDAQ Rule 4751(f)(4) to include a new Intraday Net Asset Value (''INAV'') Pegged Order for Exchange-Traded Funds (''ETFs'') where the component stocks underlying the ETFs are U.S. Component Stocks as defined by Rule 5705(a)(1)(C) and 5705(b)(1)(D) (''U.S. Component Stock ETFs''). The proposed rule change was published for comment in the **Federal Register** on October 18, 2012.[3] The Commission received one comment letter on the proposal.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68042 (October 12, 2012), 77 FR 64167.

[4] *See* Letter from Dorothy Donohue, Deputy General Counsel, Investment Company Institute, to Elizabeth M. Murphy, Secretary, Commission, dated November 8, 2012.

[5] 15 U.S.C. 78s(b)(2).

is December 2, 2012. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, the comments received, and any response to the comments submitted by the Exchange. The proposed rule change would, among other things, amend NASDAQ Rule 4751(f)(4) to create a new INAV Pegged Order type for U.S. Component Stock ETFs.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates January 16, 2012, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NASDAQ–2012–117).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28758 Filed 11–26–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68268; File No. SR–BX–2012–072]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 4618

November 20, 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 November 15, 2012, NASDAQ OMX BX, Inc. (''BX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by BX. On November 15, 2012, BX filed Amendment No. 1 to the proposed rule change.[3] BX filed the proposal pursuant to Section 19(b)(3)(A)[4] and Rule 19b–4(f)(6)[5] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BX is filing this proposed rule change to amend Rule 4618. The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

4618. Clearance and Settlement

(a) All transactions through the facilities of the NASDAQ OMX BX Equities Market shall be cleared and settled through a registered clearing agency using a continuous net settlement system. This requirement may be satisfied by direct participation, use of direct clearing services, [or] by entry into a correspondent clearing arrangement with another member that clears trades through such a[n]*clearing* agency[.], *or by use of the services of CDS Clearing and Depository Services, Inc. in its capacity as a member of such a clearing agency.*

(b) No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BX proposes to modify Rule 4618 to clarify that the use of a long-standing arrangement between National Securities Clearing Corporation (''NSCC'') and CDS Clearing and Depository Services, Inc. (''CDS'')[6] for clearing transactions in U.S. securities provides an acceptable method for clearing transactions executed on BX. Among other things, CDS operates Canada's national clearance and settlement operations for cash equities trading, performing a role analogous to NSCC in the U.S. CDS is regulated by the Ontario and Quebec securities commissions and the Bank of Canada, with working and reporting relationships with the Canadian Securities Administrators (CSA), other Canadian provincial securities commissions, and the Canadian Office of the Superintendent of Financial Institutions. CDS is also a full service member of NSCC and a participant in the Depository Trust Company (''DTC'').

Currently, a Canadian broker-dealer seeking to buy or sell U.S. securities may do so through a U.S. registered broker-dealer with which it establishes a relationship for that purpose. In such a relationship, the U.S. broker-dealer manages the clearance and settlement of the resulting trades, either through direct membership at NSCC or indirectly through a clearing broker with which it has established a relationship. Under the proposed change, a Canadian broker-dealer that is a member of CDS may make use of CDS, and its direct membership in NSCC, to clear and settle the resulting trades. Specifically, the clearing report for the trade will ''lock in'' CDS, with reference to the CDS membership of the Canadian broker-dealer, as a party to the trade.[7] NSCC then looks to CDS for satisfaction of clearance and settlement obligations of the Canadian broker-dealer. NSCC requires CDS to commit collateral to the NSCC clearing fund like any other NSCC member, the amount of which is based on a risk-based margining methodology. In a similar manner, CDS requires its participants to commit collateral to CDS. The sole risk incurred by BX and then by NSCC in the arrangement is the highly remote risk that CDS itself might default on its obligations to clear and settle on behalf of the Canadian broker-dealer. This risk is conceptually indistinguishable from the risk of a clearing broker default; moreover, because the value of Canadian trades cleared through the mechanism is likely to be small in comparison to the values cleared through many large U.S. clearing brokers, the magnitude of this risk is correspondingly smaller.

The relationship between NSCC and CDS was established more than two decades ago, and various aspects of the

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, BX deleted ''October __, 2012'' and inserted ''November 1, 2012'' on page 9 of 18 of the original filing, concerning when BX provided the Commission with written notice of the proposed rule change.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] CDS was formerly known as The Canadian Depository for Securities Limited.

[7] As an NSCC member, CDS is responsible for the settling and clearing of its participants' trades conducted with U.S. broker-dealers. For purposes of ''locking-in'' parties, certain CDS participants have discrete NSCC participant codes that identify the Canadian broker-dealer and its participation in the NSCC/CDS clearing arrangement. On midnight of T+1, NSCC takes on the buyer's credit risk and the seller's delivery risk.

relationship have been recognized through several prior filings [8] and no-action letters,[9] as well as a recent similar filing by The NASDAQ Stock Market LLC.[10] A recent description of the parameters of the relationship may be found in NSCC's Assessment of Compliance with the CPSS/IOSCO Recommendations for Central Counterparties.[11] The most prominent use of the relationship arises under FINRA Rule 7220A, which allows over-the-counter trades executed on behalf of CDS members to be reported through the FINRA/NASDAQ Trade Reporting Facility and cleared through the CDS/NSCC relationship.

In order to clearly establish that use of the CDS/NSCC relationship is a permissible method of clearing transactions executed on BX, BX is proposing to amend Rule 4618. Currently, the rule provides that trades must be cleared through a registered clearing agency using a continuous net settlement (''CNS'') system, and that this requirement may be satisfied by direct participation, use of direct clearing services, or by entry into a correspondent clearing arrangement with another member that clears trades through such an agency. NSCC is currently the only registered clearing agency using a CNS system for trades executed on BX. While it is possible that the term ''direct clearing services'' could be construed to cover CDS's participation in NSCC on behalf of its members—because CDS is a direct member of NSCC for the purpose of providing clearing services to its members—the term has not previously been construed by BX in that manner. Accordingly, BX believes that the clarity of the rule would be enhanced by directly recognizing the CDS/NSCC relationship in the rule text. BX proposes amending the rule to provide that the rule may be satisfied through ''use of the services of CDS Clearing and Depository Services, Inc. in its capacity as a member of such a clearing agency.'' Whenever a clearing arrangement making use of CDS's membership in NSCC is established, NSCC will require the BX member, the Canadian broker on whose behalf it is acting, CDS, and BX to sign a short agreement, to be addressed to NSCC, in which the parties acknowledge their use of the CDS/NSCC arrangement.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and with Section 6(b)(5) of the Act,[13] in particular, in that the proposal 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 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. Specifically, by allowing Canadian broker-dealers whose trades are executed on BX to make use of the long-standing arrangement between NSCC and CDS for clearing transactions, BX believes that the proposed rule change will directly foster cooperation and coordination with the two primary North American cash equities clearinghouses and their respective members, thereby promoting a free and open market. Because the arrangement between NSCC and CDS—which has been in place, in varying forms, for over two decades—includes mechanisms to provide for the collateralization of the obligations arising thereunder, BX believes that the proposed change is fully consistent with the protection of investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

BX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed change will ensure that Canadian broker-dealers whose trades are executed on BX are able to make use of an additional available option for clearing such transactions, thereby promoting competition with respect to the availability of clearing services.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) thereunder [15] because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–BX–2012–072 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–BX–2012–072. This file number should be included on the subject line if email is used. To help the

[8] *See* Securities Exchange Act Release No. 36918 (March 4, 1996), 61 FR 9739 (March 11, 1996) (SR–NASD–95–49) (approving access to Automated Confirmation Transaction Service for CDS members); Securities Exchange Act Release No. 40523 (October 6, 1998), 63 FR 54739 (October 13, 1998) (approving establishment of a CDS omnibus account at DTC to facilitate cross-border clearing).

[9] *See* Letter from Dan W. Schneider, Deputy Associate Director, Commission, to Karen L. Saperstein, Assistant General Counsel, NSCC (November 26, 1984) (available at 1984 WL 47355) (taking no-action position with respect to use of CDS and NSCC with respect to clearing of trades executed on behalf of Canadian broker-dealers on the Boston Stock Exchange); Letter from Dan W. Schneider, Deputy Associate Director, Commission, to Karen L. Saperstein, Assistant General Counsel, NSCC (October 24, 1984) (available at 1984 WL 47356) (taking no-action position with respect to CDS becoming a member of NSCC).

[10] Securities Exchange Act Release No. 66310 (February 2, 2012), 77 FR 6610 (February 8, 2012) (SR–NASDAQ–2012–015).

[11] ''Assessment of Compliance with the CPSS/IOSCO Recommendations for Central Counterparties,'' NSCC (November 14, 2011) (available at *http://www.dtcc.com/legal/compliance/NSCC_Self_Assessment.pdf*).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

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 filings will also be available for inspection and copying at the principal office of BX and on BX's Web site: *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/pdf/bx-filings/2012/SR-BX-2012-072.pdf*.

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–BX–2012–072 and should be submitted on or before December 18, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28680 Filed 11–26–12; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68270; File No. SR–FINRA–2012–050]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Adopt a Supplementary Schedule for Derivatives and Other Off-Balance Sheet Items Pursuant to FINRA Rule 4524 (Supplemental FOCUS Information)

November 20, 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 November 15, 2012, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt a supplementary schedule for derivatives and other off-balance sheet items pursuant to FINRA Rule 4524 (Supplemental FOCUS Information).

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA Rule 4524 requires each firm, as FINRA shall designate, to file such additional financial or operational schedules or reports as FINRA may deem necessary or appropriate for the protection of investors or in the public interest as a supplement to the FOCUS reports. Pursuant to FINRA Rule 4524, FINRA is proposing the adoption of a supplemental schedule to the FOCUS reports to capture important information that is not otherwise reported on certain firms' balance sheets. To that end, the proposal would require all carrying or clearing firms to file with FINRA the Derivatives and Other Off-Balance Sheet Items Schedule (''OBS'') within 22 business days of the end of each calendar quarter. The proposed OBS is necessary for FINRA to more effectively examine for compliance with, and enforce, its rules on capital adequacy. The proposed OBS enables FINRA to examine on an ongoing basis the potential impact off-balance sheet activities may have on carrying and clearing firms' net capital, leverage and liquidity, and ability to fulfill their customer protection obligations.

In the aftermath of the financial crisis, FINRA began to closely monitor firms' levels of leverage and available liquidity to meet their funding needs and began to collect certain additional information from certain carrying and clearing firms with regard to their proprietary positions, financing transactions and certain off-balance sheet transactions. FINRA believes the proposed OBS will allow FINRA to obtain more comprehensive and consistent information regarding carrying and clearing firms' off balance sheet assets, liabilities and other commitments. The proposed OBS would require firms to report their gross exposures in financing transactions (e.g., reverse repos, repos and other transactions that are otherwise netted under generally accepted accounting principles, reverse repos and repos to maturity and collateral swap transactions), interests in and exposure to variable interest entities, non-regular way settlement transactions (including to be announced or TBA securities and delayed delivery/settlement transactions), underwriting and other financing commitments, and gross notional amounts in centrally cleared and non-centrally cleared derivative contracts involving equities, commodities, interest rates, foreign exchange derivatives and credit default swaps. However, the proposed OBS contains a *de minimis* off-balance sheet activity exception for each reporting period. If the total of all off-balance sheet items is less than 10% of the firm's excess net capital on the last day of the reporting period, the firm will not be required to file the proposed OBS for the reporting period.[3]

The proposed rule change will be effective upon Commission approval. FINRA will announce the first quarterly reporting period (i.e., the implementation date for purposes of the proposed off-balance sheet schedule) in a regulatory notice to be published no later than 60 days following

[3] For purposes of the proposed OBS, the term ''excess net capital'' means net capital reduced by the greater of the minimum dollar net capital requirement or two percent of combined aggregate debit items as shown in the Formula for Reserve Requirements pursuant to 17 CFR 240.15c3–3.

Commission approval of the proposed rule change. The due date for the first proposed schedule will be no later than 210 days following Commission approval of the proposed rule change.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[4] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with the provisions of the Act noted above in that the proposed OBS will permit FINRA to assess more effectively on an ongoing basis the potential impact off-balance sheet activities may have on carrying and clearing firms' net capital, leverage and liquidity, and ability to fulfill their customer protection obligations. FINRA also believes the rule change is consistent with Section 712(b)(3)(B) of the Dodd-Frank Wall Street Reform and Consumer Protection Act in that it is necessary to enable FINRA to more effectively examine for compliance with, and enforce, its rules on capital adequacy.[5]

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes the proposed OBS will allow it to better understand the potential impact off-balance sheet activity may have on carrying and clearing firms' net capital, leverage and liquidity, and ability to fulfill their customer protection obligations. FINRA has carefully crafted the proposed OBS to achieve its intended and necessary regulatory purpose while minimizing the burden on firms. Ready access to the information is important for FINRA to efficiently monitor on an ongoing basis the financial condition of firms. In the absence of this reporting requirement, FINRA would need to request this information repeatedly on a firm-by-firm basis, resulting in similar costs for the firms.

The information required to complete the proposed OBS should be readily available to firms due to firms' obligations to maintain books and records and take applicable capital charges in relation to off-balance sheet activity. Further, firms that are owned by a publicly held company provide much of the information required by the proposed OBS to the SEC on the quarterly Form 10–Q or on the annual Form 10–K. Finally, for those firms that conduct limited off-balance sheet activity, the proposed OBS contains a *de minimis* exception for each reporting period.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed OBS was published for comment in *Regulatory Notice* 12–23 (May 2012) (the ''*Notice*''). FINRA received two comment letters in response to the *Notice*.[6] Below is a summary of the comments and FINRA's responses.

In the *Notice,* FINRA specifically requested comment on whether there is a category of carrying or clearing firms that should not be required to file the proposed OBS based upon *de minimis* off-balance sheet activity. One commenter believed that a *de minimis* threshold for the proposed OBS would benefit both firms and FINRA.[7] The commenter stated that it would be reasonable to set a threshold for the reporting of off-balance sheet items of 5% or 10% of net capital.[8] The commenter suggested that the proposed OBS should not be required if no items exceed a threshold.[9] Another commenter stated ''that a *de minimis* standard alone may not result in identifying the firms that pose off-balance sheet risk to such a degree that regulatory attention is warranted.'' [10] The commenter assumed that the term ''carrying or clearing firm'' includes all broker-dealers that are not exempt from 17 CFR 240.15c3–3 and had concerns about the proposed OBS applying to firms that distribute variable insurance products and shares of investment companies, and firms that introduce their business to clearing firms.[11] The commenter requested ''that FINRA try to more closely identify the nature of the firms for whom off-balance sheet activity reporting is appropriate, and limit the application of the OBS to those firms, rather than assuming that all firms that are not exempt from Rule 15c3–3 are engaging in off-balance sheet activity as a regular course of business.'' [12]

FINRA has considered these comments and believes a *de minimis* exception for the proposed OBS is appropriate. As stated above, if the total of all off-balance sheet items is less than 10% of the firm's excess net capital on the last day of the reporting period, the firm will not be required to file the proposed OBS for the reporting period. Basing a *de minimis* exception on the aggregate of all off-balance sheet items instead of each individual item will allow FINRA to capture those firms that may not meet the threshold for any one particular item, but still would be viewed as having in the aggregate a material amount of off-balance sheet activity for the reporting period. Further, FINRA does not agree with the commenter's characterization of a ''carrying or clearing'' firm for purposes of the proposed OBS. The proposal would require all carrying or clearing firms, subject to the *de minimis* exception, to file the proposed OBS with FINRA within 22 business days of the end of each calendar quarter. For purposes of the proposed OBS, FINRA identifies carrying or clearing firms as those firms that self-clear or clear transactions for others or firms that carry customer accounts.

One commenter believes that reporting underwriting commitments for securities that have already been sold is not useful.[13] The commenter suggested that FINRA ''[e]liminate the need to separately report an entire unsettled underwriting commitment, where all (or all but a non-material amount) of the securities have been sold as of the balance sheet date.'' [14] FINRA agrees with the commenter's suggestion and has clarified the instructions to state that a firm would only need to report the market value of open contractual commitments at month-end, net of confirmed sales.

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

[4] 15 U.S.C. 78*o*–3(b)(6).

[5] Public Law 111–203, 124 Stat. 1376 (2010).

[6] *See* Letter from Chris Charles, President, Wulff, Hansen & Co., to Marcia E. Asquith, Senior Vice President and Corporate Secretary, dated May 31, 2012 (''Wulff''); and letter from Holly H. Smith, Sutherland Asbill & Brennan LLP, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, dated June 4, 2012 (''Sutherland'').

[7] Wulff.

[8] Wulff.

[9] Wulff.

[10] Sutherland.

[11] Sutherland.

[12] Sutherland.

[13] Wulff.

[14] Wulff.

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–FINRA–2012–050 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2012–050. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m.

Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2012–050 and should be submitted on or before December 18, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28682 Filed 11–26–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68271; File No. SR–NYSE–2012–67]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Temporary Suspension of Those Aspects of Rules 36.20 and 36.21 That Would Not Permit Floor Brokers To Use Personal Portable Phone Devices on the Trading Floor Following the Aftermath of Hurricane Sandy Until the Earlier of When Phone Service is Fully Restored or Friday, December 14, 2012

November 20, 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 November 19, 2012, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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 extend the temporary suspension of those aspects of Rules 36.20 and 36.21 that would not permit Floor brokers to use personal portable phone devices on the Trading Floor following the aftermath of Hurricane Sandy until the earlier of when phone service is fully restored or Friday, December 14, 2012. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

On Thursday, November 1, 2012, the Exchange filed a rule proposal to temporarily suspend those aspects of Rules 36.20, 36.21, and 36.30 that would not permit Floor brokers and Designated Market Makers (''DMMs'') to use personal portable phone devices on the Trading Floor[4] following the aftermath of Hurricane Sandy and during the period that phone service was not fully functional.[5] Pursuant to that filing, all other aspects of those rules remained applicable and the temporary suspensions of Rule 36 requirements were in effect beginning the first day trading resumed following Hurricane Sandy until Friday, November 2, 2012.

On November 5, 2012, although power had been restored to the downtown Manhattan vicinity, other services were not yet fully operational. Among other things, the telephone services provided by third-party carriers to the Exchange were still not fully operational on the Trading Floor, which continued to impact the ability of Floor members to communicate from the Trading Floor as permitted by Rule 36. Accordingly, the Exchange filed to extend the temporary suspension of those aspects of Rules 36.20, 36.21, and 36.30 that would not permit Floor brokers and DMMs to use personal portable phone devices on the Trading Floor to the earlier of phone service

[15] 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] Pursuant to Rule 6A, the Trading Floor is defined as the restricted-access physical areas designated by the Exchange for the trading of securities, but does not include the physical locations where NYSE Amex Options are traded.

[5] *See* Securities Exchange Act Release No. 68137 (Nov. 1, 2012), 77 FR 66893 (Nov. 7, 2012) (SR–NYSE–2012–58).

being restored or November 9, 2012,[6] which was subject to the same terms and conditions of the temporary suspension filed for October 31, 2012 through November 2, 2012, including the record retention requirements related to any use of personal portable phones.[7] On November 9, 2012, the Exchange filed an additional extension of the temporary suspension of those aspects of Rules 36.20 and 36.21 that would not permit Floor brokers to use personal portable phone devices on the Trading Floor to the earlier of phone service being restored or November 16, 2012, again subject to the same terms and conditions of the original temporary suspension that was filed.[8]

Since filing the most recent extension, the Exchange has been advised by its third-party carrier that the damage to the telephone connections continues to be more extensive than previously anticipated. In addition, there has been damage to the Internet connections available to Floor brokers on the Trading Floor, which has adversely impacted service. In particular, the Exchange notes that the lines that support both the wired and wireless phone connections and Internet connections for the Floor brokers are based in an area of lower Manhattan that suffered extensive damage as a result of Hurricane Sandy. The type of damage that was sustained will, in some cases, require the third-party carrier to rebuild the infrastructure that supports these services, rather than engage in repairs of existing lines. As a result, the telephone line and Internet connections for Floor brokers still are not fully operational and may not be so for at least another month, possibly more given the type of work that needs to be completed to restore the telephone services.

Because of the ongoing intermittent phone and Internet service, many Exchange authorized and provided portable phones continue to not be functional and therefore Floor brokers still cannot use the Exchange authorized and provided portable phones, pursuant to Rules 36.20 and 36.21. In addition, many of the wired telephone lines and Internet connections for Floor brokers continue to not be functional. In certain instances, however, the personal cell phones of Floor brokers are operational on the Trading Floor. The Exchange believes that because communications with customers is a vital part of a Floor broker's role as agent and therefore contributes to maintaining a fair and orderly market, during the period when phone and Internet service continues to be intermittent, Floor brokers should be permitted to use personal portable phone devices in lieu of the non-operational Exchange authorized and provided portable phones, wired phone lines, or Internet connections.

Accordingly, the Exchange proposes to extend the temporary suspension of those aspects of Rules 36.20 and 36.21 that would not permit Floor brokers to use personal portable phone devices on the Trading Floor to the earlier of when phone service is fully restored or Friday, December 14, 2012. The Exchange proposes that the extension of the temporary suspension of those aspects of Rules 36.20 and 36.21 to permit use of the personal portable phones by Floor brokers on the Trading Floor be pursuant to the same terms and conditions of the temporary suspension filed for October 31, 2012 through November 2, 2012, including the record retention requirements related to any use of personal portable phones.[9]

In particular, as set forth in the prior filings, Floor brokers that use a portable personal phone must provide the Exchange with the names of all Floor-based personnel who used personal portable phones during this temporary suspension period, together with the phone number and applicable carrier for each number. Floor broker member organizations must maintain in their books and records all cell phone records that show both incoming and outgoing calls that were made during the period that a personal portable phone was used on the Trading Floor. To the extent the records are unavailable from the third-party carrier, the Floor broker member organizations must maintain contemporaneous records of all calls made or received on a personal portable phone while on the Trading Floor. As with all member organization records, such cell phone records must be provided to Exchange regulatory staff, including without limitation staff of the Financial Industry Regulatory Authority (''FINRA''), on request.

In addition, to the extent that personal portable phones are used to replicate Internet connections to the extent previously approved pursuant to Rule 36 that are not operational on the Trading Floor because of damage sustained by Hurricane Sandy, such use is subject to the same requirements that would otherwise be applicable, including record-retention requirements. This emergency relief is solely meant to maintain the status quo to the extent provided in Rule 36 and not intended to broaden the scope of the activities allowed pursuant to the Rule (e.g., accessing Internet only at the booth). As with all member organization records, such cell phone data records must be provided to Exchange regulatory staff, including without limitation staff of the Financial Industry Regulatory Authority (''FINRA''), on request. To the extent that Exchange-approved telephone or electronic communications are operational, Floor brokers must use those connections rather than use a personal portable phone. Specifically, the Exchange states that Floor brokers must return to pre-Hurricane Sandy communications at any point when service is restored even if temporary.

As noted above, because the Exchange is dependent on third-party carriers for both wired and wireless phone service and Internet connections on the Trading Floor, the Exchange does not know how long the proposed temporary suspension of Rules 36.20 and 36.21 will be required. However, based on current estimates, the Exchange understands that phone service may not be fully restored for at least another month, possibly more.

Accordingly, the Exchange proposes that the extension of the temporary suspensions of those aspects of Rule 36 that do not permit Floor brokers to use personal portable phones on the Trading Floor continue until the earlier of when phone service is fully restored or Friday, December 14, 2012.[10]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] 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,

[6] *See* Securities Exchange Act Release No. 68161 (Nov. 5, 2012), 77 FR 67704 (Nov. 12, 2012) (SR–NYSE–2012–61).

[7] *See supra* note 5 (notice that describes the terms and conditions of the temporary suspension).

[8] *See* Securities Exchange Act Release No. 68211 (Nov. 9, 2012) (SR–NYSE–2012–64). Because the telephone lines for the DMMs were operational, the Exchange did not need to extend the temporary suspension of Rule 36.30 as it related to DMMs.

[9] *See supra* note 5 (notice that describes the terms and conditions of the temporary suspension).

[10] The Exchange will provide notice of this rule filing to Floor brokers, including the applicable recordkeeping and other requirements. If telephone service is fully restored prior to December 14, 2012, the Exchange will notify Floor brokers that the temporary suspension of those aspects of Rule 36 that do not permit the use of personal portable phones on the Trading Floor has expired as of the time that phone service is fully restored.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

In particular, in the aftermath of Hurricane Sandy, while the Exchange was able to open for trading, many of the services that the Exchange depends on from third-party carriers, such as wired and wireless telephone connections, are not fully restored. The Exchange believes that the proposed extension of the temporary suspensions from those aspects of Rule 36 that restrict Floor broker's use of personal portable phones on the Trading Floor removes impediments to and perfects the mechanism of a free and open market and national market system because the proposed relief will enable Floor brokers to conduct their regular business, notwithstanding the ongoing issues with telephone service. The Exchange further believes that without the requested relief, Floor brokers would be compromised in their ability to conduct their regular course of business on the Trading Floor, which could adversely impact the market generally and investor confidence during this time of unprecedented weather disruptions. In particular, for Floor brokers, because they operate as agents for customers, their inability to communicate with customers could compromise their ability to represent public orders on the Trading Floor.

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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[15] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)[16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that doing so will allow the Exchange to continue uninterrupted, for Floor brokers, the emergency temporary relief necessitated by Hurricane Sandy's disruption of telephone service, as described herein and in the Exchange's prior filings seeking such relief, and to help maintain the status quo, until the earlier of when phone service for Floor brokers is fully restored or Friday, December 14, 2012. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–NYSE–2012–67 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–NYSE–2012–67. 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–NYSE–2012–67 and should be submitted on or before December 18, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

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BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68269; File No. SR–NSCC–2012–09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Addendum A (Fee Structure) of Its Rules and Procedures Relating to Fund/SERV® Fees

November 20, 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 November 14, 2012, National Securities Clearing Corporation (''NSCC'') 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 NSCC. NSCC filed the proposal pursuant to Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) [4] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change modifies Addendum A (NSCC's Fee Structure) of NSCC's Rules relating to Fund/SERV® fees.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC 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

NSCC's Fund/SERV® is the industry standard for processing and settling mutual fund transactions. Through automated, standardized formats and a centralized platform, fund companies, banks and trust companies, third-party administrators, broker/dealers and other distribution firms can complete order entry—purchases, exchanges and redemptions—as well as confirmations, registrations and money settlement.

Recently, there has been a growing trend in the mutual fund industry toward omnibus processing, a practice where distribution firms bundle multiple client transactions into aggregated orders. As a result of this aggregation, the average number of daily trades processed through Fund/SERV® has declined. NSCC expects the trend toward omnibus processing to continue into the foreseeable future. Accordingly, NSCC is increasing the Fund/SERV transaction fee from $0.06 per transaction to $0.07 per transaction to align the fees associated with Fund/SERV with the cost of delivering this service. This increase will be implemented on January 1, 2013.

NSCC believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations issued thereunder applicable to NSCC because it updates NSCC's fee schedule and provides for the equitable allocation of fees among NSCC's members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC 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

Written comments relating to the proposed rule change have not been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act [5] and Rule 19b–4(f)(2) [6] thereunder because it establishes fees charged by NSCC on any person. The implementation date for this proposed rule change will be January 1, 2013.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–NSCC–2012–09 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–NSCC–2012–09. 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 filings will also be available for inspection and copying at the principal office of NSCC and NSCC's Web site: *http://www.dtcc.com/downloads/legal/*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

rule_filings/2012/nscc/SR-NSCC-2012-09.pdf.

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–NSCC–2012–09 and should be submitted on or before December 18, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28681 Filed 11–26–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68267; File No. SR–Phlx–2012–133]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 3218

November 20, 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 November 15, 2012, NASDAQ OMX PHLX LLC (''Phlx'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Phlx. On November 15, 2012, Phlx filed Amendment No. 1 to the proposed rule change.[3] Phlx filed the proposal pursuant to Section 19(b)(3)(A)[4] and Rule 19b–4(f)(6)[5] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, Phlx deleted ''October __, 2012'' and inserted ''November 1, 2012'' on page 9 of 19 of the original filing, concerning when Phlx provided the Commission with written notice of the proposed rule change.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx is filing this proposed rule change to amend Rule 3218. The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

3218. Clearance and Settlement

(a) All transactions through the facilities of PSX shall be cleared and settled through a registered clearing agency using a continuous net settlement system. This requirement may be satisfied by direct participation, use of direct clearing services, [or] by entry into a correspondent clearing arrangement with another member *organization* that clears trades through such a[n]*clearing* agency[.], *or by use of the services of CDS Clearing and Depository Services, Inc. in its capacity as a member of such a clearing agency.*

(b) No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes to modify Rule 3218 to clarify that the use of a long-standing arrangement between National Securities Clearing Corporation (''NSCC'') and CDS Clearing and Depository Services, Inc. (''CDS'')[6] for clearing transactions in US securities provides an acceptable method for clearing transactions executed on Phlx's NASDAQ OMX PSX trading system (''PSX''). Among other things, CDS operates Canada's national clearance and settlement operations for cash equities trading, performing a role analogous to NSCC in the US. CDS is regulated by the Ontario and Quebec securities commissions and the Bank of Canada, with working and reporting relationships with the Canadian Securities Administrators (CSA), other Canadian provincial securities commissions, and the Canadian Office of the Superintendent of Financial Institutions. CDS is also a full service member of NSCC and a participant in the Depository Trust Company (''DTC'').

Currently, a Canadian broker-dealer seeking to buy or sell US securities may do so through a US registered broker-dealer with which it establishes a relationship for that purpose. In such a relationship, the US broker-dealer manages the clearance and settlement of the resulting trades, either through direct membership at NSCC or indirectly through a clearing broker with which it has established a relationship. Under the proposed change, a Canadian broker-dealer that is a member of CDS may make use of CDS, and its direct membership in NSCC, to clear and settle the resulting trades. Specifically, the clearing report for the trade will ''lock in'' CDS, with reference to the CDS membership of the Canadian broker-dealer, as a party to the trade.[7] NSCC then looks to CDS for satisfaction of clearance and settlement obligations of the Canadian broker-dealer. NSCC requires CDS to commit collateral to the NSCC clearing fund like any other NSCC member, the amount of which is based on a risk-based margining methodology. In a similar manner, CDS requires its participants to commit collateral to CDS. The sole risk incurred by Phlx and then by NSCC in the arrangement is the highly remote risk that CDS itself might default on its obligations to clear and settle on behalf of the Canadian broker-dealer. This risk is conceptually indistinguishable from the risk of a clearing broker default; moreover, because the value of Canadian trades cleared through the mechanism is likely to be small in comparison to the values cleared through many large US clearing brokers, the magnitude of this risk is correspondingly smaller.

The relationship between NSCC and CDS was established more than two decades ago, and various aspects of the relationship have been recognized through several prior filings[8] and no-

[6] CDS was formerly known as The Canadian Depository for Securities Limited.

[7] As an NSCC member, CDS is responsible for the settling and clearing of its participants' trades conducted with US broker-dealers. For purposes of ''locking-in'' parties, certain CDS participants have discrete NSCC participant codes that identify the Canadian broker-dealer and its participation in the NSCC/CDS clearing arrangement. On midnight of T+1, NSCC takes on the buyer's credit risk and the seller's delivery risk.

[8] *See* Securities Exchange Act Release No. 36918 (March 4, 1996), 61 FR 9739 (March 11, 1996) (SR–NASD–95–49) (approving access to Automated Confirmation Transaction Service for CDS members); Securities Exchange Act Release No. 40523 (October 6, 1998), 63 FR 54739 (October 13, 1998) (approving establishment of a CDS omnibus account at DTC to facilitate cross-border clearing).

action letters,[9] as well as a recent similar filing by The NASDAQ Stock Market LLC.[10] A recent description of the parameters of the relationship may be found in NSCC's Assessment of Compliance with the CPSS/IOSCO Recommendations for Central Counterparties.[11] The most prominent use of the relationship arises under FINRA Rule 7220A, which allows over-the-counter trades executed on behalf of CDS members to be reported through the FINRA/NASDAQ Trade Reporting Facility and cleared through the CDS/NSCC relationship.

In order to clearly establish that use of the CDS/NSCC relationship is a permissible method of clearing transactions executed on PSX, Phlx is proposing to amend Rule 3218. Currently, the rule provides that trades must be cleared through a registered clearing agency using a continuous net settlement (''CNS'') system, and that this requirement may be satisfied by direct participation, use of direct clearing services, or by entry into a correspondent clearing arrangement with another member organization that clears trades through such an agency.[12] NSCC is currently the only registered clearing agency using a CNS system for trades executed on PSX. While it is possible that the term ''direct clearing services'' could be construed to cover CDS's participation in NSCC on behalf of its members—because CDS is a direct member of NSCC for the purpose of providing clearing services to its members—the term has not previously been construed by Phlx in that manner. Accordingly, Phlx believes that the clarity of the rule would be enhanced by directly recognizing the CDS/NSCC relationship in the rule text. Phlx proposes amending the rule to provide that the rule may be satisfied through ''use of the services of CDS Clearing and Depository Services, Inc. in its capacity as a member of such a clearing agency.'' Whenever a clearing arrangement making use of CDS's membership in NSCC is established, NSCC will require the Phlx member organization, the Canadian broker on whose behalf it is acting, CDS, and Phlx to sign a short agreement, to be addressed to NSCC, in which the parties acknowledge their use of the CDS/NSCC arrangement.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[13] in general, and with Section 6(b)(5) of the Act,[14] in particular, in that the proposal 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 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. Specifically, by allowing Canadian broker-dealers whose trades are executed on PSX to make use of the long-standing arrangement between NSCC and CDS for clearing transactions, Phlx believes that the proposed rule change will directly foster cooperation and coordination with the two primary North American cash equities clearinghouses and their respective members, thereby promoting a free and open market. Because the arrangement between NSCC and CDS—which has been in place, in varying forms, for over two decades—includes mechanisms to provide for the collateralization of the obligations arising thereunder, Phlx believes that the proposed change is fully consistent with the protection of investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed change will ensure that Canadian broker-dealers whose trades are executed on PSX are able to make use of an additional available option for clearing such transactions, thereby promoting competition with respect to the availability of clearing services.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b-4(f)(6) thereunder[16] because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 amended, 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-Phlx–2012–133 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-Phlx–2012–133. 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

[9] *See* Letter from Dan W. Schneider, Deputy Associate Director, Commission, to Karen L. Saperstein, Assistant General Counsel, NSCC (November 26, 1984) (available at 1984 WL 47355) (taking no-action position with respect to use of CDS and NSCC with respect to clearing of trades executed on behalf of Canadian broker-dealers on the Boston Stock Exchange); Letter from Dan W. Schneider, Deputy Associate Director, Commission, to Karen L. Saperstein, Assistant General Counsel, NSCC (October 24, 1984) (available at 1984 WL 47356) (taking no-action position with respect to CDS becoming a member of NSCC).

[10] Securities Exchange Act Release No. 66310 (February 2, 2012), 77 FR 6610 (February 8, 2012) (SR–NASDAQ–2012–015).

[11] ''Assessment of Compliance with the CPSS/IOSCO Recommendations for Central Counterparties,'' NSCC (November 14, 2011) (available at *http://www.dtcc.com/legal/compliance/NSCC_Self_Assessment.pdf*).

[12] Phlx is also clarifying Rule 3218 by replacing the term ''member'' with the term ''member organization,'' which refers more precisely to a registered broker-dealer authorized to trade on PSX.

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b-4(f)(6).

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 filings will also be available for inspection and copying at the principal office of Phlx and on Phlx's Web site: *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/pdf/phlx-filings/2012/SR-Phlx–2012–133.pdf*.

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-Phlx–2012–133 and should be submitted on or before December 18, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28679 Filed 11–26–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68276; File No. SR–NYSE–2012–54]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending the Listed Company Manual Section 204.00 To Create a Uniform Method for a Company To Provide Notice to the Exchange When Required Pursuant to Sections 204.06, 204.12, 204.17, 204.21, 204.22, 311.01, 401.02, and 601.00 of the Listed Company Manual, and To Make Conforming Changes

November 20, 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 November 8, 2012, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 Listed Company Manual to amend Section 204.00 to create a uniform method for a company to provide notice to the Exchange when required to do so pursuant to Sections 204.06, 204.12, 204.17, 204.21, 204.22, 311.01, 401.02, and 601.00 of the Listed Company Manual, and to make conforming changes. In addition, the Exchange proposes to make administrative changes to the ''Guide to Requirements for Submitting Data to the Exchange,'' which is set forth in the Introduction to the Listed Company Manual. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 204.00 of the Listed Company Manual to create a uniform method for a company to provide notice to the Exchange when required to do so pursuant to Sections 204.06, 204.12, 204.17, 204.21, 204.22, 311.01, 401.02, and 601.00 of the Listed Company Manual, and to make conforming changes. In addition, the Exchange proposes to make administrative changes to the ''Guide to Requirements for Submitting Data to the Exchange,'' which is set forth in the Introduction to the Listed Company Manual.

A company is currently permitted to provide notices of certain events to the Exchange through specified methods—for example, by telephone, facsimile, telegram, letter, or email—that vary from section-to-section of the Listed Company Manual. In some cases, multiple notices are required, for example telephone notice followed by a facsimile confirmation. The Listed Company Manual currently provides the following methods for providing notice to the Exchange:

Section	Current method
204.00 Notice to and Filings with the Exchange (notice in connection with certain actions or events as specified in Sections 204.01 through 204.25).	Notice methods include fax, telephone, telegram, and letter.
204.06 Closing of Transfer Books	No method specified.
204.12 Dividends and Stock Distributions (notice of dividend action or action relating to a stock distribution).	Notice methods include fax, telephone, telegram, and letter.
204.17 Meetings of Shareholders	No method specified.
204.21 Record Date (notice of the fixing of a date for the taking of a record of shareholders or for the closing of transfer books).	Notice methods include fax, telephone, telegram, and letter.
204.22 Redemption of Listed Securities	No method specified.

[17] 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.

Section	Current method
311.01 Publicity and Notice to the Exchange of Redemption (notice of corporate action which will result in, or which looks toward, either the partial or full call for redemption of a listed security).	Notice methods include fax and telephone.
401.02 Notice to the Exchange (notice of dates set in connection with the calling of any meeting of shareholders, including changes in record date).	Notice methods include telephone and writing or fax.
601.00 Services to be Provided by Transfer Agents and Registrars (notice by transfer agents of the number of shares outstanding at the end of each calendar quarter).	Notice methods include fax and email.

The Exchange believes that establishing uniform methods to provide a single notice to the Exchange when required pursuant to the rules specified in the chart above will simplify the notification process and help to ensure that all notices will be received and managed more efficiently. Accordingly, the Exchange proposes to replace references in the Listed Company Manual in the Introduction and the Sections set forth above that describe current notification methods with references to Section 204.00. Section 204.00 will provide that if a provision of the Listed Company Manual requires a company to give notice to the Exchange pursuant to Section 204.00, the company shall provide such notice through a web-based communication system (*e.g.,* an email address or an internet portal) specified by the Exchange on its Web site.[4] The Exchange believes that this web-based communication system is generally more reliable than telegram, telephone, or facsimile notice and, as such, will no longer permit notice by those methods other than as otherwise specified in the Listed Company Manual.[5] When a rule does not specify some other notification method, companies may utilize the methods set forth in Section 204.00 or any other reasonable method, such as telephone, fax, or mail. In addition, however, Section 204.00 would provide that, in emergency situations, notification may instead be provided by telephone and confirmed by facsimile as specified by the Exchange on its Web site.[6] However, the Exchange will continue to require under Section 202.06 that a company provide advance notice of a material event or rumor by telephone. Section 202.06 currently provides that such telephonic notice should be accompanied by an email transmission of the content of the notice. Instead of Section 202.06's current general reference to the Exchange receiving the notice via email, the Exchange proposes to amend Section 202.06 to specify that such notice should be given through the Web-based notification methods specified in Section 204.00.[7] Section 204.00 currently contains a general directive to follow the telephone alert procedures set forth in Section 202.06(B). The Exchange proposes to conform this statement to the applicable provision in Section 202.06(B) by revising it to make it clear that the telephone alert procedures set forth in Section 202.06(B) are applicable when there is a material event or a statement dealing with a rumor which calls for immediate release which is made shortly before the opening or during market hours (presently 9:30 a.m. to 5:00 p.m., New York time).

The Exchange notes that there are numerous notification requirements in Sections 204.01–204.25, but that the web-based notification procedure required by proposed Section 204.00 would only be applicable where the relevant subsection as listed above specifically provided that it was. The Exchange believes that this is a reasonable approach, as the provisions in Sections 204.01–204.25 with respect to which the procedures of Section 204.00 would be required all relate to matters where timely notification is essential to the ability of investors to arrange to be holders of a security on the record date for a distribution or shareholder meeting. The other provisions of Section 204.01–204.25 relate to matters with respect to which the Exchange needs to be informed promptly, such as a change in transfer agent or trustee (Section 204.02) or change in auditors (Section 204.03), but which do not give rise to the possibility that the failure to be informed immediately could materially disadvantage investors in the same way that the need to take timely action to be a security holder on a record date does. As such, the Exchange believes that it is reasonable to afford companies more flexibility with respect to how companies comply with these other notification requirements than would be the case under the web-based notification provision of Section 204.00.

The Exchange also proposes to make two clarifying changes in connection with the proposed amendments to Section 204.00. First, the Exchange proposes to amend the guidance on press releases in the ''Guide to Requirements for Submitting Data to the Exchange,'' which is set forth in the Introduction to the Listed Company Manual. The purpose of the change is to conform the guidance in the Guide with the corresponding requirement under Section 202.06. As proposed, the revised guidance will state that, where material corporate developments are disclosed between 9:00 a.m. and 5:00 p.m. EST, verbal communication should be given to the NYSE at least 10 minutes prior to public release of the information and a copy of the text of the

[4] Upon approval of this proposed rule change, the Exchange plans to specify that notices required to be provided pursuant to Section 204.00 should be submitted through *www.egovdirect.com,* a web portal operated by the Exchange, or to one of the email addresses designated by the Exchange. The Exchange will post information about any web portal or email address used for this purpose in a prominent position on its Web site. The proposed rule text provides that the Exchange will promptly update and prominently display that posting if the applicable web portal or email address changes at any time. At the time the proposed rule change takes effect, the Exchange plans to send a notice to its listed companies clearly explaining the means by which a notification can validly be made pursuant to Section 204.00. The Exchange will also post this notice in a prominent position on its Web site. If the Exchange modifies the permitted means of complying with Section 204.00 in the future, the Exchange will send a notice to its listed companies to explain such modification and will amend the notice posted on its Web site to reflect that modification. The proposed rule text would also advise issuers to consult their Exchange representative if they have any questions about how to comply with the applicable notification requirements.

[5] The Exchange also proposes to delete the word ''written'' from the heading for Section 204.00 and from the first sentence of the section. The purpose of the change is to eliminate any potential confusion as to whether notices provided through a web-based communication system constitute ''written'' notices.

[6] Under Section 204.00, an emergency situation would include lack of computer or internet access; a technical problem on the systems of either the listed company or the Exchange; or an incompatibility between the systems of the listed company and the Exchange. As stated in Footnote 4 *supra,* the proposed rule text also advises issuers to consult their Exchange representative if they have any questions about how to comply with the applicable notification requirements.

[7] In addition, the Exchange also proposes to make cross-references in the amended sections of the Listed Company Manual more consistent by using references to a ''Section'' rather than a ''Paragraph.''

announcement should be promptly conveyed to the NYSE at least 10 minutes prior to release. Second, the Exchange proposes to delete a paragraph of Section 311.01, which sets forth requirements for notifying the Exchange of redemptions, providing that, where possible, a redemption notice should be delivered by hand and, where hand delivery is not possible, the notification should be made telephonically and followed by a confirmatory fax. This provision conflicts with a provision earlier in Section 311.11 which provides that companies should provide notice of redemptions to the Exchange by the means provided in Section 202.06(B), i.e., by telephone and transmission of the text of the notice in accordance with proposed Section 204.00. The purpose of the change is to eliminate any potential confusion as to the actual notice requirements because Section 311.01 also directs listed companies to comply with the Exchange's timely alert procedures.

Finally, the Exchange proposes to make three administrative changes to the ''Guide to Requirements for Submitting Data to the Exchange.'' First, the Exchange proposes to amend from six (6) to three (3) the number of copies of a proxy statement that a listed company must submit to the Exchange. The Exchange has determined that three copies of the proxy statement is sufficient for the Exchange's review purposes and that the proposed amendment would reduce an administrative burden on listed companies. Second, the Exchange proposes to change the name of the item ''Shareholders' Meeting Notice'' to ''Shareholders' Meeting/Notice of Record Date or Change of Record Date.'' The Exchange believes this amendment would assist listed companies in their compliance with the corresponding obligation by clarifying the meaning of the item. Third, the Exchange proposes to amend the description of the due date for the item ''Shareholders' Meeting/ Notice of Record Date'' so that it conforms with the due date for the item ''Dividend Notification.'' The Exchange believes this amendment also would assist listed companies in their compliance with the corresponding obligation by clarifying the terms of the due date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes the proposed rule change will increase the clarity of listed companies' obligations under the Listed Company Manual, and that the proposed rule change will make it easier for listed companies to submit notices to the Exchange. In addition, the Listed Company Manual currently provides various methods for submitting notices to the Exchange, and the Exchange believes that making the methods uniform will reduce confusion for listed companies. The Exchange believes that creating a more efficient and effective method for submitting notices to the Exchange will further its objective of removing impediments to maintaining accurate and timely information about its listed companies, which will in turn benefit investors and the public.

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

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 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–NYSE–2012–54 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–NYSE–2012–54. 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 will also 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 publicly available. All submissions should refer to File Number SR–NYSE–2012–54 and should be submitted on or before December 18, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28745 Filed 11–26–12; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68272; File No. SR–NYSEMKT–2012–69]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Temporary Suspension of Those Aspects of Rules 36.20—Equities and 36.21—Equities That Would Not Permit Floor Brokers To Use Personal Portable Phone Devices on the Trading Floor Following the Aftermath of Hurricane Sandy Until the Earlier of When Phone Service Is Fully Restored or Friday, December 14, 2012

November 20, 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 November 19, 2012, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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 extend the temporary suspension of those aspects of Rules 36.20—Equities and 36.21—Equities that would not permit Floor brokers to use personal portable phone devices on the Trading Floor following the aftermath of Hurricane Sandy until the earlier of when phone service is fully restored or Friday, December 14, 2012. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

On Thursday, November 1, 2012, the Exchange filed a rule proposal to temporarily suspend those aspects of Rules 36.20—Equities, 36.21—Equities, and 36.30—Equities that would not permit Floor brokers and Designated Market Makers (''DMMs'') to use personal portable phone devices on the Trading Floor [4] following the aftermath of Hurricane Sandy and during the period that phone service was not fully functional.[5] Pursuant to that filing, all other aspects of those rules remained applicable and the temporary suspensions of Rule 36—Equities requirements were in effect beginning the first day trading resumed following Hurricane Sandy until Friday, November 2, 2012.

On November 5, 2012, although power had been restored to the downtown Manhattan vicinity, other services were not yet fully operational. Among other things, the telephone services provided by third-party carriers to the Exchange were still not fully operational on the Trading Floor, which continued to impact the ability of Floor members to communicate from the Trading Floor as permitted by Rule 36—Equities. Accordingly, the Exchange filed to extend the temporary suspension of those aspects of Rules 36.20—Equities, 36.21—Equities, and 36.30—Equities that would not permit Floor brokers and DMMs to use personal portable phone devices on the Trading Floor to the earlier of phone service being restored or November 9, 2012,[6] which was subject to the same terms and conditions of the temporary suspension filed for October 31, 2012 through November 2, 2012, including the record retention requirements related to any use of personal portable phones.[7] On November 9, 2012, the Exchange filed an additional extension of the temporary suspension of those aspects of Rules 36.20 and 36.21 that would not permit Floor brokers to use personal portable phone devices on the Trading Floor to the earlier of phone service being restored or November 16, 2012, again subject to the same terms and conditions of the original temporary suspension that was filed.[8]

Since filing the most recent extension, the Exchange has been advised by its third-party carrier that the damage to the telephone connections is more extensive than previously anticipated. In addition, there has been damage to the internet connections available to Floor brokers on the Trading Floor, which has adversely impacted service. In particular, the Exchange notes that the lines that support both the wired and wireless phone connections and internet connections for the Floor brokers are based in an area of lower Manhattan that suffered extensive damage as a result of Hurricane Sandy. The type of damage that was sustained will, in some cases, require the third-party carrier to rebuild the infrastructure that supports these services, rather than engage in repairs of existing lines. As a result, the telephone line and internet connections for Floor brokers still are not fully operational and may not be so for at least another month, possibly more given the type of work that needs to be completed to restore the telephone services.

Because of the ongoing intermittent phone and internet service, many Exchange authorized and provided portable phones continue to not be functional and therefore Floor brokers still cannot use the Exchange authorized and provided portable phones, pursuant to Rules 36.20—Equities and 36.21—Equities. In addition, many of the wired telephone lines and internet connections for Floor brokers continue to not be functional. In certain instances, however, the personal cell phones of Floor brokers are operational on the Trading Floor. The Exchange believes that because communications with customers is a vital part of a Floor broker's role as agent and therefore contributes to maintaining a fair and orderly market, during the period when phone and internet service continues to be intermittent, Floor brokers should be permitted to use personal portable phone devices in lieu of the non-operational Exchange authorized and

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Pursuant to Rule 6A, the Trading Floor is defined as the restricted-access physical areas designated by the Exchange for the trading of securities, but does not include the physical locations where NYSE Amex Options are traded.

[5] *See* Securities Exchange Act Release No. 68138 (Nov. 1, 2012), 77 FR 66890 (Nov. 7, 2012) (SR–NYSEMKT–2012–59).

[6] *See* Securities Exchange Act Release No. 68162 (Nov. 5, 2012), 77 FR 67720 (Nov. 13, 2012) (SR–NYSEMKT–2012–62).

[7] *See supra* note 5 (notice that describes the terms and conditions of the temporary suspension).

[8] *See* Securities Exchange Act Release No. 68212 (Nov. 9, 2012) (SR–NYSEMKT–2012–66). Because the telephone lines for the DMMs were operational, the Exchange did not need to extend the temporary suspension of Rule 36.30 as it related to DMMs.

provided portable phones, wired phone lines, or internet connections.

Accordingly, the Exchange proposes to extend the temporary suspension of those aspects of Rules 36.20—Equities and 36.21—Equities that would not permit Floor brokers to use personal portable phone devices on the Trading Floor to the earlier of when phone service is fully restored or Friday, December 14, 2012. Because phone service to DMMs has been restored, the Exchange is not proposing to extend further the temporary suspension of Rule 36.30—Equities, which prohibits DMMs from using personal portable phones on the Trading Floor.[9] The Exchange proposes that the extension of the temporary suspension of those aspects of Rules 36.20—Equities and 36.21—Equities to permit use of the personal portable phones by Floor brokers on the Trading Floor be pursuant to the same terms and conditions of the temporary suspension filed for October 31, 2012 through November 2, 2012, including the record retention requirements related to any use of personal portable phones.[10]

In particular, as set forth in the prior filings, Floor brokers that use a portable personal phone must provide the Exchange with the names of all Floor-based personnel who used personal portable phones during this temporary suspension period, together with the phone number and applicable carrier for each number. Floor broker member organizations must maintain in their books and records all cell phone records that show both incoming and outgoing calls that were made during the period that a personal portable phone was used on the Trading Floor. To the extent the records are unavailable from the third-party carrier, the Floor broker member organizations must maintain contemporaneous records of all calls made or received on a personal portable phone while on the Trading Floor. As with all member organization records, such cell phone records must be provided to Exchange regulatory staff, including without limitation staff of the Financial Industry Regulatory Authority (''FINRA''), on request.

In addition, to the extent that personal portable phones are used to replicate internet connections to the extent previously approved pursuant to Rule 36 that are not operational on the Trading Floor because of damage sustained by Hurricane Sandy, such use is subject to the same requirements that would otherwise be applicable, including record-retention requirements. This emergency relief is solely meant to maintain the status quo to the extent provided in Rule 36 and not intended to broaden the scope of the activities allowed pursuant to the Rule (*e.g.,* accessing internet only at the booth). As with all member organization records, such cell phone data records must be provided to Exchange regulatory staff, including without limitation staff of the Financial Industry Regulatory Authority (''FINRA''), on request. To the extent that Exchange-approved telephone or electronic communications are operational, Floor brokers must use those connections rather than use a personal portable phone. Specifically, the Exchange states that Floor brokers must return to pre-Hurricane Sandy communications at any point when service is restored even if temporary.

As noted above, because the Exchange is dependent on third-party carriers for both wired and wireless phone service and internet connections on the Trading Floor, the Exchange does not know how long the proposed temporary suspension of Rules 36.20—Equities and 36.21—Equities will be required. However, based on current estimates, the Exchange understands that phone service may not be fully restored for at least another month, possibly more.

Accordingly, the Exchange proposes that the extension of the temporary suspensions of those aspects of Rule 36—Equities that do not permit Floor brokers to use personal portable phones on the Trading Floor continue until the earlier of when phone service is fully restored or Friday, December 14, 2012.[11]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] 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.

In particular, in the aftermath of Hurricane Sandy, while the Exchange was able to open for trading, many of the services that the Exchange depends on from third-party carriers, such as wired and wireless telephone connections, are not fully restored. The Exchange believes that the proposed extension of the temporary suspensions from those aspects of Rule 36—Equities that restrict Floor broker's use of personal portable phones on the Trading Floor removes impediments to and perfects the mechanism of a free and open market and national market system because the proposed relief will enable Floor brokers to conduct their regular business, notwithstanding the ongoing issues with telephone service. The Exchange further believes that without the requested relief, Floor brokers would be compromised in their ability to conduct their regular course of business on the Trading Floor, which could adversely impact the market generally and investor confidence during this time of unprecedented weather disruptions. In particular, for Floor brokers, because they operate as agents for customers, their inability to communicate with customers could compromise their ability to represent public orders on the Trading Floor.

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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

[9] Similarly, because the off-Floor locations for DMMs have been restored, the Exchange does not need to extend further the temporary suspension for DMMs to be permitted to communicate with off-Floor personnel who may not be located at their regular physical location. *See supra* notes 5 and 6 (notices describing the relief requested for DMMs).

[10] *See supra* note 5 (notice that describes the terms and conditions of the temporary suspension).

[11] The Exchange will provide notice of this rule filing to Floor brokers, including the applicable recordkeeping and other requirements. If telephone service is fully restored prior to December 14, 2012, the Exchange will notify Floor brokers that the temporary suspension of those aspects of Rule 36—Equities that do not permit the use of personal portable phones on the Trading Floor has expired as of the time that phone service is fully restored.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

of the Act [14] and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [16] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6) [17] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that doing so will allow the Exchange to continue uninterrupted, for Floor brokers, the emergency temporary relief necessitated by Hurricane Sandy's disruption of telephone service, as described herein and in the Exchange's prior filings seeking such relief, and help to maintain the status quo, until the earlier of when phone service is fully restored for Floor brokers, or Friday, December 14, 2012. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–NYSEMKT–2012–69 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–NYSEMKT–2012–69. 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–NYSEMKT–2012–69 and should be submitted on or before December 18, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28684 Filed 11–26–12; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6).

[18] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 8096]

60-Day Notice of Proposed Information Collection: Overseas Schools Grant Status Report

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to January 28, 2013.

ADDRESSES: Keith Miller, Department of State, Office of Overseas Schools, A/OPR/OS, Room H328, SA–1, Washington, DC 20522–0328, who is reachable on 202–261–8200.

You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may use the Federal Docket Management System (FDMS) to comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Public Notice ####'' in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.
- *Email: millerkd2@state.gov*. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail:* Office of Overseas Schools, U.S. Department of State, 2201 C Street NW., Washington, DC 20520.
- *Fax:* 202–261–8224.
- *Hand Delivery or Courier:* same as mail address.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Keith Miller, Department of State, Office of Overseas Schools, A/OPR/OS, Room H328, SA–1, Washington, DC 20522–0132, who may be reached on 202–261–8200 or at *millerkd2@state.gov*.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Overseas Schools Grant Status Report.
- *OMB Control Number:* 1405–0033.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Administration, A/OPR/OS.
- *Form Number:* DS–2028.
- *Respondents:* Overseas schools grantees.
- *Estimated Number of Respondents:* 196.
- *Estimated Number of Responses:* 196.
- *Average Time per Response:* 15 minutes.
- *Total Estimated Burden Time:* 49 hours.
- *Frequency:* Annually.
- *Obligation To Respond:* Required to obtain or retain a benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Office of Overseas Schools of the Department of State (A/OPR/OS) is responsible for determining that adequate educational opportunities exist at Foreign Service Posts for dependents of U.S. Government personnel stationed abroad, and for assisting American-sponsored overseas schools to demonstrate U.S. educational philosophy and practice. The information gathered provides the technical and professional staff of A/OPR/OS the means by which obligations, expenditures and reimbursements of the grant funds are monitored to ensure the grantee is in compliance with the terms of the grant.

Methodology

Information is collected via electronic and paper submission.

Dated: November 16, 2012.

William S. Amoroso,

Executive Director, Bureau of Administration, Department of State.

[FR Doc. 2012–28771 Filed 11–26–12; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice: 8097]

Notice of Charter Renewal of the President's Emergency Plan for AIDS Relief (PEPFAR) Scientific Advisory Board

SUMMARY: The Office of the U.S. Global AIDS Coordinator (S/GAC) announces the charter renewal of the PEPFAR Scientific Advisory Board (hereinafter referred to as ''the Board''). This charter renewal will take place on December 5, 2012 and will expire after two years.

The meeting will be hosted by the Office of the U.S. Global AIDS Coordinator, and led by Ambassador Eric Goosby, who leads implementation of the President's Emergency Plan for AIDS Relief (PEPFAR).

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (92), S/GAC is giving notice of the charter renewal for the PEPFAR SAB. The Board serves the Global AIDS Coordinator in a solely advisory capacity concerning scientific, implementation, and policy issues related to the global response to HIV/AIDS. The Board is composed of 53 members representing academic institutions, research organizations, U.S. government agencies, multilateral organizations, and the private sector. The diversity of the Board ensures the requisite range of views and expertise necessary to discharge its responsibilities. Please see the SAB page of the PEPFAR Web site for information on the Board's activities and membership (*http://www.pepfar.gov/sab/index.htm*). Please refer to the notice published in the **Federal Register** on October 1, 2010 (*https://federalregister.gov/a/2010-24691*) for additional information about the SAB.

Please contact Amy Dubois, Acting Director of the Office of Research and Science, Office of the U.S. Global AIDS Coordinator at (202) 663–2440 or *DuboisA@state.gov*.

Dated: November 6, 2012.

Amy Dubois,

Acting Director, Office of Research and Science, Office of the U.S. Global AIDS Coordinator, Department of State.

[FR Doc. 2012–28772 Filed 11–26–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 8095]

Notification of the Next Meetings of the U.S.-Chile FTA Environmental Affairs Council and ECA Joint Commission for Environmental Cooperation and Request for Comments on the Meeting Agenda

AGENCY: Department of State.

ACTION: Notice of the next meeting of the U.S.-Chile Free Trade Agreement Environmental Affairs Council and Environmental Cooperation Agreement Joint Commission for Environmental Cooperation and request for comments on the meeting agenda.

SUMMARY: The Department of State and the Office of the United States Trade Representative (''USTR'') are providing notice that the United States and Chile intend to hold the sixth meeting of the Environmental Affairs Council (the ''Council'') and the fourth meeting of the Joint Commission for Environmental Cooperation (the ''Commission'') in Santiago, Chile, on January 9, 2013. The United States and Chile created the Council and Commission pursuant to Chapter 19 (Environment) of the United States-Chile Free Trade Agreement (''FTA'') and Article II of the United States-Chile Environmental Cooperation Agreement (''ECA''), respectively.

During the Council meeting, the United States and Chile (collectively the ''Parties'') will discuss their respective implementation of and progress under Chapter 19. During the Commission meeting, the Parties will provide an overview of environmental cooperation projects and the impact of those projects in their countries, and present and sign the new 2012–2014 Work Program for Environmental Cooperation. All interested persons are invited to attend a public session in the afternoon where they will have the opportunity to ask questions and discuss implementation of Chapter 19 and environmental cooperation with Council and Commission Members. The time and location of the public session is still being determined; for more information please contact Rebecca Slocum and Leslie Yang (contact information below).

The Department of State and USTR also invite interested agencies, organizations, and members of the public to submit written comments or suggestions regarding the meeting agenda. In preparing comments, we encourage submitters to refer to: (1) The United States-Chile Environmental Cooperation Agreement; (2) the United States-Chile 2009–2011 Work Program for Environmental Cooperation; (3)

Chapter 19 (Environment) of the United States-Chile Free Trade Agreement; and (4) the Environmental Review of the United States-Chile Free Trade Agreement. These documents are available at *http://www.state.gov/e/oes/env/trade/chile/index.htm*.

DATES: The Council and Commission meetings are to be held January 9, 2013 in Santiago, Chile. To be assured of timely consideration, all written comments or suggestions for the agenda are requested no later than December 14, 2012.

ADDRESSES: Written comments or suggestions should be submitted to both: (1) Rebecca Slocum, U.S. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, Office of Environmental Quality and Transboundary Issues by email to *SlocumRB@state.gov* with the subject line ''U.S.-Chile EAC/JCEC Meetings'' or fax to (202) 647–5947; and (2) Leslie Yang, Director for International Environmental Policy, Office of the United States Trade Representative by email to *Leslie_Yang@ustr.eop.gov* with the subject line ''U.S-Chile EAC/JCEC Meetings'' or by fax to (202) 395–9517. If you have access to the Internet you can view and comment on this notice by going to: *http://www.regulations.gov/#!home* and searching on docket number DOS–2012–0057.

FOR FURTHER INFORMATION CONTACT: Rebecca Slocum, (202) 647–4828 or Leslie Yang, (202) 395–3167.

SUPPLEMENTARY INFORMATION: Article 19.3 of the United States-Chile FTA establishes an Environment Affairs Council, which shall meet to discuss the implementation of, and progress under, Chapter 19 (Environment). Article 19.3 further provides that meetings of the Council shall include a public session, unless the Parties otherwise agree.

The United States and Chile established the U.S.-Chile Joint Commission for Environmental Cooperation when they signed the U.S.-Chile ECA on June 17, 2003, negotiated in concert with the U.S.-Chile FTA. The Commission is to meet every two years to advance environmental cooperation and review progress in implementing the ECA. The Commission also is responsible for establishing and developing work programs that reflect national priorities for cooperative environmental activities.

Please refer to the Department of State Web site at *http://www.state.gov/e/oes/env/trade/index.htm* and the USTR Web site at *www.ustr.gov* for more information.

Disclaimer: This Public Notice is a request for comments and suggestions, and is not a request for applications. No granting of money is directly associated with this request for suggestions for the meeting agenda. There is no expectation of resources or funding associated with any comments or suggestions for the agenda.

Dated: November 20, 2012.

George N. Sibley,

Director, Office of Environmental Quality and Transboundary Issues, Department of State.

[FR Doc. 2012–28770 Filed 11–26–12; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 8092]

Department of State Performance Review Board Members

In accordance with section 4314(c)(4) of 5 United States Code, the Department of State has appointed the following individuals to the Department of State Performance Review Board for Senior Executive Service members: Mary E. McLeod, Chairperson, Principal Deputy Legal Advisor, Office of the Legal Adviser, Department of State; Kevin P. O'Keefe, Director, Office of Plans, Policy, and Analysis, Bureau of Political-Military Affairs, Department of State; David A. Balton, Deputy Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State; Raymond D. Maxwell, Deputy Assistant Secretary, Bureau of Near Eastern Affairs, Department of State.

Dated: November 19, 2012.

Linda Thomas-Greenfield,

Director General of the Foreign Service and Director of Human Resources, Department of State.

[FR Doc. 2012–28769 Filed 11–26–12; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2009–0074]

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 November 9, 2012, Canadian National Railway (CN), the Brotherhood of Locomotive Engineers and Trainmen (BLET), and the United Transportation Union (UTU) have jointly petitioned the Federal Railroad Administration (FRA) for an extension of their waiver of compliance from certain provisions of the Federal hours of service laws contained at 49 U.S.C. 21103(a)(4). FRA assigned the petition Docket Number FRA–2009–0074.

In their petition, CN, BLET, and UTU seek relief from 49 U.S.C. 21103(a)(4), which in part requires a train employee to receive 48 hours off duty after initiating an on-duty period for 6 consecutive days. Specifically, CN, BLET, and UTU seek an extension of the existing waiver to allow a train employee to initiate an on-duty period for 6 consecutive days followed by 24 hours off duty. In support of their request, CN, BLET, and UTU explained that this type of schedule has not compromised rail safety. Additionally, as expressed in the original petition, work-life balance has continued for train employees, and the railroad has benefitted from continued productivity.

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 January 11, 2013 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 November 19, 2012.

Ron Hynes,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 2012–28767 Filed 11–26–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Revised Guidance for Requesting One-Time Movement Approvals (OTMA)

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Availability.

SUMMARY: FRA is notifying the public of the availability of revised guidance for requesting one-time movement approvals (OTMA) for the transportation by rail of nonconforming or leaking bulk hazardous materials packages.

FOR FURTHER INFORMATION CONTACT: Karl Alexy, Staff Director, Hazardous Materials Division, Office of Safety Assurance and Compliance, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590; telephone: (202) 493–6245; or *Karl.Alexy@dot.gov.*

SUPPLEMENTARY INFORMATION: The Hazardous Materials Regulations (HMR) issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA) govern the rail transportation of hazardous materials. Title 49 Code of Federal Regulations Section 174.50 of the HMR forbids the transportation by rail of a bulk packaging that no longer conforms to HMR or that is leaking, unless otherwise approved by FRA's Associate Administrator for Railroad Safety/Chief Safety Officer. These approvals are generally referred to as OTMAs.

Recently, FRA revised its OTMA procedures to streamline the overall OTMA process and to minimize unnecessary administrative burdens. On January 31, 2012, FRA issued Hazardous Materials Guidance Number HMG–127, which explained these revised procedures and the criteria for issuance of OTMAs. Based on experience with the procedures and comments received from industry, FRA modified and reissued the procedures in Revision 2 of HMG–127, dated October 31, 2012. The revised HMG–127 is available for review on FRA's Web site at: *http://www.fra.dot.gov/Pages/789.shtml.* In addition, FRA revised the OTMA application, which is available on FRA's Web site at: *http://www.fra.dot.gov/rrs/pages/fp_1799.shtml.* FRA staff can provide copies of these documents for review upon request if contacted at the address and telephone number listed above.

Issued in Washington, DC, on November 20, 2012.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2012–28698 Filed 11–26–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Two (2) Individuals and One (1) Entity Pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism''

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of two (2) individuals and one (1) entity whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designations by the Director of OFAC of the two (2) individuals and one (1) entity in this notice, pursuant to Executive Order 13224, are effective on November 20, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001 terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems

appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On November 20, 2012 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, two (2) individuals and one (1) entity whose property and interests in property are blocked pursuant to Executive Order 13224.

The listings for these individuals and entity on OFAC's list of Specially Designated Nationals and Blocked Persons appear as follows:

Individuals

1. KALIM, Musa (a.k.a. ALIZAI, Musa Khalim; a.k.a. BARICH, Musa Kalim; a.k.a. KALEEM, Musa; a.k.a. KALIM, Mohammed Musa; a.k.a. KHALEEM, Musa; a.k.a. KHALIM, Musa; a.k.a. QALEM, Musa; a.k.a. QALIM, Musa), Chahgay Bazaar, Chahgay, Pakistan; Haji Mohammed Plaza, Tol Aram Road, Nearest Jamal Dean Afghani Road, Quetta, Pakistan; Dr Barno Road, Quetta, Pakistan; POB Pakistan; citizen Pakistan; Passport AD4756241 (Pakistan) issued 02 Nov 2008 expires 01 Nov 2013; National ID No. 54101–6356624–9 (Pakistan) (individual) [SDGT].
2. QASIM, Mohammed (a.k.a. QASIM, Muhammad), Waish, Spin Boldak, Afghanistan; Safaar Bazaar, Garmsir, Afghanistan; Room 33, 5th Floor Sarafi Market, Kandahar, Afghanistan; Bypass Road, Chaman, Qalaye Abdullah District, Pakistan; Qalaye Haji Ali Akbar Dalbandin Post Office, Chaghey District, Pakistan; Karez Qaran, Musa Qal'ah, Helmand Province, Afghanistan; DOB 1976; alt. DOB 1965; POB Pakistan; citizen Pakistan; Passport AP4858551 (Pakistan) issued 24 May 2008 expires 23 May 2013; National ID No. 54101–9435855–3 (Pakistan); alt. National ID No. 57388 (Afghanistan) (individual) [SDGT].

Entity

1. RAHAT LTD (a.k.a. HAJI MOHAMMED QASIM HAWALA; a.k.a. HAJI MUHAMMAD QASIM SARAFI; a.k.a. MUSA KALIM HAWALA; a.k.a. NEW CHAGAI TRADING COMPANY; a.k.a. RAHAT LTD. SARAFI; a.k.a. RAHAT TRADING COMPANY), Room 33, 5th Floor, Sarafi Market, Kandahar, Afghanistan; Shop 4, Azizi Bank, Haji Muhammad Isa Market, Wesh (Waish), Spin Boldak, Afghanistan; Dr Barno Road, Quetta, Pakistan; Haji Mohammed Plaza, Tol Aram Road, near Jamal Dean Afghani Road, Quetta, Pakistan; Kandari Bazar, Quetta, Pakistan; Safaar Bazaar, Garmsir, Afghanistan; Nimruz, Afghanistan; Chahgay Bazaar, Chahgay, Pakistan; Gereshk, Afghanistan; Chaman, Pakistan; Lashkar Gah, Afghanistan; Zahedan, Iran; Musa Qal'ah District Center Bazaar, Musa Qal'ah, Helmand Province, Afghanistan [SDGT].

Dated: November 20, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–28668 Filed 11–26–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2000–41

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. Currently, the IRS is soliciting comments concerning Revenue Procedure 2000–41, Change in Minimum Funding Method.

DATES: Written comments should be received on or before January 28, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Martha R. Brinson at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3869, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Change in Minimum Funding Method.

OMB Number: 1545–1704.

Revenue Procedure Number: Revenue Procedure 2000–41.

Abstract: Revenue Procedure 2000–41 provides a mechanism whereby a plan sponsor or plan administrator may obtain a determination from the Internal Revenue Service that its proposed change in the method of funding its pension plan(s) meets the standards of section 412 of the Internal Revenue Code.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 300.

Estimated Time per Respondent: 18 hours.

Estimated Total Annual Burden Hours: 5,400.

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: November 19, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–28646 Filed 11–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Railroad Track Maintenance Credit.

DATES: Written comments should be received on or before January 28, 2013 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 Martha R. Brinson, (202) 622–3869, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Railroad Track Maintenance Credit.

OMB Number: 1545–2031.

Regulation Project Number: (REG–142770–05) (TD 9286).

Abstract: This document contains regulations that provide rules for claiming the railroad track maintenance credit under section 45G of the Internal Revenue Code for qualified railroad track maintenance expenditures paid or incurred by a Class II or Class III railroad and other eligible taxpayers during the taxable year. These regulations reflect changes to the law made by the American Jobs Creation Act of 2004 and the Gulf Opportunity Zone Act of 2005.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 550.

Estimated Time per Respondent: 2.5 hours.

Estimated Total Annual Burden Hours: 1,375.

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: November 19, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–28648 Filed 11–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Source of Income From Sales of Inventory Partly From Sources Within a Possession of the United States; Also, Source of Income Derived From Certain Purchases From A.

DATES: Written comments should be received on or before January 28, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3869, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Source of Income From Sales of Inventory Partly From Sources Within a Possession of the United States; Also, Source of Income Derived From Certain Purchases From A.

OMB Number: 1545–1556.

Regulation Project Number: REG–251985–96 (TD 8786).

Abstract: The information requested in section 1.863–3(f)(6) is necessary for the Service to audit taxpayers' return to ensure taxpayers are properly determining the source of their income.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Time per Respondents: 200.

Estimated Time per Respondent: 2 hours., 30 minutes.

Estimated Total Annual Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long

as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 19, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–28654 Filed 11–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting for the Electronic Tax Administration Advisory Committee (ETAAC)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting.

SUMMARY: In 1998, the Internal Revenue Service established the Electronic Tax Administration Advisory Committee (ETAAC). The primary purpose of ETAAC is to provide an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC offers constructive observations about current or proposed policies, programs, and procedures, and suggests improvements. Listed is a summary of the agenda along with the planned discussion topics.

Summarized Agenda

8:30 a.m.—Meet and Greet
9:00 a.m.—Meeting Opens
10:00 a.m.—Meeting Adjourns

The topics for discussion include:
Official Response to 2012 ETAAC Recommendations.

Note: Last-minute changes to these topics are possible and could prevent advance notice.

DATES: There will be an ETAAC meeting on Wednesday, December 12, 2012. You must register in advance to be put on a guest list to attend the meeting. This meeting will be open to the public, and will be in a room that accommodates approximately 40 people, including members of ETAAC and IRS officials. Seats are available to members of the public on a first-come, first-served basis. Escorts will be provided and attendees are encouraged to arrive at least 30 minutes before the meeting begins. Members of the public may file written statements sharing ideas for electronic tax administration. Send written statements to *etaac@irs.gov*.

ADDRESSES: The meeting will be held at the Internal Revenue Service, 1111 Constitution Avenue NW., Room 2140, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: You must provide your name in advance for the guest list and be able to show your state-issued picture identification on the day of the meeting. Otherwise, you will not be able to attend the meeting as this is a secured building. To receive a copy of the agenda or general information about ETAAC, call Cassandra Daniels on 202–283–2178 or send an email to *etaac@irs.gov* by Tuesday, December 11, 2012. Notification of intent should include your name, organization and telephone number. Please spell out all names if you leave a voice message.

SUPPLEMENTARY INFORMATION: ETAAC reports to the Director, Return Preparer Office. Increasing participation by external stakeholders in the development and implementation of the strategy for electronic tax administration will help IRS achieve the goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend the public meetings, working sessions, and an orientation each year.

Dated: November 20, 2012.

Preston B. Benoit,

Deputy Director, Return Preparer Office.

[FR Doc. 2012–28655 Filed 11–26–12; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 77 Tuesday,

No. 228 November 27, 2012

Part II

The President

Notice of November 21, 2012—Waiver From Rescission of Unobligated Funds Under the American Recovery and Reinvestment Act of 2009

Federal Register
Vol. 77, No. 228
Tuesday, November 27, 2012

Presidential Documents

Title 3—

The President

Waiver From Rescission of Unobligated Funds Under the American Recovery and Reinvestment Act of 2009

Consistent with the authority provided to me under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by section 1306 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203) (the ''Dodd-Frank Act''), I have determined that it is not in the best interest of the Nation to rescind after December 31, 2012, the unobligated amounts made available in Division A of the American Recovery and Reinvestment Act with respect to the accounts with the following Treasury Account Fund Symbol codes and names: 13–0110: DOC—Office of the Inspector General; 86–0190: HUD—Office of Inspector General; 69–0131: DOT—Office of Inspector General; 20–0135: TREAS—Treasury Inspector General for Tax Administration; 49–0301: NSF—Office of the Inspector General; and 73–0201: SBA—Office of Inspector General.

My determination is based on the following considerations:

The requesting Inspectors General are tasked with overseeing investigations that can take multiple years to complete, and the oversight work often begins in earnest during the final phases of a project. In some cases, the awards that the Inspectors General oversee will continue to outlay past December 31, 2012. The $11.5 million unobligated balance will allow Inspectors General the needed flexibility to effectively combat waste, fraud, and abuse.

Therefore, in accordance with section 1306 of the Dodd-Frank Act, I am waiving the requirements for repayment of unobligated funds made available in the American Recovery and Reinvestment Act with respect to the accounts described above.

This notice shall be published in the ***Federal Register***.

THE WHITE HOUSE,
Washington, November 21, 2012.

[FR Doc. 2012–28856
Filed 11–26–12; 11:15 am]
Billing code 3295–F3

Reader Aids

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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/.**

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