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

WHERE: Office of the Federal Register
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Contents

Federal Register

Vol. 77, No. 231

Friday, November 30, 2012

Agriculture Department
See Forest Service
NOTICES
Meetings:
Council for Native American Farming and Ranching, 71396

Air Force Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 71403–71404

Army Department
See Engineers Corps
NOTICES
Intents to License Government-Owned Inventions:
Partially-Exclusive Basis, 71404

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Medicare & Medicaid Services
NOTICES
Medicare, Medicaid, and Children's Health Insurance Programs:
Provider Enrollment Application Fee Amount for Calendar Year 2013, 71423–71425

Coast Guard
PROPOSED RULES
Updates to Voluntary Consensus Standards Incorporated by Reference, 71369–71371

Commerce Department
See National Institute of Standards and Technology
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 71398–71399

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement List; Additions and Deletions, 71400–71401

Community Development Financial Institutions Fund
NOTICES
Proposed Report Assessing the State of Access to Capital and Credit in Native Communities; Comments Request, 71479–71480

Copyright Office, Library of Congress
NOTICES
Extension of Comment Period:
Orphan Works and Mass Digitization, 71452

Defense Department
See Air Force Department
See Army Department
See Engineers Corps
NOTICES
Arms Sales, 71401–71403
Termination of Department of Defense Federal Advisory Committees, 71403

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Early Reading First; Grant Performance Report, 71405–71406

Energy Department
See Federal Energy Regulatory Commission
See National Nuclear Security Administration

Engineers Corps
NOTICES
Environmental Impact Statements; Availability, etc.:
Gateway Pacific Terminals Bulk Dry Goods Shipping Facility and Custer Spur Rail Expansion Projects; Correction, 71405
Proposed Flood Risk Management Study for Blanchard River Watershed including Communities of Findlay and Ottawa, OH, 71404–71405

Environmental Protection Agency
RULES
Final Authorizations of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Programs:
Texas, 71344–71353
Reconsideration of Certain New Source and Startup/Shutdown Issues:
National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units, etc., 71323–71344
PROPOSED RULES
Approvals and Promulgations of Air Quality Implementation Plans:
Ohio; Redesignation of the Ohio Portion of the Parkersburg-Marietta Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter, 71383–71395
Ohio; Redesignation of the Ohio Portion of the Wheeling Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter, 71371–71382
Final Authorizations of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Programs:
Texas, 71395
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 71415–71419
Environmental Impact Statements; Weekly Receipt, 71419

Federal Accounting Standards Advisory Board
NOTICES
Appointment of New Member and Release of Exposure Draft Regarding Deferral of Transition of Long-Term Projections to Basic Information, 71419–71420

Federal Aviation Administration
PROPOSED RULES
Airworthiness Directives:
DG Flugzeugbau GmbH Gliders, 71359–71361
Pacific Aerospace Limited Airplanes, 71357–71359
Amendments of Class E Airspace:
Decorah, IA, 71362–71363
Middletown, OH, 71364–71365
Superior, WI, 71363–71364
West Union, IA, 71361–71362
Establishments of Class E Airspace:
Beeville, TX, 71365–71366
Round Mountain, TX, 71367–71368
Tecumseh, NE, 71368–71369
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Advanced Qualification Program, 71473–71474
Aeronautical Chart Point of Sale Survey, 71472–71473
Notice of Landing Area Proposal, 71473
Charter Renewal of the Commercial Space Transportation Advisory Committee, 71474
Meetings:
RTCA Special Committee 224, Airport Security Access Control Systems, 71474
Petitions for Exemptions; Summaries of Petitions Received, 71474–71475

Federal Communications Commission
RULES
Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (Cramming):
Consumer Information and Disclosure; Truth-in-Billing Format; Correction, 71353–71354

Federal Energy Regulatory Commission
RULES
Revisions to Electric Quarterly Report Filing Process, 71288–71312
NOTICES
Combined Filings, 71406–71413
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorization:
Anahau Energy, LLC, 71413
M&R Energy Resources Corp., 71414
USG Oregon LLC, 71413–71414

Federal Railroad Administration
RULES
Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents for Calendar Year 2013, 71354–71356

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 71420

Federal Transit Administration
NOTICES
Limitation on Claims against Proposed Public Transportation Projects, 71475–71476

Food and Drug Administration
RULES
Irradiation in the Production, Processing and Handling of Food, 71312–71321

Foreign Assets Control Office
NOTICES
Additional Designations, Foreign Narcotics Kingpin Designation Act, 71480

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Humboldt-Toiyabe National Forest; NV and CA, 71396–71398

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Federal Financial Participation in State Assistance Expenditures, etc., 71420–71423
Intent to Establish 2015 Dietary Guidelines Advisory Committee and Solicitation of Nominations for Appointment to Committee Membership; Amendment, 71423

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 71425–71426
Meetings:
Advisory Commission on Childhood Vaccines; Correction, 71426

Homeland Security Department
See Coast Guard
See Transportation Security Administration
See U.S. Citizenship and Immigration Services
RULES
CNMI-Only Transitional Worker Numerical Limitation for Fiscal Year 2013, 71287–71288

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Ginnie Mae Multiclass Securities Program Documents; Forms and Electronic Data Submissions, 71433–71435
Federal Property Suitable as Facilities to Assist the Homeless, 71435–71439
Regulatory and Administrative Waivers Granted:
Multifamily Housing Programs to Assist with Recovery and Relief in Sandy Disaster Areas, 71445–71446
Public and Indian Housing Programs to Assist with Recovery and Relief in Superstorm Sandy Disaster Areas, 71439–71445

Interior Department
See Land Management Bureau
See National Park Service
See Office of Natural Resources Revenue

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 71480–71481
Publication of Tier 2 Tax Rates, 71481–71482

Justice Department
NOTICES
Lodgings of Proposed Consent Decrees:
Comprehensive Environmental Response, Compensation, and Liability Act, 71449

Labor Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Benefit Accuracy Measurement Program, 71449–71450
Placement Verification and Follow-up of Job Corps Participants, 71451–71452
Prohibited Transaction Class Exemptions for Multi-Employer Plans & Multi-Employer Apprenticeship Plans, 71450–71451

Land Management Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
West Chocolate Mountains Renewable Energy Evaluation Area, Imperial County, CA, and Proposed California Desert Conservation Plan Amendment, 71446–71447

Library of Congress
See Copyright Office, Library of Congress

Maritime Administration
NOTICES
Requested Administrative Waivers of Coastwise Trade Laws:
Vessel ECLECTIC LADY, 71476–71477
Vessel ESCAPADE; Invitation for Public Comments, 71476

National Highway Traffic Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Reports, Forms, and Record Keeping Requirements, 71477–71478

National Institute of Standards and Technology
NOTICES
Public Workshops:
Blueprint for Action; Workshop on the Design of the National Network for Manufacturing Innovation, 71399–71400

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Healthy Communities Study; How Communities Shape Children's Health, 71426–71427
Meetings:
Center for Scientific Review, 71429
National Eye Institute, 71428–71429
National Heart, Lung, and Blood Institute, 71428–71429
National Institute of Diabetes and Digestive and Kidney Diseases, 71430
National Institute of General Medical Sciences, 71430
National Institute of Mental Health, 71427–71428

National Labor Relations Board
NOTICES
Meetings; Sunshine Act, 71452

National Nuclear Security Administration
NOTICES
Environmental Assessments; Availability, etc.:
Transfer of Kansas City Plant, Kansas City, MO, 71414–71415

National Park Service
NOTICES
Fee Schedule for Reviewing Historic Preservation Certification Applications and Instructions, 71447–71448

National Science Foundation
NOTICES
Meetings:
Proposal Review, 71452–71453
Meetings; Sunshine Act, 71453–71454

Nuclear Regulatory Commission
NOTICES
Atomic Safety And Licensing Board Reconstitution, Tennessee Valley Authority (Watts Bar, Unit 2), 71454
License Amendment to Construct and Operate Marsland Expansion Area:
Crow Butte Resources, Inc. License SUA–1534, 71454–71458

Office of Natural Resources Revenue
NOTICES
States' Decisions on Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties, 71448–71449

Pension Benefit Guaranty Corporation
RULES
Allocation of Assets in Single-Employer Plans:
Valuation of Benefits and Assets; Expected Retirement Age, 71321–71323

Postal Regulatory Commission
NOTICES
New International Mail Contract, 71458

Securities and Exchange Commission
PROPOSED RULES
Capital, Margin, and Segregation Requirements:
Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers, 71369
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 71458–71462
Applications:
Blackstone Alternative Alpha Fund, et al., 71462–71464
Self-Regulatory Organizations; Proposed Rule Changes:
NYSE Arca, Inc., 71469–71471
The NASDAQ Stock Market LLC, 71464–71466
The Options Clearing Corporation, 71466–71468

Small Business Administration
NOTICES
Meetings:
Interagency Task Force on Veterans Small Business Development, 71471–71472

State Department
NOTICES
Culturally Significant Objects Imported for Exhibition Determinations:
A Hellenistic Herakles Knot and a pair of Tarentine fibulae, 71472

Surface Transportation Board
NOTICES
Rail Energy Transportation Advisory Committee Vacancies, 71478–71479

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See Federal Transit Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
See Transportation Security Administration

Transportation Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Highway Baseline Assessment for Security Enhancement Program, 71431
Public Transportation Baseline Assessment for Security Enhancement Program, 71430–71431

Treasury Department
See Community Development Financial Institutions Fund
See Foreign Assets Control Office
See Internal Revenue Service

U.S. Citizenship and Immigration Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Travel Document, 71432–71433
Immigrant Petition by Alien Entrepreneur, 71432

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

8 CFR
214.....71287

14 CFR

Proposed Rules:
39 (2 documents) 71357, 71359
71 (7 documents) 71361, 71362, 71363, 71364, 71365, 71367, 71368

17 CFR

Proposed Rules:
240.....71369

18 CFR
35.....71288

21 CFR
179 (2 documents) 71312, 71316

29 CFR
4044.....71321

33 CFR

Proposed Rules:
Ch. I.....71369

40 CFR
60.....71323
63.....71323
271.....71344
272.....71344

Proposed Rules:
52 (2 documents) 71371, 71383
81 (2 documents) 71371, 71383
271.....71395
272.....71395

46 CFR

Proposed Rules:
Ch. I.....71369

47 CFR
64 (2 documents) 71353, 71354

49 CFR
225.....71354

Rules and Regulations

Federal Register
Vol. 77, No. 231
Friday, November 30, 2012

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

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

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

[CIS No. 2525–12; DHS Docket No. USCIS–2012–0010]

RIN 1615–ZB15

CNMI-Only Transitional Worker Numerical Limitation for Fiscal Year 2013

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notification of numerical limitation.

SUMMARY: The Secretary of Homeland Security announces that the numerical limitation for the annual fiscal year numerical limitation for CNMI-only Transitional Worker (CW–1) nonimmigrant classification for fiscal year 2013 is set at 15,000. In accordance with Title VII of the Consolidated Natural Resources Act of 2008 (CNRA) (codified, in relevant part, at 48 U.S.C. 1806(d)) and 8 CFR 214.2(w)(1)(viii)(C), this document announces the mandated annual reduction of the CW–1 numerical limit and provides the public with information regarding the new CW–1 numerical limit. This document is intended to ensure that CNMI employers and employees have sufficient notice regarding the maximum number of workers who may be granted transitional worker status during the upcoming fiscal year.

DATES: *Effective Date:* November 30, 2012.

FOR FURTHER INFORMATION CONTACT: Steven W. Viger, Adjudications Officer (Policy), Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060. Contact telephone (202) 272–1470.

SUPPLEMENTARY INFORMATION:

I. Background

Title VII of the Consolidated Natural Resources Act of 2008 (CNRA) extends U.S. immigration law to the CNMI and provides CNMI-specific provisions affecting foreign workers. *See* Public Law 110–229, 122 Stat. 754, 853 (2008). The CNRA included provisions for a ''transition period'' to phase-out the CNMI's nonresident contract worker program and phase-in the U.S. federal immigration system in a manner that minimizes the adverse economic and fiscal effects and maximizes the CNMI's potential for future economic and business growth. *See* sec. 701(b) of the CNRA, 48 U.S.C. 1806 note. The CNRA authorized DHS to create a nonimmigrant classification that would ensure adequate employment in the CNMI during the transition period, which ends December 31, 2014.[1] *See id.;* 48 U.S.C. 1806(d)(2). The CNRA also mandated an annual reduction in the allocation of the number of permits issued per year and the total elimination of the CW nonimmigrant classification by the end of the transition period. 48 U.S.C. 1806(d)(2).

Consistent with this mandate under the CNRA, DHS published a final rule on September 7, 2011 amending the regulations at 8 CFR 214.2(w) to implement a temporary, CNMI-only transitional worker nonimmigrant classification (CW classification, which includes CW–1 for principal workers and CW–2 for spouses and minor children). *See* 76 FR 55502 (Sept. 7, 2011). DHS established the CW–1 numerical limitation for fiscal year 2011 at 22,417 and for fiscal year 2012 at 22,416. *See* 8 CFR 214.2(w)(1)(viii)(A) and (B). In the final rule, DHS did not provide a numerical limit reduction plan for the remainder of the transition period. DHS instead delayed development of a numerical limit reduction plan due to the uncertainty of the CNMI's future workforce needs and economic conditions. *See* 76 FR at 55510. As such, DHS opted to publish any future annual numerical limitation in a **Federal Register** notice. *See* 8 CFR 214.2(w)(1)(viii)(C). This method maximizes the CNMI's potential for future economic growth by providing flexibility for the continued use of workers during this phase-in of Federal immigration law. *See* 76 FR at 55510.

The numerical limitations set forth in the final rule for the first two years of the CW classification provided a baseline for the maximum number of transitional workers in the CNMI.[2] This initial approach to the allocation system ensured that employers had an adequate supply of workers for the projected CW nonimmigrant visas needed to transition umbrella permit holders to CW–1 status. This approach also provided DHS with the flexibility to adjust to the future needs of the CNMI economy and to assess the total alien workforce needs based on the number of requests for transitional worker nonimmigrant classification received following implementation of the final rule. Based on these factors, DHS determined that it would assess the CNMI's workforce needs on a yearly basis. *See* 8 CFR 214.2(w)(1)(viii)(C).

II. Maximum CW–1 Workers for Fiscal Year 2013

The maximum number of CW–1 workers announced in this document (15,000) is appropriate based on the actual demonstrated need for foreign workers within the CNMI. In the final rule, DHS provided for an accurate assessment of the actual labor needs within the CNMI by setting a limit in the final rule that ensured an adequate supply of CW visas to test the labor market. Although DHS set the numerical limitation for fiscal year 2012 at 22,416, employers in the CNMI have filed only 5,985 Petitions for CNMI-Only Nonimmigrant Transitional Workers (Form I–129 CW), requesting a total of 12,247 transitional workers.[3] Therefore, DHS believes the numerical limitation provided for fiscal year 2012 greatly

[1] The Secretary of Labor is authorized to extend the transitional worker program beyond December 31, 2014 for additional periods of up to five years each. *See* 48 U.S.C. 1806(d)(5).

[2] The 22,417 number was the total number of foreign workers working in the Commonwealth, according to the CNMI government estimate of the nonresident workers present as of May 8, 2008, the date of enactment of the CNRA. DHS established this limit based on the CNMI government estimate. *See* Letter from Benigno Fitial, Governor of the Commonwealth of the Northern Mariana Islands to Richard C. Barth, Assistant Secretary for Policy Development, and Stewart A. Baker, Assistant Secretary for Policy, Office of Policy, Department of Homeland Security (July 18, 2008) (available at *www.regulations.gov* under DHS Docket No. USCIS–2008–0038).

[3] USCIS Office of Performance and Quality (OPQ), Data Analysis and Reporting Branch (DARB), figures provided as of September 4, 2012. Of the petitions adjudicated to date, 239 petitions for a total of 320 beneficiaries have been denied.

outweighed the demand for labor and the number of requests received for CW classification in fiscal year 2012 to date provides a more appropriate baseline for the maximum number of transitional workers in the CNMI.

All requests received to date were submitted during fiscal year 2012, as the final rule took effect shortly after the beginning of that fiscal year. USCIS has not completed adjudication of these requests but anticipates doing so before the end of the current calendar year. These requests, to the extent they are granted, will be counted under the fiscal year 2012 cap of 22,416. The vast majority of CW petitions were filed by CNMI employers in November 2011, shortly before the expiration of ''grandfathered'' CNMI work authorization on November 27, 2011. *See* 48 U.S.C. 1806(e)(2). For these reasons, DHS believes that the number of requested CW–1 workers to date in fiscal year 2012 is an accurate baseline to use in determining the likely demand in fiscal year 2013.

The CNRA requires an annual reduction in the number of transitional workers (and complete elimination of the CW nonimmigrant classification by the end of the transition period) but does not mandate a specific reduction. *See* 48 U.S.C. 1806(d)(2). In addition, 8 CFR 214.2(w)(1)(viii)(C) provides that the numerical limitation for any fiscal year will be less than the number for the previous fiscal year, and it will be reasonably calculated to reduce the number of CW–1 nonimmigrant workers to zero by the end of the transition period.

To comply with these requirements, meet the CNMI's labor market's needs, and provide opportunity for growth, DHS has set the numerical limitation for fiscal year 2013 at 15,000. DHS calculated this figure by first taking the number of CW–1 nonimmigrant workers needed based on fiscal year 2012 filings to date of 12,247 (or 11,927, taking into account 320 denials to date), which rounded to the nearest thousand is 12,000. DHS then added an additional 25 percent to the 12,000 to accommodate possible economic growth that might lead to a need for additional CW workers, for a total of 15,000. Accordingly, DHS reduces the number of transitional workers from the current fiscal year numerical limitation of 22,416, and establishes the maximum number of CW–1 visas available for fiscal year 2013 at 15,000.

This number of CW–1 workers will be available beginning on October 1, 2012. DHS may adjust the numerical limitation for a fiscal year or other period, in its discretion, at any time via notice in the **Federal Register**. *See* 8 CFR 214.2(w)(1)(viii)(D). Consistent with the rules applicable to other nonimmigrant worker visa classifications, if the numerical limitation for the fiscal year is not reached, the unused numbers do not carry over to the next fiscal year. *See* 8 CFR 214.2(w)(1)(viii)(E).

Petitions requesting a validity start date within fiscal year 2013 will be counted against the 15,000 limit. As such, each CW–1 worker who is listed on a Form I–129CW is counted against the numerical limitation at the time USCIS receives the petition. Counting the petitions in this manner will help ensure that USCIS does not approve requests for more than 15,000 CW–1 workers. If the number of CW–1 workers approaches the 15,000 limit, USCIS will hold any subsequently-filed petition until a final determination is made on the petitions that are already included in the numerical count. Subsequently-filed petitions will be forwarded for adjudication in the order in which they were received until USCIS has approved petitions for the maximum number of CW workers; any remaining petitions that were held or that are newly received will be rejected.

This document does not affect the status of aliens who hold CW–1 nonimmigrant status. Aliens currently holding such status, however, will be affected by this document when they apply for an extension of their CW–1 classification, or a change of status from another nonimmigrant status to CW–1 status.

This document does not affect the status of any alien currently holding CW–2 status as the spouse or minor child of a CW–1 nonimmigrant. This document also does not directly affect the ability of any alien to extend or otherwise obtain CW–2 status, as the numerical limitation applies to CW–1 principals only. Aliens seeking CW–2 status may be affected indirectly by the applicability of the cap to the CW–1 principals from whom their status is derived.

Janet Napolitano,

Secretary.

[FR Doc. 2012–29025 Filed 11–29–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM12–3–000; Order No. 770]

Revisions to Electric Quarterly Report Filing Process

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) amends its regulations to change the process for filing Electric Quarterly Reports (EQR). Due to technology changes that will render the current filing process outmoded, ineffective, and unsustainable, the Commission will discontinue the use of Commission-distributed software to file an EQR. Instead, the Commission adopts a web-based approach to filing EQRs that will allow a public or non-public utility to file an EQR directly through the Commission's Web site, either through a web interface or by submitting an Extensible Mark-Up Language-formatted file. By adopting a process with two options for filing EQRs, the Commission seeks to provide the flexibility needed to accommodate a public or non-public utility's technical preference. The Commission also requires a public or non-public utility to identify itself with a company identification number rather than the existing software-based EQR identifier. The changes to the process for filing EQRs will apply to EQR filings beginning with the third quarter 2013 EQR, which will provide data for July through September 2013.

DATES: *Effective date:* This rule will become effective April 1, 2013.

FOR FURTHER INFORMATION CONTACT:
Connie Caldwell, Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6489, *Connie.Caldwell@ferc.gov.*

Christina Switzer, Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6379, *Christina.Switzer@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Before Commissioners: Jon Wellinghoff, Chairman; Philip D. Moeller, John R. Norris, Cheryl A. LaFleur, and Tony T. Clark.

Final Rule

(Issued November 15, 2012)

Table of Contents

	Paragraph Nos.
I. Introduction	1
II. Background	3
III. Discussion	6
A. Need for Changing the Current EQR Filing Process	6
1. NOPR Proposal	6
2. Comments	7
3. Commission Determination	8
B. Option One—Web Interface	9
1. NOPR Proposal	9
2. Comments	10
3. Commission Determination	12
C. Option 2—XML-Formatted File	16
1. NOPR Proposal	16
2. Comments	17
3. Commission Determination	18
D. Validation	19
1. NOPR	19
2. Comments	20
3. Commission Determination	24
E. Company Registration System	30
1. NOPR Proposal	30
2. Comments	31
3. Commission Determination	33
F. Implementation and Compliance	37
1. NOPR Proposal	37
2. Comments	38
3. Commission Determination	47
IV. Information Collection Statement	53
V. Environmental Analysis	64
VI. Regulatory Flexibility Act	65
VII. Document Availability	71
VIII. Effective Date and Congressional Notification	74
Appendix A: List of Commenters	
Appendix B: EQR Data Dictionary	

I. Introduction

1. The Federal Energy Regulatory Commission (Commission) adopts changes to the method for filing Electric Quarterly Reports (EQR). Due to technology changes that will render the current filing process outmoded, ineffective, and unsustainable, the Commission will discontinue the use of Commission-distributed software (EQR software) to file an EQR. Instead, the Commission adopts a web-based approach that will allow a public or non-public utility to file an EQR directly through the Commission's Web site, either through a web interface or by submitting an Extensible Mark-Up Language (XML)-formatted [1] file (XML option). The Commission also requires a public utility or non-public utility to identify itself with a company identification number (Company Identifier) rather than the existing software-based EQR identifier (Personal Identification Number (PIN)). The changes to the process for filing EQRs will apply to EQR filings beginning with the third quarter (Q3) 2013 EQR, which will provide data for July through September 2013.

2. Before turning to the requirements in this Final Rule, it is important to explain certain terms. In the Notice of Proposed Rulemaking (NOPR), the Commission often used the term ''filer'' in the description of the two new filing options.[2] We find that using the term ''filer'' created confusion because it was not clear whether the Commission was talking about a public or non-public utility, its agent, or a respondent. Thus, in this Final Rule, we use the phrase ''EQR seller'' to mean companies that are authorized to sell power under Part 35 of the Commission's regulations [3] as well as non-public utilities [4] that are

[1] XML schemas facilitate the sharing of data across different information systems, particularly via the Internet, by structuring the data using tags to identify particular data elements. For example, each filed EQR will include tags for the relevant information. The tagged information can be extracted and separately searched.

[2] *Revisions to Electric Quarterly Report Filing Process, Notice of Proposed Rulemaking,* FERC Stats. & Regs. ¶ 32,689 (2012) (NOPR).

[3] *See Revised Public Utility Filing Requirements,* Order No. 2001, 67 FR 31044 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 at 30,116, *reh'g denied,* Order No. 2001–A, 100 FERC ¶ 61,074, *reh'g denied,* Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filing,* Order No. 2001–C, 101 FERC ¶ 61,314 (2002), *order directing filing,* Order No. 2001–D, 102 FERC ¶ 61,334, *order refining filing requirements,* Order No. 2001–E, 105 FERC ¶ 61,352 (2003), *order on clarification,* Order No. 2001–F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements,* Order No. 2001–G, 72 FR 56735 (Oct. 4, 2007), 120 FERC ¶ 61,270, at PP 10–11, *order on reh'g and clarification,* Order No. 2001–H, 73 FR 1876 (Jan. 10, 2008), 121 FERC ¶ 61,289 (2007), *order revising filing requirements,* Order No. 2001–I, 73 FR 65526 (Nov. 4, 2008), FERC Stats. & Regs. ¶ 32,282 (2008).

[4] ''Non-public utility'' refers to a market participant that is not a public utility under section 201(f) of the FPA. FPA section 201(f) provides: No provision in this Part shall apply to, or be deemed to include, the United States, a State or any political subdivision of a State, an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by

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required to comply with the EQR filing requirements pursuant to the *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act,* Order No. 768.[5] We use the phrase ''EQR agent'' to mean an entity that an EQR seller designates to file on its behalf. An EQR seller will be able to designate multiple EQR agents.[6] Even when an EQR agent files on an EQR seller's behalf, the legal obligation for complying with the EQR requirements remains with the companies that are authorized to sell power under Part 35 of the Commission's regulations and non-public utilities, and any inaccuracies are their responsibility.

II. Background

3. The purpose of the EQR is to

> make available for public inspection, in a convenient form and place all relevant information relating to public utility rates, terms, and conditions of service; ensure that information is available in a standardized, user friendly format; and meet the Commission's electronic filing option obligation. [Footnote omitted.] These actions also will allow the public to better participate in and obtain the full benefits of wholesale electric power markets while minimizing the reporting burden on public utilities.[7]

The EQR allows public utilities to fulfill their responsibility under section 205(c)[8] of the FPA to have rates on file in a convenient form and place.[9] Non-public utilities will file EQRs to meet the requirements under section 220 of the FPA,[10] as explained in the *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act,* Order No. 768.[11]

4. Prior to the issuance of Order No. 2001, the Commission required all public utilities to file in *paper format* all short-term and long-term service agreements for cost-based and market-based power sales as well as service agreements for generally applicable services (such as point-to-point transmission service). In Order No. 2001, the Commission replaced the paper filing requirement with an electronic filing requirement.[12]

The Commission specified that EQRs should ''be prepared in conformance with the Commission's software and guidance posted and available for downloading from the FERC Web site (*http://www.ferc.gov*).'' [13] Since the fourth quarter of 2002, the Commission has posted on its Web site a Commission-developed Visual FoxPro application for filing EQRs (EQR software) that runs on Microsoft Windows-based computers.[14]

5. On June 21, 2012, the Commission issued a NOPR in this proceeding to propose changes to the EQR electronic filing process.[15] On July 11, 2012, the Commission held a technical conference to present the two new proposed options for filing EQRs. On July 27, 2012, the Commission posted on its Web site a draft of the XML schema (draft XML schema) for the proposed XML option so that interested parties would be able to view the draft XML schema prior to submitting comments on the NOPR.[16] The Commission also posted a ''Frequently Asked Questions'' document on its Web site in response to questions raised at the July 11 technical conference.[17] The Commission received eight comments in response to the NOPR.[18]

III. Discussion

A. Need for Changing the Current EQR Filing Process

1. NOPR Proposal

6. In the NOPR, the Commission stated that, pursuant to the Commission's regulations,[19] EQR sellers and agents must download EQR software from the Commission's Web site. The Commission explained that this software was built with Visual FoxPro development tools and must be installed on a Windows-based computer. The Commission identified certain disadvantages with the current filing process, such as the fact that Microsoft, the vendor of Visual FoxPro, announced in 2007 that it would no longer sell or issue new versions of Visual FoxPro and would not provide support for the software after 2015. The Commission also explained that data limitations make the EQR software outmoded, ineffective, and unsustainable.[20] The Commission stated that the changes proposed in the NOPR support the goals of Executive Order 13579[21] because the Commission proposed to modify a filing process that has become outmoded and ineffective.[22]

2. Comments

7. Commenters understand the technical limitations of the existing software and the Commission's decision to discontinue it.[23] Pacific Gas and Electric commends the Commission for its ongoing efforts to enhance the efficiency of the EQR data gathering and reporting process.[24]

3. Commission Determination

8. We conclude that the proposed changes to the method for filing EQRs are appropriate. As explained in the NOPR, continuing to rely on the current EQR software is unsustainable because Microsoft will no longer sell or issue

any one or more of the foregoing, or any officer, agent, employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto. 16 U.S.C. 824(f).

[5] 77 FR 61896 (Oct. 11, 2012), FERC Stats. & Regs. ¶ 31,336 (2012)(Transparency Rule). In that rulemaking, the Commission extended the EQR filing requirements to non-public utilities above a *de minimis* market presence threshold and adopted new filing requirements for both public and non-public utilities.

[6] The process for designating an EQR agent is discussed in detail below. *See supra,* section III.E.

[7] Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at 30,116.

[8] 16 U.S.C. 824d(c).

[9] Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 31.

[10] EPAct 2005, Public Law 109–58, 119 Stat. 594 (2005).

[11] Transparency Rule, FERC Stats. & Regs. ¶ 31,336. In that rulemaking, the Commission extended the EQR filing requirements to non-public utilities above a *de minimis* market presence threshold and adopted new filing requirements for both public and non-public utilities.

[12] The Commission has refined and clarified the EQR filing requirements set forth in Order No. 2001 in response to changes in the industry and the Commission's rules and regulations. For example, the Commission has required EQR sellers to report all transmission capacity reassignments and proposed to revise the EQR Data Dictionary to add ''Simultaneous Exchange'' to the list of available product names. *See Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, 72 FR 12266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, at P 817, *order on reh'g,* Order No. 890–A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification,* Order No. 890–B, 73 FR 39092 (July 8, 2008), 123 FERC ¶ 61,299 (2008), *order on reh'g,* Order No. 890–C, 74 FR 12540 (Mar. 25, 2009),126 FERC ¶ 61,228 (2009), *order on clarification,* Order No. 890–D, 74 FR 61511 (Nov. 25, 2009), 129 FERC ¶ 61,126 (2009); *Revised Public Utility Filing Requirements for Electric Quarterly Reports,* Notice of Proposed Rulemaking, 77 FR 16494 (Mar. 21, 2012), FERC Stats. & Regs. ¶ 32,687 (2012).

[13] 18 CFR 35.10b.

[14] *See* Notice Providing Detail On Electric Quarterly Reports Software Availability and Announcing Schedule for Software Demonstrations, Docket No. RM01–8–000 (Dec. 20, 2002).

[15] NOPR, FERC Stats. & Regs. ¶ 32,689.

[16] Notice of Availability of Draft XML Schema, Docket No. RM12–3–000 (July 27, 2012). The draft XML-schema is available on the Commission's Web site at *http://www.ferc.gov/docs-filing/eqr.asp.*

[17] The Frequently Asked Questions document is also available on the Commission's Web site at *http://www.ferc.gov/docs-filing/eqr.asp.*

[18] See Appendix A for a list of commenters and their abbreviated names used here. We note that Southern California Edison joins EEI's comments.

[19] 18 CFR 35.10b.

[20] NOPR, FERC Stats. & Regs. ¶ 32,689 at P 4.

[21] *Regulation and Independent Regulatory Agencies,* Exec. Order 13579, 76 FR 41587 (2011). Through this Executive Order, the President requested that executive agencies retrospectively analyze their agency's rules and that those found to be outmoded, ineffective, insufficient, or excessively burdensome be modified, streamlined, expanded, or repealed in accordance with the results of that analysis.

[22] NOPR, FERC Stats. & Regs. ¶ 32,689 at P 5.

[23] *See, e.g.,* Idaho Power at 2; Pacific Gas and Electric at 1.

[24] Pacific Gas and Electric at 1.

new versions of Visual FoxPro.[25] Further, the data limitations of the current software make it untenable for use going forward.[26] As the Commission also explained, the move from a software-based approach to a web-based approach will eliminate the need for EQR sellers and agents to download software from the Commission's Web site.[27] In addition, a web-based approach for EQR filing is device-independent, which eliminates the need for EQR sellers and agents to use a Windows-based computer to file an EQR.[28] We also note that the new filing process will allow EQR sellers and agents to access and revise EQR data filed prior to Q3 2013.

B. Option One—Web Interface

1. NOPR Proposal

9. In the NOPR, the Commission proposed to offer a web interface on the Commission's Web site that allows EQR sellers and agents to continue to enter data in the comma-delimited text (CSV) format but without the need to download the EQR software.[29] The Commission stated that this option would minimize the changes for EQR sellers and agents and streamline the filing process by eliminating the need for EQR sellers and agents to enter or import the data into a software application.

2. Comments

10. Commenters generally support the web interface option as long as the transition from the current filing process is not overly difficult or costly.[30] Some commenters argue that they cannot fully comment on the web interface option without a live demonstration.[31] EEI believes that the web interface will allow (1) companies to upload complete sets of data from prior EQRs, and then edit the information to reflect changes in the current quarter, rather than having to start each new EQR from a blank slate; (2) companies to upload new data in the same CSV format as the current software; and (3) multiple staff within each company or outside the company with the company's permission to fill out and review portions of an EQR, though only one person can be editing a particular EQR at any one time.[32]

11. EPSA requests that the Commission clarify that the proposed web interface option will be a long-term alternative to the XML option that will not be phased out in favor of the latter.[33]

3. Commission Determination

12. We adopt the web interface as one of two new EQR filing options. As explained in the NOPR, this option will minimize the changes for EQR sellers and agents and streamline the filing process by eliminating the need for EQR sellers and agents to first enter or import the data into a software application then send it, via Internet, to the Commission. We are offering this option to make the transition from the current EQR software to the web interface minimally disruptive. We direct Commission staff to continue to be available to answer questions, conduct technical conferences, and post guidance documents on the Commission's Web site as needed.

13. We emphasize that, as explained in the NOPR, the web interface will allow EQR sellers and agents to continue to enter data in much the same way as they currently do: By entering individual fields by hand (an option used primarily by EQR sellers that have little data to report) or by uploading data in CSV format. Also, we note that, except for minor changes, the data elements of the EQR will remain the same.[34]

14. We also point out that, in designing the web interface, Commission staff has sought to provide the same, if not better, functionality than is provided in the current EQR software. For example, once one quarter has been filed in the web interface, a copy forward function will allow EQR sellers and agents to copy forward complete sets of identification and contract data and then edit the data to reflect changes in the current quarter.[35] Also, an EQR seller will be able to designate more than one EQR agent to input data on its behalf. Finally, the use of a web interface will minimize, if not eliminate, many common EQR filing problems that are due to (1) conflicts between the current EQR software and other software on the EQR seller or agent's computer or (2) issues associated with initiating and supporting the communication functions of the current EQR software.

15. Finally, we intend to support the web interface option until such time as it is no longer needed.

C. Option 2—XML-Formatted File

1. NOPR Proposal

16. In the NOPR, the Commission proposed a second EQR filing option that allows EQR sellers and agents to file EQR data via XML-formatted files.[36] The Commission identified various advantages to the XML option. For example, an XML schema allows EQR sellers and agents to test whether their data is consistent with the filing standards before uploading it to the Commission, thereby improving their ability to comply with the EQR filing requirement and increasing confidence that the Commission receives the intended information.[37]

2. Comments

17. Pacific Gas and Electric believes that the XML option is a promising solution.[38] Pacific Gas and Electric states that the XML format provides the greatest flexibility for processing large amounts of data and the greatest opportunity to accurately validate data. However, Pacific Gas and Electric notes that converting data to XML format requires a software program, authored in-house or by a vendor, that can create, submit, and store and manage the EQR report.[39] Idaho Power supports this filing option if it is similar to the current filing method and is not overly burdensome and/or does not require major changes to Idaho Power's internal systems.[40] Other commenters do not object to the XML option if it is voluntary and not the sole means of submission.[41] EEI supports allowing companies to switch between the web interface and XML options from one EQR to another.[42]

3. Commission Determination

18. We adopt the XML option as the second of two new filing options. This

[25] NOPR, FERC Stats. & Regs. ¶ 32,689 at P 4.

[26] *Id.*

[27] *Id.* P 6.

[28] *Id.*

[29] *Id.*

[30] *See, e.g.,* EEI at 4; Energy Services Providers at 3; Idaho Power at 3.

[31] *See, e.g.,* Idaho Power at 3; Pacific Gas and Electric at 4–5.

[32] EEI at 5.

[33] EPSA at 3.

[34] The only proposed changes to the EQR data elements adopted here relate to the addition of a field for the identification of the EQR seller and the elimination of the respondent field. *See* discussion *infra* section III.E. For recent changes to the EQR filing requirements, see Transparency Rule, FERC Stats. & Regs. ¶ 31,336.

[35] To assist in the transition to the web interface option, the EQR seller or agent can import contract data from the Q2 2013 EQR filing made via the current EQR software into the new web interface after the file is revised to accommodate any new required fields. *See* discussion *infr*a section III.F. However, as under the current EQR software, the web interface will not permit the EQR seller or agent to copy transaction data forward because the transactions must correspond to the EQR's designated calendar quarter.

[36] NOPR, FERC Stats. & Regs. ¶ 32,689 at P 7.

[37] *Id.*

[38] Pacific Gas and Electric at 6.

[39] *Id.* at 5.

[40] Idaho Power at 2.

[41] *See, e.g.,* EEI at 7; Energy Services Providers at 3; EPSA at 4; Idaho Power at 4–5.

[42] EEI at 7.

option allows EQR sellers and agents to file their EQR data in an XML-formatted file. While we find that allowing EQR sellers and agents to use the XML option offers several advantages, as highlighted by Pacific Gas and Electric, and will facilitate the filing of EQRs, we stress that using the XML option is voluntary. Alternatively, EQR sellers and agents can choose to file via the web interface. An EQR seller may use the web interface to file their EQR for one quarter and use the XML option to file their EQR in another quarter, but an EQR seller cannot use both options to file its EQR in the same quarter.

D. Validation

1. NOPR

19. In the NOPR, the Commission explained that an XML schema includes rules and data checks. This allows EQR sellers and agents to test the consistency of their data with the Commission's filing standards, thereby improving the ability to comply with EQR filing requirements and ensures that the Commission receives the intended information.[43] The Commission further noted in the NOPR that these data checks are not available in a CSV file.

2. Comments

20. Energy Compliance Consulting requests that the Commission make available as soon as possible all of the criteria that the Commission will use to validate an EQR prior to its acceptance for filing.[44] Energy Compliance Consulting notes that, contrary to the statement in the posted FAQ document, the draft XML schema posted on the Commission's Web site contains data elements that EQR filers are not currently required to provide.[45] Energy Compliance Consulting requests that the Commission explain this discrepancy.[46]

21. EPSA argues that any new filing method should meet or exceed the validation capabilities of the Visual FoxPro-based EQR software.[47] EPSA asserts that EQR users have not been presented with meaningful information on how validation checks will be designed for either the web interface or the XML filing option.[48] EEI believes that the web interface will allow companies to upload, edit, and check for errors in the data before actually filing the EQR; provide pre-filing error checks and validations for completeness and compliance with filing requirements; and provide error messages to allow companies to correct problems before filing their EQRs.[49] EEI and Links Technology Solutions ask that the Commission provide a permanent testing facility (sandbox), like the eTariff sandbox test site, so that filers can check the basic construction of their XML files and perform basic types of data checks.[50]

22. Based on information provided during the technical conference, Pacific Gas and Electric argues that providing email notification for any validation errors encountered during upload may cause a significant delay in correcting errors and providing timely EQRs.[51] Pacific Gas and Electric claims that using email messages reduces EQR filers' ability to be quickly alerted of validation errors, which undercuts the Commission's effort to create a new system on par with, or better than, the Visual FoxPro-based EQR software.[52] Pacific Gas and Electric suggests the web-based system should (1) include on-screen error reports that are interactive (with links to the error records) or a user-friendly form (like a spreadsheet) that allows the EQR filer to immediately and accurately address validation errors, and (2) allow batch corrections to the error records.[53] Pacific Gas & Electric notes that generally accepted data validation rules, which require the validation process to stop when a critical error is detected, leave open the possibility that after receiving an error notification and remedying a set of errors, an EQR filer could receive further error messages every time the validation routine stops because a critical error is detected.[54] Pacific Gas and Electric is concerned about the impact of this process on timely EQR filing.[55]

23. Pacific Gas and Electric also states that, while it generally supports the Commission's proposal to alter the EQR user authentication methodology, it is concerned about who will have access to the sandbox.[56] Pacific Gas and Electric asserts that restricting access to only those people authorized to file on behalf of a client, as suggested at the technical conference, will reduce the filing entities' current ability to allow anyone within a given company to download a copy of the current EQR distributed software, load data, and run validation checks to test some or all of its filing data.[57] Thus, Pacific Gas and Electric requests that the Commission provide authentication protocols in the new system that address these concerns.[58]

3. Commission Determination

24. We find that the validation process in the web interface and XML-format options will be similar to or better than the validation process in the current EQR software. We further find that the validation processes strike an appropriate balance between the needs identified by commenters and the Commission's resources. We appreciate Energy Compliance Consulting's request that all the criteria which will be used to validate an EQR filing prior to its acceptance be made available as soon as possible. The validation criteria are currently under development, and the Commission will make these available to the public as soon as they are complete. As for the discrepancy between the posted draft XML schema and FAQ document, we note that the draft XML schema mistakenly included additional data elements that were not included in the NOPR.

25. Under both of the new EQR filing options, EQR sellers and agents will be able to log into their eRegistration accounts, load data and run the validation check. Once an EQR is submitted, the EQR seller or agent that submitted the EQR will receive the following three emails: (1) A receipt email that acknowledges that the EQR has been received; (2) a validation email that will list any business rule errors, such as listing a transaction under a contract without entering the contract in the contract section; and (3) an acceptance/rejection email stating that the EQR is accepted if all validations are passed or is rejected if any validations fail. The EQR seller and all of its designated EQR agents will receive the validation email and the acceptance/rejection email. The validation email will provide a list of the errors that are contained in submitted data. The system will review the entire submission prior to creating and sending the validation report. Due to the number of potential occurrences, the report may not list all instances of the error, but the EQR seller or agent will be alerted that that type of error has occurred. Once the EQR seller or agent has found and corrected all errors in the submission, the EQR data will be accepted for filing.

26. In addition, both filing options will include a ''Test Only'' option so

[43] NOPR, FERC Stats. & Regs. ¶ 32,689 at P 7.

[44] Energy Compliance Consulting at 3.

[45] *Id.* at 2–3.

[46] *Id.* at 3.

[47] EPSA at 4–5.

[48] EPSA at 5.

[49] EEI at 5.

[50] *See, e.g.,* EEI at 8; Links Technology Solutions at 2.

[51] Pacific Gas and Electric at 7.

[52] *Id.*

[53] *Id.*

[54] *Id.*

[55] *Id.* at 7–8.

[56] *Id.* at 8.

[57] *Id.*

[58] *Id.*

that EQR sellers and agents can submit their filing for data validation prior to final submission. With respect to the web interface option, we also have taken steps to address EPSA's request for in-time validation checks by including some validation checks that will appear on-screen as the EQR seller or agent inputs the data. These validation checks are the same as or similar to the validation checks that appear when an EQR seller or agent uses the current EQR software. For example, an on-screen error message will appear if a field is left empty that must be filled, or if an alphabetical character is entered in a numeric field. After the EQR seller or agent submits its filing, it will receive a validation email that will provide business logic and data format errors and line numbers within the body of the email.

27. Pacific Gas and Electric expressed concern that the issuance of validation emails after the occurrence of each critical error may slow the filing process. We are not able to avoid the additional time that the detection of multiple critical errors will add to the filing process. Validating for business logic errors after a filing is submitted will allow the Commission to maintain the system during high volumes of filings. However, we note that EQR sellers and agents will have the option to run a data validation check prior to submitting the EQR to the Commission using the ''Test Only'' feature, which should help alleviate Pacific Gas and Electric's concerns. Moreover, the Commission expects that the new EQR filing process will be able to process revised EQR data more quickly and efficiently because it will have the ability to process only revised data, rather than needing to process the entire data set to overwrite the previously submitted data, as currently is the case. By decreasing the amount of processing capability needed for data updates, the Commission will increase the available computer capacity for processing the simultaneous filing of EQRs, resulting in quicker processing of both EQRs and revised EQRs. We also encourage EQR sellers and agents to submit EQRs early in the filing period, which starts on the first day after the end of the quarter providing an entire month to validate the data.

28. With respect to the XML option, we do not find an eTariff type sandbox is necessary because the ability to test an EQR filing is integrated into the new system. Specifically, XML files can be imported into the Web interface, where the EQR seller or agent can select the ''Test Only'' option to receive the validation email for that EQR filing. Additionally, EQR sellers and agents may use one of many XML parser programs available free on-line to check whether their XML file is consistent with the EQR XML schema. The parser will check for data formatting errors, which an EQR seller or agent can then correct. If there are business logic errors that were undetected by the parser, a validation email will notify the EQR seller and agent contacts.

29. We decline to adopt Pacific Gas and Electric's request to include the ability to perform batch corrections to records that contain errors. The current EQR software does not provide a way to perform batch corrections; and we are not persuaded to include that capability in the new filing options. This correction method could arbitrarily and incorrectly change the contents of an EQR. We note, however, that EQR sellers and agents who intend to file by uploading CSV or XML files can develop their own batch correction processes to respond to validation errors.

E. Company Registration System

1. NOPR Proposal

30. In the NOPR, the Commission proposed to replace the PIN number identification system with the Company Registration System used for eTariff filings.[59] The Commission explained that the PIN system is part of the EQR software, and as part of the transition away from this software application, the Commission must provide a new manner to identify EQR sellers. The Commission stated that, as part of the development of the eTariff system, the Commission directed each publicly regulated company to file its tariffs, rate schedules, jurisdictional contracts, and other jurisdictional agreements with a Company Identifier. Accordingly, the Commission stated that it does not anticipate that the use of a Company Identifier in the EQR filing process will create an undue burden for publicly regulated companies that file their Commission-jurisdictional tariffs and agreements because they already have Company Identifiers. The Commission also stated that it did not anticipate that the use of the Company Identifier will be unduly burdensome for an EQR filer that does not have an existing Company Identifier because the registration process on the Commission's Web site is straightforward and no more difficult than the current filer identification process. The Commission also noted that an advantage of using the Company Identifier for EQR filings is that it will make filer identification consistent with other filings.[60]

2. Comments

31. EEI supports the Commission's plan to continue to accommodate a wide variety of EQR filing arrangements, including (1) filings submitted on behalf of respondents that are not registered companies (i.e., entities that do not have Company Identifiers); (2) a single respondent filing on behalf of multiple sellers; (3) a single seller submitting multiple EQRs for the same quarter through different respondents; (4) a seller that consists of multiple registered companies or an unregistered service company; and (5) law-firm personnel and others filing as agents for respondents.[61] However, EEI states that the Commission may need to provide additional flexibility as to individuals and entities that can register and obtain a Company Identifier using the eRegistration system.[62] EEI asks the Commission to allow filings by anyone who has the necessary Company Identifier and password without limiting filings to a pre-approved list of specific individuals.[63] EEI urges the Commission to post instructions for company registration similar to the instructions that the Commission posted for company registration for eTariff.[64]

32. Based on information provided at the technical conference, EPSA asks the Commission to reconsider requiring companies to designate in advance of making a filing who is authorized to make EQR filings.[65] EPSA states that its members have cautioned that requiring companies to designate in advance who is permitted to file their EQRs may prove more unwieldy than anticipated.[66] EPSA states that its members own numerous project companies and that the administrative burden associated with initially designating agents and back-up agents on what could be over fifty company registrations and changing each of those delegations in anticipation of staffing changes or in case of emergencies is unnecessary.[67] EPSA further states that

[59] NOPR, FERC Stats. & Regs. ¶ 32,689 at P 9.

[60] *Id.*

[61] EEI at 3.

[62] *Id.* at 4. This document is located on the Commission's Web site at *http://www.ferc.gov/docs-filing/company-registration-instruct.pdf*, and the current version is dated October 6, 2011.

[63] *Id.*

[64] *Id.* (citing FERC Secretary of the Commission, eTariff Instructions for Company Registration (2009), *http://www.ferc.gov/docs-filing/company-registration-instruct.pdf* (The Commission up-dated the instructions on October 6, 2011)).

[65] EPSA at 5.

[66] *Id.*

[67] *Id.*

there are already security protections in place to ensure an authorized person is making filings with the Commission.[68] Finally, EPSA asserts that, because Commission staff's approval of modifications to a company's registration can take up to 24 hours to become effective, a company's filing may become untimely.[69] EPSA states that, in the eTariff context, where delegations are not needed and thus modifications to company registration are not routine, the modification of company registrations has delayed filings.[70]

3. Commission Determination

33. The Commission adopts the requirement for EQR sellers to identify themselves using a Company Identifier. As explained in the NOPR, the PIN system is part of the current EQR software. Therefore, as part of the transition away from the EQR software, the Commission must provide a new manner to identify EQR sellers. Instead of building a new identification system for submitting EQRs, we will utilize the company registration system that was created for eTariff. Using the company registration system to identify EQR sellers allows the Commission to make filer identification consistent with other Commission filings and is familiar to public utilities that use eTariff. Under the new EQR filing system, all EQR sellers will be identified in EQR filings by their Company Identifier.[71]

34. To make an EQR filing, the EQR seller will request a Company Identifier through the Commission's Company Registration System.[72] The EQR seller will be able to maintain a list of eRegistered EQR agents whom the EQR seller has authorized to submit EQR filings on its behalf.[73] An EQR seller can designate multiple individuals as its agents. The EQR agent will use its eRegistration account to log onto FERC Online,[74] and select from a list of EQR seller(s) that have designated the individual as EQR agent.

35. We understand that requiring EQR sellers to designate agents that have eRegistered is more burdensome than the current system. However, after the initial burden of designating EQR agents, we anticipate that it will be minimally burdensome for an EQR seller to manage its EQR agent list. For instance, since an EQR seller may designate an unlimited number of agents, if one agent is unable to file in a given quarter, another agent will be able to make the filing. Finally, in response to EPSA's concern, Commission staff will not review changes that a company makes to the list of EQR agents associated with its Company Identifier account. These changes will be instantaneous.[75]

36. We note that the new identification system will provide an electronic record of the EQR agent(s) that have filed an EQR on behalf of an EQR seller. Accordingly, we will eliminate the respondent fields from the EQR data dictionary because it no longer provides useful information to the Commission or the public. We are aware that some companies use the respondent field to indicate that a service company or parent company is filing on behalf of several operating companies or affiliates that are the EQR sellers. While a parent company or service company may file EQRs on behalf of EQR sellers, an individual will need to be eRegistered and designated as an agent of the EQR sellers. The designated agent may then file an EQR on behalf of the EQR seller. EEI also suggests that an EQR seller could be a service company. We note that a service company may be listed as an EQR seller if the service company is authorized to sell power under Part 35 of the Commission's regulations, or if a public utility's tariff authorizes the service company to act on its behalf.[76]

F. Implementation and Compliance

1. NOPR Proposal

37. In the NOPR, the Commission proposed that implementation of any changes to the process for filing EQRs will apply to EQR filings beginning with the Q3 2013 EQR, providing data for July through September 2013.[77] The Commission stated that implementing the changes within that time period should provide EQR sellers with sufficient time to weigh the two options and file their Q3 2013 EQR in a timely manner.

2. Comments

38. Some commenters request that the Commission extend the compliance date.[78] For example, EEI requests that the compliance date be at least one full year after the Commission issues a Final Rule and the EQR filing web interface is pre-tested, corrected, and available for general use before withdrawing the current FoxPro-based software filing option.[79] EEI states that this time would give companies a chance to test the new web interface and iron out any problems before the current FoxPro-based software is no longer an option.[80]

39. As for the XML filing option, commenters argue that it takes at least 12 months to develop and test software to file in XML and to train staff on using the software.[81] Pacific Gas and Electric states that software vendors cannot design and offer products to customers until they have a final XML schema document.[82] Pacific Gas and Electric asserts that it is only after vendors make their products available that customers can evaluate and purchase products, and begin retooling their internal business processes to accommodate the new EQR requirements.[83] Thus, Pacific Gas and Electric requests that the Commission give regulated entities one year from the date a Final Rule is published in the **Federal Register** to make the necessary internal data collection changes and to acquire, install, and test the software to file new-system EQR submittals.[84] Similarly, EEI requests that the Commission provide a full year after it issues a final XML Data Structure and XML Data Values, holds a technical conference to discuss the XML filing option, and issues a Final Rule in this proceeding before withdrawing the current software.[85]

40. Several commenters assert that the Commission should conclude any other EQR-related rulemakings before changing the EQR filing process so that filers do not need to modify their system

[68] *Id.* at 6.

[69] *Id.*

[70] *Id.*

[71] The current PIN system requires an EQR seller to share its PIN and password with all individuals that it wants to allow to file on its behalf, and we do not consider this to be a safe practice. We believe that this creates the potential for unanticipated problems and that it is not the most secure method of filing.

[72] *See http://www.ferc.gov/docs-filing/company-reg.asp.* Many EQR sellers have a Company Identifier and do not need to request a new Company Identifier. If an EQR seller is not sure whether it already has a Company Identifier, it can check the list of Company Identifiers on the Commission's Web site at *http://www.ferc.gov/industries/electric/gen-info/reg-ent.asp.*

[73] An individual must eRegister before an EQR seller can designate that person as an EQR agent. *See http://www.ferc.gov/docs-filing/eregistration.asp.*

[74] *See http://www.ferc.gov/docs-filing/ferconline.asp.*

[75] We note that Commission staff does review applications for a Company Identifier account and that review can take up to several days.

[76] *See* Order No. 2001–G, 120 FERC ¶ 61,270 at PP 10–11 (''the agent may be identified as the Seller if the company's tariff authorizes the agent to make the sales.'').

[77] NOPR, FERC Stats. & Regs. ¶ 32,689 at P 11.

[78] *See, e.g.,* EEI at 8; Links Technology Solutions at 2; Pacific Gas and Electric at 6.

[79] EEI at 8.

[80] EEI at 8.

[81] *See, e.g.,* EEI at 8; Pacific Gas and Electric at 6.

[82] Pacific Gas and Electric at 6.

[83] Pacific Gas and Electric at 6.

[84] Pacific Gas and Electric at 6.

[85] EEI at 8.

multiple times.[86] In addition, EEI also states that the Commission will need to keep the web interface and XML schema up-to-date to accommodate any future changes to the EQR, providing adequate notice of such changes and time for EQR filers and software vendors to adopt the changes.[87]

41. EEI and Idaho Power recommend that the Commission allow filers to file their EQR in the current software and proposed new web interface during the transition period.[88] Idaho Power recommends that the Commission do so for a minimum of two reporting periods after the proposed implementation date listed in the NOPR.[89] EEI asserts that this time would ensure that filers will not be penalized because of problems with the web interface or XML option.[90] Idaho Power states that this grace period will give filers time to transition, train, and modify existing internal systems.[91] In the alternative, Idaho Power recommends and supports thorough testing by a representative sample of filers prior to the proposed implementation date in the NOPR to identify and correct system issues.[92]

42. Several commenters request that the Commission hold a second technical conference that includes a live demonstration of the new filing options.[93] Idaho Power states that Commission staff should provide a thorough live demonstration of the proposed web interface, including but not limited to walking through the steps of a complete start to finish EQR filing.[94] Energy Compliance Consulting states that the demonstration should show more completely how filers will interact with the software and include the submission of very large files and files with numerous errors so that prospective users will know how the system will present those errors and what the time will be compared to the current EQR software.[95] EEI states that the demonstration should be available by computers and should accommodate questions and provide answers in real time, similar to an EQR user group conference call.[96] Pacific Gas and Electric requests that the Commission schedule another technical conference in the near future to further present system functionalities and capabilities because a Final Rule in this matter may establish a level of certainty about the technical functions and behavior of the new system on both the server and client side of the equation.[97]

43. EEI asserts that filers and vendors may have questions about adopting the structure and values for use in filing EQR data in XML format.[98] Therefore, EEI encourages the Commission to hold a conference call/meeting to discuss the XML option only so that the Commission can answer questions about use of the data structure and values, correct problems, and help avoid errors in use of the option.[99]

44. Some commenters recommend that the Commission work with companies and software vendors to test the proposed new web interface before it goes public.[100] EEI states that problems may include missing functions that the software currently provides, inability to upload data required in various columns or rows, errors in how the web interface handles data being uploaded, or unclear filing instructions.[101] EEI encourages the Commission to ensure that the new web interface is fully tested for anomalies and corrected to remove problems before it is made available for general use.[102] EEI offers to ask for volunteers for this effort from among its members.[103]

45. CAISO and Idaho Power state that, based on the technical conference and FAQ document, it appears as though the copy forward function will not be available for the initial Q3 2013 EQR filing so that respondents will be responsible for transferring all data to the new web interface.[104] CAISO and Idaho Power assert that requiring respondents to enter all of the pre-existing data manually rather than through an automated procedure would be burdensome and strain filers' time and resources.[105] Idaho Power requests that the Commission develop an automated method, or provide detailed instructions on how to load or transfer the existing data from the FoxPro system into the new system for the initial web interface filing.[106] Similarly, CAISO argues that the Commission should be responsible for populating the database that underlies the new web interface with the data from the EQR respondents' Q2 2013 EQR.[107] CAISO asserts that the Commission already will possess all of the data submitted by respondents for Q2 2013 EQR, and thus be better situated to perform the necessary data transfer.[108] CAISO also asserts that it is concerned that errors may be introduced into the data if the process of incorporating previously submitted data is made more complicated than the current copy forward method.[109]

46. EEI states that the proposed changes to the regulatory text are too ambiguous, particularly the reference to ''as otherwise provided to the public'' because it does not specify where and how the Commission will provide such guidance.[110] EEI also suggests that the Commission publish notices in the **Federal Register** anytime the Commission posts generally applicable guidance or similar documents on the Commission's Web site to ensure that the regulated community has prompt and adequate notices of the new information.[111] Thus, EEI recommends that the Commission modify the proposed regulatory text to read, ''Electric Quarterly Reports must be prepared in conformance with Commission guidance being published in the **Federal Register**.'' [112]

3. Commission Determination

47. We direct EQR sellers to comply with the changes to the process for filing EQRs beginning with the Q3 2013 EQR, providing data for July through September 2013. We find that this time period provides EQR sellers with sufficient time to choose between the two filing options, transition to the new filing process, and file their Q3 2013 EQR in a timely manner. We disagree with commenters that argue that EQR sellers will need up to a year to adapt to the new filing options. As explained above,[113] the web interface option will operate similar to the current software and should not require significant changes to an EQR seller's existing internal system. An EQR seller that would like to file using the XML option, but is not prepared to do so by the filing deadline for Q3 2013 EQR, can file

[86] *See, e.g.,* EEI at 9–10; Energy Compliance Consulting at 2; EPSA at 6, 9–10.

[87] EEI at 10.

[88] *See, e.g.,* EEI at 9; Idaho Power at 3–4.

[89] Idaho Power at 3.

[90] EEI at 9.

[91] Idaho Power at 3.

[92] *Id.* at 4.

[93] *See, e.g.,* EEI at 6; Energy Compliance Consulting at 4; Idaho Power at 4; Pacific Gas and Electric at 9.

[94] Idaho Power at 4.

[95] Energy Compliance Consulting at 4.

[96] EEI at 7.

[97] Pacific Gas and Electric at 9.

[98] EEI at 7.

[99] *Id.* at 7–8.

[100] *See, e.g.,* EEI at 6; Energy Compliance Consulting at 5.

[101] EEI at 6.

[102] *Id.* at 5–6.

[103] *Id.* at 6.

[104] CAISO at 4; Idaho Power at 4.

[105] CAISO at 3; Idaho Power at 4.

[106] Idaho Power at 4.

[107] CAISO at 3–4.

[108] *Id.* at 3.

[109] *Id.* at 4–5.

[110] EEI at 11.

[111] *Id.* at 11–12.

[112] *Id.* at 12.

[113] *See* discussion *supra* section III.A.

through the web interface until it is able to transition to the XML option.

48. Starting with Q3 of 2013, we will no longer be able to accept EQR filings submitted through the current EQR software. In the Transparency Rule, the Commission revised the EQR filing requirements, adding some fields and deleting others.[114] Due to technical limitations, the Commission cannot add the new fields to the current EQR software. Therefore, consistent with the compliance deadline in the Transparency Rule, EQR sellers must file using the new filing process beginning with Q3 of 2013.

49. As explained throughout this Final Rule, the Commission will assist EQR sellers and agents in transitioning to the new filing process. The Commission directs staff to hold technical conferences to explain the new filing process as needed. However, the Commission will not offer a live demonstration of the new EQR filing options because the technology is still in development and will not be completed until after the rulemaking process is complete.

50. The Commission cannot pre-populate the new filing Web interface with Q2 2013 EQR data because the Web interface will include new fields that will not be present in the Q2 2013 EQR. However, we remind EQR sellers and agents that the current EQR software includes the ability to export a CSV file. EQR sellers and agents can export a CSV file from the EQR software that companies could then use, after revisions have been made to accommodate new requirements, to import into the new web-based system.

51. We agree with EEI that the reference to ''as otherwise provided to the public'' in the proposed regulatory text is ambiguous. Accordingly, we have removed that phrase from the regulatory text adopted in this Final Rule, and adopt text that states that ''Electric Quarterly Reports must be prepared in conformance with the Commission's guidance posted on the FERC Web site (*http://www.ferc.gov*).'' We disagree with EEI that the Commission should publish a notice in the **Federal Register** every time the Commission posts new guidance on the Commission's Web site. The Commission publishes notices when it proposes changes to existing requirements, but we do not find it necessary to publish a notice in the **Federal Register** whenever the Commission posts, for example, answers to frequently asked questions.

[114] Transparency Rule, FERC Stats. & Regs. ¶ 31,336.

IV. Information Collection Statement

52. The Office of Management and Budget (OMB) requires that OMB approve certain information collection and data retention requirements imposed by agency rules.[115] Therefore, the Commission is submitting the proposed modifications to its information collection statement to OMB for review and approval in accordance with section 3507(d) of the Paperwork Reduction Act of 1995.[116]

53. OMB's regulations require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

54. The Commission is submitting these reporting requirements to OMB for its review and approval under section 3507(d) of the Paperwork Reduction Act. Comments were solicited on the Commission's need for this information; whether the information will have practical utility; the accuracy of provided burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.[117]

55. Some commenters question the Commission's burden estimate.[118] Energy Compliance Consulting states that there is no explanation of why a utility's membership in a regional transmission organization (RTO) would affect its filing burden.[119] Energy Compliance Consulting also states that it is unclear whether the burden estimate assumes how many, if any, utilities will move to the new XML format.[120] Pacific Gas and Electric asserts that the Commission's burden estimates fall short of the cost of transitioning to the XML option.[121]

56. We find that a public utility's membership in an RTO or independent transmission system operator (ISO) should not affect the burden of complying with the Final Rule. Consequently, for this Final Rule, we estimate that the one-time burden hours, the recurring burden hours, and the average annual burden hours will be the same for all EQR sellers, irrespective of membership in an RTO or ISO. We have broken out EQR sellers by RTO/ISO membership status simply to be consistent with the way that the Commission estimated the average burden per respondent associated with the existing EQR system in a separate filing submitted to OMB.[122]

57. In the NOPR, the Commission estimated the number of hours required for public utilities to comply with the minimum requirements included in the NOPR. While public utilities may opt to use the XML option, we consider the move to the Web interface to be a less burdensome option for public utilities because it builds upon the automated systems that they have developed to enter data into the current EQR software. Thus, the Commission's burden estimate did not estimate how many public utilities will voluntarily transition to the XML option or the number of hours required for a public utility to transition to the XML option.

58. The Commission's estimates of the average public reporting burden and cost related to the proposed rule in Docket RM12–3–000 are as follows:

[115] 5 CFR 1320.11(b) (2010).

[116] 44 U.S.C. 3507(d) (2006).

[117] NOPR, FERC Stats. & Regs. ¶ 32,689 at P 13.

[118] *See, e.g.,* Energy Compliance at 5; Pacific Gas and Electric at 6.

[119] Energy Compliance Consulting at 5.

[120] Energy Compliance Consulting at 5.

[121] Pacific Gas and Electric at 6.

[122] *See* NOPR, Stats. & Regs. ¶ 32,689 at n.17.

FINAL RULE IN RM12–3–000 ON ELECTRIC QUARTERLY REPORT

	Number of respondents	Number of responses per respondent per year	Implementing (one-time) burden per respondent		Recurring operating burden per respondent per response [123]		Average annual burden per respondent (implementation averaged over years 1–3)	
			Burden hours	Cost ($)	Burden hours [124]	Cost ($)	Burden hours	Cost ($)
Companies within non-California RTO, and large cos. within Cal. RTO.	405	4	20	$1,434.50	no change	no change	6.67	$478.17.
Medium/small companies within Cal. RTO.	20	4	20	$1,434.50	no change	no change	6.67	$478.17.
Companies not within RTO.	663	4	20	$1,434.50	no change	no change	6.67	$478.17.
Companies with no transactions.	695	4	20	$1,434.50	no change	no change	6.67	$478.17.
Sub-Total—All Public Utilities (Existing Filers).	1,783	4	35,660	$2,557,713.50	no change	no change	11,892.61	$852,577.11.
Non Public Utilities (New Filers).	53	4			no change	no change	no change	no change.
Total—All Utilities.	1,836	4	35,660	$2,557,713.50	no change	no change	11,892.61	$852,577.11.

59. The total estimated one-time implementation burden and cost for all respondents is 35,660 hours (1,783 × 20 hours), and $2,557,713.50 (1,783 × $1,434.50). Averaging this one-time implementation burden and cost over Years 1–3 yields an annual total burden of 11,892.61 hours (1,783 × 6.67) and an annual total cost of $852,577.11 (1,783 × $478.17)

60. We recognize that there will be an initial implementation burden for current EQR sellers (filers) associated with reviewing instructions, revising filing process, obtaining a Company Identifier, designating an agent(s), and filing EQR data through the new system. We estimate a burden of 20 hours per existing respondent for this one-time, initial implementation burden. The Transparency Rule requires non-public utilities to file EQRs for the first time in Q3 of 2013, consistent with the implementation date of this Final Rule.[125] Non-public utilities will file for the first time using the new filing options and will not need to transition from the current EQR software. Therefore, we estimate no change for non-public utilities.

61. To help with the implementation of this Final Rule, we will direct Commission staff to convene a staff-led technical conference for industry participants to demonstrate the two new options for filing EQRs. The conference will be available by webcast, which should minimize travel and other costs associated with participation in the conference. We will also direct staff to assist in transitioning to the new process. Commission staff's technical conference and assistance should minimize the initial implementation burden.

62. For the recurring effort involved in electronically submitting EQR data on a quarterly basis to the Commission, we anticipate that there will be no change or a slight burden reduction for current filers compared to the burden of making quarterly filings under the current system.

Information Collection Costs: We estimate the cost of compliance per existing respondent will be $1,434.50, for one-time implementation of the changes proposed in this Final Rule. We estimate that the implementation costs will be as follows: [126]

- Legal staff (at $250/hour), for 2 hours, costing $500
- Senior accountant (at $51.38/hr.), financial analyst (at $68.12/hr.), and/or support staff (at $35.99/hr.), averaged at $51.83/hr., for a total of 2 hours, costing $103.66
- Information technology analyst (at $57.24/hour), for 12 hours, costing $686.88
- Support staff (at $35.99/hr), for 4 hours, costing $143.96.

TITLE: FERC–920,[127] Electric Quarterly Report, OMB Control No. 1902–0255.

Action: Proposed new EQR filing system and associated additional reporting requirements.

Respondents: Electric utilities.

Frequency of Responses: Initial implementation and quarterly filings (beginning Q3 of 2013).

Need For Information: We are implementing changes to the method for filing EQRs. We are replacing a filing system that requires the use of Commission software with a system that would allow an EQR seller to file EQR data directly through the Commission's Web site, either through a Web interface or by submitting an XML-formatted file. We are also requiring the EQR seller to identify itself with a Company Identifier that will be assigned through the Commission's Company Registration System.

[123] The Commission expects no change or a slight decrease in the Recurring Operating Burden per Respondent per Response under the new filing system (when compared to quarterly filings for current filers under the existing system).

[124] For the current EQR software and reporting requirements, the Commission estimates the average burden per respondent per quarterly filing to be: 32 hours for Companies within non-California RTO, and large companies within the California RTO; 80 hours for medium/small Companies within the California RTO; 3 hours for Companies not within an RTO; and 0.083 hours [5 minutes] for Companies with no transactions.

[125] Transparency Rule, FERC Stats. & Regs. ¶ a P 31,336. The burden on non-public utilities associated with filing EQRs was captured in the Transparency Rule. In the Transparency Rule, the Commission estimated per non-public utility 400 hours for one-time implementation, and 19 hours for recurring burden for each quarterly filing. The estimated average annual burden per non-public utility (with implementation averaged over Years 1–3) was 209.33 hours.

[126] Hourly average wage is an average and was calculated using Bureau of Labor Statistics (BLS), Occupational Employment Statistics data for May 2011 (for NAICS 221100—Electric Power Generation, Transmission and Distribution, at *http://bls.gov/oes/current/naics4_221100.htm#00-0000*) for the senior accountant, financial analyst, information technology analyst, and support staff. The average hourly figure for legal staff is a composite from BLS and other resources.

[127] The Commission is separating the EQR reporting requirements from the remaining reporting requirements under FERC–516 (Electric Rate Schedules and Tariff Filings, OMB Control No. 1902–0096). After implementation of this Final Rule and issuance of an OMB decision, the EQR burden figures will be removed from FERC–516.

Internal Review: We have reviewed the changes and determined that the changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. We have assured ourselves, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

63. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements of this rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov.* Please reference OMB Control No. 1902–0255, FERC–920, and Docket No. RM12–3 in your submission.

V. Environmental Analysis

64. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[128] The actions taken here fall within categorical exclusions in the Commission's regulations for information gathering, analysis, and dissemination.[129] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

VI. Regulatory Flexibility Act

65. The Regulatory Flexibility Act of 1980 (RFA)[130] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The SBA's Office of Size Standards develops the numerical definition of a small business.[131] The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed 4,000,000 MWh.[132]

66. As discussed in Order No. 2000,[133] in making this determination, the Commission is required to examine only the direct compliance costs that a rulemaking imposes upon small businesses. It is not required to consider indirect economic consequences, nor is it required to consider costs that an entity incurs voluntarily.

67. For non-public utilities, the Commission exempts under the *de minimis* market presence threshold non-public utilities that make 4,000,000 MWh or less of annual wholesale sales (based on an average of the wholesale sales it made in the preceding three years).[134] This *de minimis* threshold excludes small, non-public utilities. Therefore, this Final Rule will not have a significant economic impact on any small, non-public utility.

68. For public utilities, based on analysis of the EQR filings made in the four quarters of 2011, there are 1,783 entities that currently file an EQR, but given clearly identifiable affiliate relationships that number is reduced to 1,215 entities. Of those, 97 reported more than 4,000,000 MWh of wholesale sales in the EQR. Of the remaining 1,118 entities that reported less than 4,000,000 MWh of wholesales sales in the EQR, 641 filed transactions in the EQR. The rest that would be subject to this Final Rule, 477 entities, did not file transactions in any quarter of 2011; we conclude that this Final Rule will minimally affect them.

69. As for the remaining 641 entities, we note that there are two types of companies among those currently filing EQRs that merit additional consideration. First, there are investor-owned public utilities that make both wholesale and retail sales. The SBA's definition of a small utility is based on a utility's total electric output for the preceding twelve months, which includes a public utility's retail sales. However, our estimate in this section is based on information available in the EQR, which includes annual wholesale sales but not retail sales. If we were able to include retail sales, we believe that most investor-owned public utilities that currently file EQRs make more than 4,000,000 MWh annual wholesale and retail sales and thus would not be classified as small. Second, there are power marketers that often do not own or control generation or transmission and may be affiliated with companies that are not primarily engaged in the sale of electric energy (such as financial institutions or hedge funds).[135] However, information regarding whether a power marketer is affiliated with another company is generally not included in an EQR filing, making it difficult to determine the number of small entities that are affiliated with a larger company, thereby leading to an inflated estimate of the number of companies affected by this Final Rule that are truly small.

70. Furthermore, to ease the burden of implementation for all EQR sellers, we will minimize the changes which EQR sellers will experience because the Commission is adopting two options for filing EQRs: the Web interface and XML. The estimated one-time implementation cost per EQR seller is $1,434.50. We anticipate no change or a slight reduction in the burden for the recurring quarterly EQR filings. In addition, small entities generally have few or no transactions and corresponding minimal recurring burden. We note that EQR sellers may request, on an individual basis, waiver from the Commission's EQR reporting requirements. Thus, we certify that this proposed rule will not have a significant impact on a substantial number of small entities.

VII. Document Availability

71. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room

[128] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[129] 18 CFR 380.4(a)(5).

[130] 5 U.S.C. 601–612.

[131] 13 CFR 121.101.

[132] 13 CFR 121.201, Sector 22, Utilities & n.1.

[133] *See Regional Transmission Organizations,* Order No. 2000, 65 FR 809 (Jan. 6, 2000), FERC Stats. & Regs. ¶ 31,089, at 31,237 & n.754 (1999), *order on reh'g,* Order No. 2000–A, 65 FR 12,088 (Mar. 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish, County Washington v. FERC,* 272 F.3d 607, 348 U.S. App. DC 205 (DC Cir. 2001) (citing *Mid-Tex Elec. Coop.* v. *FERC,* 773 F.2d 327 (DC Cir. 1985) (Commission need only consider small entities ''that would be directly regulated''); *Colorado State Banking Bd.* v. *RTC,* 926 F.2d 931 (10th Cir. 1991) (Regulatory Flexibility Act not implicated where regulation simply added an option for affected entities and did not impose any costs)).

[134] Transparency Rule, FERC Stats. & Regs. ¶ 31,336 at P 54.

[135] Some of these such as Google, Occidental Chemical and ONEOK may not qualify as small in their primary area of business and are participating in the electric market as part of an overall corporate strategy.

during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

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

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

VIII. Effective Date and Congressional Notification

74. These regulations are effective April 1, 2013. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Part 35

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

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission amends 18 CFR part 35 as follows:

PART 35—FILIING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for Part 35 continues to read as follows:

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

■ 2. Section 35.10b is amended by revising the second sentence to read as follow:

§ 35.10b Electric Quality Reports.

* * * Electric Quarterly Reports must be prepared in conformance with the Commission's guidance posted on the FERC Web site (*http://www.ferc.gov*).

NOTE: The following appendices A and B will not appear in the Code of Federal Regulations:

APPENDIX A: ABBREVIATED NAMES OF COMMENTERS

Commenters	Abbreviation
California Independent System Operator Corporation	CAISO
Edison Electric Institute	EEI
Electric Power Supply Association	EPSA
Energy Compliance Consulting, LLC	Energy Compliance Consulting
Energy Services Providers, Inc.,	Energy Services Providers
Connecticut Gas & Electric, Inc., and Massachusetts Gas & Electric Inc..	
Idaho Power Company	Idaho Power
Links Technology	Links
Solutions, Inc.	Technology Solutions
Pacific Gas and Electric Company	Pacific Gas and Electric
Southern California Edison Company	Southern California Edison

Appendix B: EQR Data Dictionary

Electric Quarterly Report Data Dictionary
Version 2.1 (issued November 15, 2012) [136]

EQR DATA DICTIONARY

Field No.		Field	Required	Value	Definition
Old	New				
		ID Data			
1	1	Filer Unique Identifier ..	✓	FS# (where ''#'' is an integer).	(Seller)—An identifier (e.g., ''FS1'', ''FS2'') used to designate a record containing Seller identification information in a comma-delimited (csv) file that is imported into the EQR filing. One record for each seller company may be imported into an EQR for a given quarter.

[136] This version of Appendix B replaces the version that was included with *Revisions to Electric Quarterly Report Filing Process,* Order No. 770, 141 FERC ¶ 61,120 (2012).

EQR DATA DICTIONARY—Continued

Field No.		Field	Required	Value	Definition
Old	New				
1	1	Filer Unique Identifier	✓	FA1	(Agent)—An identifier (i.e., ''FA1'') used to designate a record containing Agent identification information in a comma-delimited (csv) file that is imported into the EQR filing. Only one record with the FA1 identifier may be imported into an EQR for a given quarter.
2	2	Company Name	✓	Unrestricted text (100 characters).	(Seller)—The name of the company that is authorized to make sales as indicated in the company's FERC tariff(s).
2	2	Company Name	✓	Unrestricted text (100 characters).	(Agent)—The name of the entity completing the EQR filing. The Agent's Company Name need not be the name of the company under Commission jurisdiction.
3	X				
	3	Company Identifier	✓	A 7-digit integer proceeded by the letter ''C''.	(Seller)—Identifier obtained through the Commission's Company Registration system.
3	4	Contact Name	✓	Unrestricted text (50 characters).	(Seller)—The name of the contact for the company authorized to make sales as indicated in the company's FERC tariff(s).
3	4	Contact Name	✓	Unrestricted text (50 characters).	(Agent)—Name of the contact for the Agent, usually the person who prepares the filing.
4	5	Contact Title	✓	Unrestricted text (50 characters).	Title of contact identified in Field Number 4.
5	6	Contact Address	✓	Unrestricted text	Street address for contact identified in Field Number 4.
6	7	Contact City	✓	Unrestricted text (30 characters).	City for the contact identified in Field Number 4.
7	8	Contact State	✓	Unrestricted text (2 characters).	Two character state or province abbreviations for the contact identified in Field Number 4.
8	9	Contact Zip	✓	Unrestricted text (10 characters).	Zip code for the contact identified in Field Number 4.
9	10	Contact Country Name	✓	CA—Canada MX—Mexico US—United States UK—United Kingdom	Country (USA, Canada, Mexico, or United Kingdom) for contact address identified in Field Number 4.
10	11	Contact Phone	✓	Unrestricted text (20 characters).	Phone number of contact identified in Field Number 4.
11	12	Contact E-Mail	✓	Unrestricted text	E-mail address of contact identified in Field Number 4.
12	13	Transactions Reported to Index Price Publisher(s).	✓	Y (Yes) N (No)	Filers should indicate whether they have reported their sales transactions to index price publisher(s). If they have, filers should indicate specifically which index publisher(s) in Field Number 73.
13	14	Filing Quarter	✓	YYYYMM	A six digit reference number used by the EQR software to indicate the quarter and year of the filing for the purpose of importing data from csv files. The first 4 numbers represent the year (e.g., 2007). The last 2 numbers represent the last month of the quarter (e.g., 03=1st quarter; 06=2nd quarter, 09=3rd quarter, 12=4th quarter).
EQR Data Dictionary Contract Data					
14	15	Contract Unique ID	✓	An integer proceeded by the letter ''C'' (only used when importing contract data).	An identifier beginning with the letter ''C'' and followed by a number (e.g., ''C1'', ''C2'') used to designate a record containing contract information in a comma-delimited (csv) file that is imported into the EQR filing. One record for each contract product may be imported into an EQR for a given quarter.
15	16	Seller Company Name	✓	Unrestricted text (100 characters).	The name of the company that is authorized to make sales as indicated in the company's FERC tariff(s). This name must match the name provided as a Seller's ''Company Name'' in Field Number 2 of the ID Data (Seller Data).

EQR DATA DICTIONARY—Continued

Field No.		Field	Required	Value	Definition
Old	New				
16	17	Customer Company Name.	✓	Unrestricted text (70 characters).	The name of the counterparty.
17	X				
17	18	Contract Affiliate	✓	Y (Yes) N (No)	The customer is an affiliate if it controls, is controlled by or is under common control with the seller. This includes a division that operates as a functional unit. A customer of a seller who is an Exempt Wholesale Generator may be defined as an affiliate under the Public Utility Holding Company Act and the FPA.
18	19	FERC Tariff Reference	✓	Unrestricted text (60 characters).	The FERC tariff reference cites the document that specifies the terms and conditions under which a Seller is authorized to make transmission sales, power sales or sales of related jurisdictional services at cost-based rates or at market-based rates. If the sales are market-based, the tariff that is specified in the FERC order granting the Seller Market Based Rate Authority must be listed.
19	20	Contract Service Agreement ID.	✓	Unrestricted text (30 characters).	Unique identifier given to each service agreement that can be used by the filing company to produce the agreement, if requested. The identifier may be the number assigned by FERC for those service agreements that have been filed with and accepted by the Commission, or it may be generated as part of an internal identification system.
20	21	Contract Execution Date.	✓	YYYYMMDD	The date the contract was signed. If the parties signed on different dates, use the most recent date signed.
21	22	Commencement Date of Contract Terms.	✓	YYYYMMDD	The date the terms of the contract reported in fields 18, 23 and 25 through 44 (as defined in the data dictionary) became effective. If those terms became effective on multiple dates (i.e.: due to one or more amendments), the date to be reported in this field is the date the most recent amendment became effective. If the contract or the most recent reported amendment does not have an effective date, the date when service began pursuant to the contract or most recent reported amendment may be used. If the terms reported in fields 18, 23 and 25 through 44 have not been amended since January 1, 2009, the initial date the contract became effective (or absent an effective date the initial date when service began) may be used.
22	23	Contract Termination Date.	If specified in the contract.	YYYYMMDD	The date that the contract expires.
23	24	Actual Termination Date Extension.	If contract terminated	YYYYMMDD	The date the contract actually terminates.
24	25	Extension Provision Description.	✓	Unrestricted text	Description of terms that provide for the continuation of the contract.
25	26	Class Name	✓		See definitions of each class name below.
25	26	Class Name	✓	F—Firm	For transmission sales, a service or product that always has priority over non-firm service. For power sales, a service or product that is not interruptible for economic reasons.
25	26	Class Name	✓	NF—Non-firm	For transmission sales, a service that is reserved and/or scheduled on an as-available basis and is subject to curtailment or interruption at a lesser priority compared to Firm service. For an energy sale, a service or product for which delivery or receipt of the energy may be interrupted for any reason or no reason, without liability on the part of either the buyer or seller.

EQR DATA DICTIONARY—Continued

Field No.		Field	Required	Value	Definition
Old	New				
25	26	Class Name	✓	UP—Unit Power Sale	Designates a dedicated sale of energy and capacity from one or more than one specified generation unit(s).
25	26	Class Name	✓	N/A—Not Applicable	To be used only when the other available Class Names do not apply.
26	27	Term Name	✓	LT—Long Term ST—Short Term N/A—Not Applicable	Contracts with durations of one year or greater are long-term. Contracts with shorter durations are short-term.
27	28	Increment Name	✓		See definitions for each increment below.
27	28	Increment Name	✓	H—Hourly	Terms of the contract (if specifically noted in the contract) set for up to 6 consecutive hours (≤ 6 consecutive hours).
27	28	Increment Name	✓	D—Daily	Terms of the contract (if specifically noted in the contract) set for more than 6 and up to 60 consecutive hours (>6 and ≤ 60 consecutive hours).
27	28	Increment Name	✓	W—Weekly	Terms of the contract (if specifically noted in the contract) set for over 60 consecutive hours and up to 168 consecutive hours (>60 and ≤ 168 consecutive hours).
27	28	Increment Name	✓	M—Monthly	Terms of the contract (if specifically noted in the contract) set for more than 168 consecutive hours up to, but not including, one year (>168 consecutive hours and < 1 year).
27	28	Increment Name	✓	Y—Yearly	Terms of the contract (if specifically noted in the contract) set for one year or more (≥ 1 year).
27	28	Increment Name	✓	N/A—Not Applicable	Terms of the contract do not specify an increment.
28	29	Increment Peaking Name.	✓		See definitions for each increment peaking name below.
28	29	Increment Peaking Name.	✓	FP—Full Period	The product described may be sold during those hours designated as on-peak and off-peak in the NERC region of the point of delivery.
28	29	Increment Peaking Name.	✓	OP—Off-Peak	The product described may be sold only during those hours designated as off-peak in the NERC region of the point of delivery.
28	29	Increment Peaking Name.	✓	P—Peak	The product described may be sold only during those hours designated as on-peak in the NERC region of the point of delivery.
28	29	Increment Peaking Name.	✓	N/A—Not Applicable	To be used only when the increment peaking name is not specified in the contract.
29	30	Product Type Name	✓		See definitions for each product type below.
29	30	Product Type Name	✓	CB—Cost Based	Energy or capacity sold under a FERC-approved cost-based rate tariff.
29	30	Product Type Name	✓	CR—Capacity Reassignment.	An agreement under which a transmission provider sells, assigns or transfers all or portion of its rights to an eligible customer.
29	30	Product Type Name	✓	MB—Market Based	Energy or capacity sold under the seller's FERC-approved market-based rate tariff.
29	30	Product Type Name	✓	T—Transmission	The product is sold under a FERC-approved transmission tariff.
29	30	Product Type Name	✓	Other	The product cannot be characterized by the other product type names.
30	31	Product Name	✓	See Product Name Table, Appendix A.	Description of product being offered.
31	32	Quantity	If specified in the contract.	Number with up to 4 decimals.	Quantity for the contract product identified.
32	33	Units	If specified in the contract.	See Units Table, Appendix E.	Measure stated in the contract for the product sold.
33	34	Rate	One of four rate fields (34, 35, 36, or 37) must be included.	Number with up to 4 decimals.	The charge for the product per unit as stated in the contract.
34	35	Rate Minimum	One of four rate fields (34, 35, 36, or 37) must be included.	Number with up to 4 decimals.	Minimum rate to be charged per the contract, if a range is specified.
35	36	Rate Maximum	One of four rate fields (34, 35, 36, or 37) must be included.	Number with up to 4 decimals.	Maximum rate to be charged per the contract, if a range is specified.

EQR DATA DICTIONARY—Continued

Field No.		Field	Required	Value	Definition
Old	New				
36	37	Rate Description	One of four rate fields (34, 35, 36, or 37) must be included.	Unrestricted text	Text description of rate. If the rate is currently available on the FERC Web site, a citation of the FERC Accession Number and the relevant FERC tariff including page number or section may be included instead of providing the entire rate algorithm. If the rate is not available on the FERC Web site, include the rate algorithm, if rate is calculated. If the algorithm would exceed the 150 character field limit, it may be provided in a descriptive summary (including bases and methods of calculations) with a detailed citation of the relevant FERC tariff including page number and section. If more than 150 characters are required, the contract product may be repeated in a subsequent line of data until the rate is adequately described.
37	38	Rate Units	If specified in the contract.	See Rate Units Table, Appendix F.	Measure stated in the contract for the product sold.
38	39	Point of Receipt Balancing Authority (PORBA).	If specified in the contract.	See Balancing Authority Table, Appendix B.	The registered NERC Balancing Authority (formerly called NERC Control Area) where service begins for a transmission or transmission-related jurisdictional sale. The Balancing Authority will be identified with the abbreviation used in OASIS applications. If receipt occurs at a trading hub specified in the EQR software, the term ''Hub'' should be used.
39	40	Point of Receipt Specific Location (PORSL).	If specified in the contract.	Unrestricted text (50 characters). If ''HUB'' is selected for PORCA, see Hub Table, Appendix C.	The specific location at which the product is received if designated in the contract. If receipt occurs at a trading hub, a standardized hub name must be used. If more points of receipt are listed in the contract than can fit into the 50 character space, a description of the collection of points may be used. 'Various,' alone, is unacceptable unless the contract itself uses that terminology.
40	41	Point of Delivery Balancing Authority (PODBA).	If specified in the contract.	See Balancing Authority Table, Appendix B.	The registered NERC Balancing Authority (formerly called NERC Control Area) where a jurisdictional product is delivered and/or service ends for a transmission or transmission-related jurisdictional sale. The Balancing Authority will be identified with the abbreviation used in OASIS applications. If delivery occurs at the interconnection of two control areas, the control area that the product is entering should be used. If delivery occurs at a trading hub specified in the EQR software, the term ''Hub'' should be used.
41	42	Point of Delivery Specific Location (PODSL).	If specified in the contract.	Unrestricted text (50 characters). If ''HUB'' is selected for PODCA, see Hub Table, Appendix C.	The specific location at which the product is delivered if designated in the contract. If receipt occurs at a trading hub, a standardized hub name must be used.
42	43	Begin Date	If specified in the contract.	YYYYMMDDHHMM	First date for the sale of the product at the rate specified.
43	44	End Date	If specified in the contract.	YYYYMMDDHHMM	Last date for the sale of the product at the rate specified.
45	X	.....	.....	.....	

EQR DATA DICTIONARY—Continued

Field No.		Field	Required	Value	Definition
Old	New				
		Transaction Data			
44	45	Transaction Unique ID	✓	An integer proceeded by the letter "T" (only used when importing transaction data).	An identifier beginning with the letter "T" and followed by a number (e.g., "T1", "T2") used to designate a record containing transaction information in a comma-delimited (csv) file that is imported into the EQR filing. One record for each transaction record may be imported into an EQR for a given quarter. A new transaction record must be used every time a price changes in a sale.
45	46	Seller Company Name	✓	Unrestricted text (100 Characters).	The name of the company that is authorized to make sales as indicated in the company's FERC tariff(s). This name must match the name provided as a Seller's "Company Name" in Field 2 of the ID Data (Seller Data).
46	47	Customer Company Name.	✓	Unrestricted text (70 Characters).	The name of the counterparty.
49	X				
47	48	FERC Tariff Reference	✓	Unrestricted text (60 Characters).	The FERC tariff reference cites the document that specifies the terms and conditions under which a Seller is authorized to make transmission sales, power sales or sales of related jurisdictional services at cost-based rates or at market-based rates. If the sales are market-based, the tariff that is specified in the FERC order granting the Seller Market Based Rate Authority must be listed.
48	49	Contract Service Agreement ID.	✓	Unrestricted text (30 Characters).	Unique identifier given to each service agreement that can be used by the filing company to produce the agreement, if requested. The identifier may be the number assigned by FERC for those service agreements that have been filed and approved by the Commission, or it may be generated as part of an internal identification system.
49	50	Transaction Unique Identifier.	✓	Unrestricted text (24 Characters).	Unique reference number assigned by the seller for each transaction.
50	51	Transaction Begin Date	✓	YYYYMMDDHHMM (csv import); MMDDYYYYHHMM (manual entry).	First date and time the product is sold during the quarter.
51	52	Transaction End Date ..	✓	YYYYMMDDHHMM (csv import); MMDDYYYYHHMM (manual entry).	Last date and time the product is sold during the quarter.
52	53	Trade Date	✓	YYYYMMDD (csv import); MMDDYYYY (manual entry).	The date upon which the parties made the legally binding agreement on the price of a transaction.
53	54	Exchange/Brokerage Service.		See Exchange/Brokerage Service Table, Appendix H.	If a broker service is used to consummate or effectuate a transaction, the term "Broker" shall be selected from the Commission-provided list. If an exchange is used, the specific exchange that is used shall be selected from the Commission-provided list.
54	55	Type of Rate	✓		See type of rate definitions below.
54	55	Type of Rate	✓	Fixed	A fixed charge per unit of consumption.
54	55	Type of Rate	✓	Formula	A calculation of a rate based upon a formula that does not contain an index component.
54	55	Type of Rate	✓	Electric Index	A calculation of a rate based upon an index or a formula that contains an index component.
54	55	Type of Rate	✓	RTO/ISO	A rate that is based on an RTO/ISO published price or formula that contains an RTO/ISO price component.
55	56	Time Zone	✓	See Time Zone Table, Appendix D.	The time zone in which the sales will be made under the contract.
56	57	Point of Delivery Balancing Authority (PODBA).	✓	See Balancing Authority Table, Appendix B.	The registered NERC Balancing Authority (formerly called NERC Control Area) abbreviation used in OASIS applications.

EQR DATA DICTIONARY—Continued

Field No.		Field	Required	Value	Definition
Old	New				
57	58	Point of Delivery Specific Location (PODSL).	✓	Unrestricted text (50 characters). If "HUB" is selected for PODBA, see Hub Table, Appendix C.	The specific location at which the product is delivered. If receipt occurs at a trading hub, a standardized hub name must be used.
58	59	Class Name	✓		See class name definitions below.
58	59	Class Name	✓	F—Firm	A sale, service or product that is not interruptible for economic reasons.
58	59	Class Name	✓	NF—Non-firm	A sale for which delivery or receipt of the energy may be interrupted for any reason or no reason, without liability on the part of either the buyer or seller.
58	59	Class Name	✓	UP—Unit Power Sale	Designates a dedicated sale of energy and capacity from one or more than one specified generation unit(s).
58	59	Class Name	✓	BA—Billing Adjustment	Designates an incremental material change to one or more transactions due to a change in settlement results. "BA" may be used in a refiling after the next quarter's filing is due to reflect the receipt of new information. It may not be used to correct an inaccurate filing.
58	59	Class Name	✓	N/A—Not Applicable; LT—Long Term.	To be used only when the other available class names do not apply.
59	60	Term Name	✓	ST—Short Term; N/A—Not Applicable.	Power sales transactions with durations of one year or greater are long-term. Transactions with shorter durations are short-term.
60	61	Increment Name	✓		See increment name definitions below.
60	61	Increment Name	✓	H—Hourly	Terms of the particular sale set for up to 6 consecutive hours (≤ 6 consecutive hours) Includes LMP based sales in ISO/RTO markets.
60	61	Increment Name	✓	D—Daily	Terms of the particular sale set for more than 6 and up to 60 consecutive hours (>6 and ≤ 60 consecutive hours). Includes sales over a peak or off-peak block during a single day.
60	61	Increment Name	✓	W—Weekly	Terms of the particular sale set for over 60 consecutive hours and up to 168 consecutive hours (>60 and ≤ 168 consecutive hours). Includes sales for a full week and sales for peak and off-peak blocks over a particular week.
60	61	Increment Name	✓	M—Monthly	Terms of the particular sale set for set for more than 168 consecutive hours up to, but not including, one year (>168 consecutive hours and < 1 year). Includes sales for full month or multi-week sales during a given month.
60	61	Increment Name	✓	Y—Yearly	Terms of the particular sale set for one year or more (≥ 1 year). Includes all long-term contracts with defined pricing terms (fixed-price, formula, or index).
60	61	Increment Name	✓	N/A—Not Applicable	To be used only when other available increment names do not apply.
61	62	Increment Peaking Name.	✓		See definitions for increment peaking below.
61	62	Increment Peaking Name.	✓	FP—Full Period	The product described was sold during Peak and Off-Peak hours.
61	62	Increment Peaking Name.	✓	OP—Off-Peak	The product described was sold only during those hours designated as off-peak in the NERC region of the point of delivery.
61	62	Increment Peaking Name.	✓	P—Peak	The product described was sold only during those hours designated as on-peak in the NERC region of the point of delivery.
61	62	Increment Peaking Name.	✓	N/A—Not Applicable	To be used only when the other available increment peaking names do not apply.
62	63	Product Name	✓	See Product Names Table, Appendix A.	Description of product being offered.
63	64	Transaction Quantity	✓	Number with up to 4 decimals.	The quantity of the product in this transaction.

EQR DATA DICTIONARY—Continued

Field No.		Field	Required	Value	Definition
Old	New				
64	65	Price	✓	Number with up to 6 decimals.	Actual price charged for the product per unit. The price reported cannot be averaged or otherwise aggregated.
65	66	Rate Units	✓	See Rate Units Table, Appendix F.	Measure appropriate to the price of the product sold.
66	67	Standardized Quantity	✓	Number with up to 4 decimals.	For product names energy, capacity, and booked out power only. Specify the quantity in MWh if the product is energy or booked out power and specify the quantity in MW if the product is capacity.
67	68	Standardized Price	✓	Number with up to 6 decimals.	For product names energy, capacity, and booked out power only. Specify the price in $/MWh if the product is energy or booked out power and specify the price in $/MW-month if the product is capacity.
68	69	Total Transmission Charge.	✓	Number with up to 2 decimals.	Payments received for transmission services when explicitly identified.
69	70	Total Transaction Charge.	✓	Number with up to 2 decimals.	Transaction Quantity (Field 64) times Price (Field 65) plus Total Transmission Charge (Field 69).
Index Reporting Data					
70	71	Filer Unique Identifier	✓	FS# (where ''#'' is an integer).	The ''FS'' seller number from the ID Data table corresponding to the index reporting company.
71	72	Seller Company Name	✓	Unrestricted text (100 characters).	The name of the company that is authorized to make sales as indicated in the company's FERC tariff(s). This name must match the name provided as a Seller's ''Company Name'' in Field Number 2 of the ID Data (Seller Data).
72	73	Index Price Publisher(s) To Which Sales Transactions Have Been Reported.	✓	If ''Yes'' is selected for Field 13, see Index Price Publisher, Appendix G.	The index price publisher(s) to which sales transactions have been reported.
73	74	Transactions Reported	✓	Unrestricted text (100 characters).	Description of the types of transactions reported to the index publisher identified in this record.
e-Tag Data					
74	75	e-Tag ID	If an e-Tag ID was used to schedule the EQR transaction.	Unrestricted text (30 Characters).	The e-Tag ID contains: The Source Balancing Authority where the generation is located; The Purchasing-Selling Balancing Authority Entity Code; the e-Tag Code; and the Sink Balancing Authority.
75	76	e-Tag Begin Date	If an e-Tag ID was used to schedule the EQR transaction.	YYYYMMDD (csv import); MMDDYYYY (manual entry).	The first date the transaction is scheduled using the e-Tag ID reported in Field Number 75. Begin Date must not be before the Transaction Begin Date specified in Field Number 51 and must be reported in the same time zone specified in Field Number 56.
76	77	e-Tag End Date	If an e-Tag ID was used to schedule the EQR transaction.	YYYYMMDD (csv import); MMDDYYYY (manual entry).	The last date the transaction is scheduled using the e-Tag ID reported in Field Number 75. End Date must not be after the Transaction End Date specified in Field Number 52 and must be reported in the same time zone specified in Field Number 56.
77	78	Transaction Unique Identifier.	If an e-Tag ID was used to schedule the EQR transaction.	Unrestricted text (24 Characters).	Unique reference number assigned by the seller for each transaction that must be the same as reported in Field Number 50.

EQR DATA DICTIONARY

[Appendix A. Product Names]

Product name	Contract product	Transaction product	Definition
BLACK START SERVICE	✓	✓	Service available after a system-wide blackout where a generator participates in system restoration activities without the availability of an outside electric supply (Ancillary Service).
BOOKED OUT POWER		✓	Energy or capacity contractually committed bilaterally for delivery but not actually delivered due to some offsetting or countervailing trade (Transaction only).
CAPACITY	✓	✓	A quantity of demand that is charged on a $/KW or $/MW basis.
CUSTOMER CHARGE	✓	✓	Fixed contractual charges assessed on a per customer basis that could include billing service.
DIRECT ASSIGNMENT FACILITIES CHARGE.	✓		Charges for facilities or portions of facilities that are constructed or used for the sole use/benefit of a particular customer.
EMERGENCY ENERGY	✓		Contractual provisions to supply energy or capacity to another entity during critical situations.
ENERGY	✓	✓	A quantity of electricity that is sold or transmitted over a period of time.
ENERGY IMBALANCE	✓	✓	Service provided when a difference occurs between the scheduled and the actual delivery of energy to a load obligation (Ancillary Service). For Contracts, reported if the contract provides for sale of the product. For Transactions, sales by third-party providers (i.e., non-transmission function) are reported.
EXCHANGE	✓	✓	Transaction whereby the receiver accepts delivery of energy for a supplier's account and returns energy at times, rates, and in amounts as mutually agreed if the receiver is not an RTO/ISO.
FUEL CHARGE	✓	✓	Charge based on the cost or amount of fuel used for generation.
GENERATOR IMBALANCE	✓	✓	Service provided when a difference occurs between the output of a generator located in the Transmission Provider's Control Area and a delivery schedule from that generator to (1) another Control Area or (2) a load within the Transmission Provider's Control Area over a single hour (Ancillary Service). For Contracts, reported if the contract provides for sale of the product. For Transactions, sales by third-party providers (i.e., non-transmission function) are reported.
GRANDFATHERED BUNDLED.	✓	✓	Services provided for bundled transmission, ancillary services and energy under contracts effective prior to Order No. 888's OATTs.
INTERCONNECTION AGREEMENT.	✓		Contract that provides the terms and conditions for a generator, distribution system owner, transmission owner, transmission provider, or transmission system to physically connect to a transmission system or distribution system.
MEMBERSHIP AGREEMENT	✓		Agreement to participate and be subject to rules of a system operator.
MUST RUN AGREEMENT	✓		An agreement that requires a unit to run.
NEGOTIATED–RATE TRANSMISSION.	✓	✓	Transmission performed under a negotiated rate contract (applies only to merchant transmission companies).
NETWORK	✓		Transmission service under contract providing network service.
NETWORK OPERATING AGREEMENT.	✓		An executed agreement that contains the terms and conditions under which a network customer operates its facilities and the technical and operational matters associated with the implementation of network integration transmission service.
OTHER	✓	✓	Product name not otherwise included.
POINT–TO–POINT AGREEMENT.	✓		Transmission service under contract between specified Points of Receipt and Delivery.
REACTIVE SUPPLY & VOLTAGE CONTROL.	✓	✓	Production or absorption of reactive power to maintain voltage levels on transmission systems (Ancillary Service).
REAL POWER TRANSMISSION LOSS.	✓	✓	The loss of energy, resulting from transporting power over a transmission system.
REASSIGNMENT AGREEMENT.	✓		Transmission capacity reassignment agreement.
REGULATION & FREQUENCY RESPONSE.	✓	✓	Service providing for continuous balancing of resources (generation and interchange) with load, and for maintaining scheduled interconnection frequency by committing on-line generation where output is raised or lowered and by other non-generation resources capable of providing this service as necessary to follow the moment-by-moment changes in load (Ancillary Service). For Contracts, reported if the contract provides for sale of the product. For Transactions, sales by third-party providers (i.e., non-transmission function) are reported.
REQUIREMENTS SERVICE	✓	✓	Firm, load-following power supply necessary to serve a specified share of customer's aggregate load during the term of the agreement. Requirements service may include some or all of the energy, capacity and ancillary service products. (If the components of the requirements service are priced separately, they should be reported separately in the transactions tab.)

EQR DATA DICTIONARY—Continued

[Appendix A. Product Names]

Product name	Contract product	Transaction product	Definition
SCHEDULE SYSTEM CONTROL & DISPATCH.	✓	✓	Scheduling, confirming and implementing an interchange schedule with other Balancing Authorities, including intermediary Balancing Authorities providing transmission service, and ensuring operational security during the interchange transaction (Ancillary Service).
SPINNING RESERVE	✓	✓	Unloaded synchronized generating capacity that is immediately responsive to system frequency and that is capable of being loaded in a short time period or non-generation resources capable of providing this service (Ancillary Service). For Contracts, reported if the contract provides for sale of the product. For Transactions, sales by third-party providers (i.e., non-transmission function) are reported.
SUPPLEMENTAL RESERVE	✓	✓	Service needed to serve load in the event of a system contingency, available with greater delay than SPINNING RESERVE. This service may be provided by generating units that are on-line but unloaded, by quick-start generation, or by interruptible load or other non-generation resources capable of providing this service (Ancillary Service). For Contracts, reported if the contract provides for sale of the product. For Transactions, sales by third-party providers (i.e., non-transmission function) are reported.
SYSTEM OPERATING AGREEMENTS.	✓		An executed agreement that contains the terms and conditions under which a system or network customer shall operate its facilities and the technical and operational matters associated with the implementation of network.
TOLLING ENERGY	✓	✓	Energy sold from a plant whereby the buyer provides fuel to a generator (seller) and receives power in return for pre-established fees.
TRANSMISSION OWNERS AGREEMENT.	✓		The agreement that establishes the terms and conditions under which a transmission owner transfers operational control over designated transmission facilities.
UPLIFT	✓	✓	A make-whole payment by an RTO/ISO to a utility.

EQR DATA DICTIONARY

[Appendix B. Balancing Authority]

Balancing authority	Abbreviation	Outside US*
AESC, LLC—Wheatland CIN	AEWC	
Alabama Electric Cooperative, Inc.	AEC	
Alberta Electric System Operator	AESO	✓
Alliant Energy Corporate Services, LLC—East	ALTE	
Alliant Energy Corporate Services, LLC—West	ALTW	
Ameren Transmission. Illinois	AMIL	
Ameren Transmission. Missouri	AMMO	
American Transmission Systems, Inc.	FE	
Aquila Networks—Kansas	WPEK	
Aquila Networks—Missouri Public Service	MPS	
Aquila Networks—West Plains Dispatch	WPEC	
Arizona Public Service Company	AZPS	
Associated Electric Cooperative, Inc.	AECI	
Avista Corp.	AVA	
Batesville Balancing Authority	BBA	
BC Hydro T & D—Grid Operations	BCHA	✓
Big Rivers Electric Corp.	BREC	
Board of Public Utilities	KACY	
Bonneville Power Administration Transmission	BPAT	
British Columbia Transmission Corporation	BCTC	✓
California Independent System Operator	CISO	
Carolina Power & Light Company—CPLW	CPLW	
Carolina Power and Light Company—East	CPLE	
Central and Southwest	CSWS	
Chelan County PUD	CHPD	
Cinergy Corporation	CIN	
City of Homestead	HST	
City of Independence P&L Dept.	INDN	
City of Tallahassee	TAL	
City Water Light & Power	CWLP	
City Utilities of Springfield	SPRM	
Cleco Power LLC	CLEC	
Columbia Water & Light	CWLD	
Comision Federal de Electricidad	CFE	✓
Comision Federal de Electricidad	CFEN	✓
Constellation Energy Control and Dispatch	GRIF	
Constellation Energy Control and Dispatch—Arkansas	PUPP	

EQR DATA DICTIONARY—Continued

[Appendix B. Balancing Authority]

Balancing authority	Abbreviation	Outside US*
Constellation Energy Control and Dispatch—City of Benton, AR	BUBA	
Constellation Energy Control and Dispatch—City of Ruston, LA	DERS	
Constellation Energy Control and Dispatch—Conway, Arkansas	CNWY	
Constellation Energy Control and Dispatch—Gila River	GRMA	
Constellation Energy Control and Dispatch—Glacier Wind Energy	GWA	
Constellation Energy Control and Dispatch—Harquehala	HGMA	
Constellation Energy Control and Dispatch—North Little Rock, AK	DENL	
Constellation Energy Control and Dispatch—Osceola Municipal Light	OMLP	
Constellation Energy Control and Dispatch—Plum Point	PLUM	
Constellation Energy Control and Dispatch—Red Mesa	REDM	
Constellation Energy Control and Dispatch—West Memphis, Arkansas	WMUC	
Dairyland Power Cooperative	DPC	
DECA, LLC—Arlington Valley	DEAA	
Duke Energy Corporation	DUK	
East Kentucky Power Cooperative, Inc.	EKPC	
El Paso Electric	EPE	
Electric Energy, Inc.	EEI	
Empire District Electric Co., The	EDE	
Entergy	EES	
ERCOT ISO	ERCO	
Florida Municipal Power Pool	FMPP	
Florida Power & Light	FPL	
Florida Power Corporation	FPC	
Gainesville Regional Utilities	GVL	
Grand River Dam Authority	GRDA	
Grant County PUD No. 2	GCPD	
Great River Energy	GRE	
Great River Energy	GREC	
Great River Energy	GREN	
Great River Energy	GRES	
GridAmerica	GA	
Hoosier Energy	HE	
Hydro-Quebec, TransEnergie	HQT	✓
Idaho Power Company	IPCO	
Imperial Irrigation District	IID	
Indianapolis Power & Light Company	IPL	
ISO New England Inc.	ISNE	
JEA	JEA	
Kansas City Power & Light, Co	KCPL	
Lafayette Utilities System	LAFA	
LG&E Energy Transmission Services	LGEE	
Lincoln Electric System	LES	
Los Angeles Department of Water and Power	LDWP	
Louisiana Energy & Power Authority	LEPA	
Louisiana Generating, LLC	LAGN	
Louisiana Generating, LLC—City of Conway	CWAY	
Louisiana Generating, LLC—City of West Memphis	WMU	
Louisiana Generating, LLC—North Little Rock	NLR	
Madison Gas and Electric Company	MGE	
Manitoba Hydro Electric Board, Transmission Services	MHEB	✓
Michigan Electric Coordinated System	MECS	
Michigan Electric Coordinated System—CONS	CONS	
Michigan Electric Coordinated System—DECO	DECO	
MidAmerican Energy Company	MEC	
Midwest ISO	MISO	
Minnesota Power, Inc.	MP	
Montana-Dakota Utilities Co.	MDU	
Muscatine Power and Water	MPW	
Nebraska Public Power District	NPPD	
Nevada Power Company	NEVP	
New Brunswick System Operator	NBSO	✓
New Horizons Electric Cooperative	NHC1	
New York Independent System Operator	NYIS	
Northern Indiana Public Service Company	NIPS	
Northern States Power Company	NSP	
NorthWestern Energy	NWMT	
Ohio Valley Electric Corporation	OVEC	
Oklahoma Gas and Electric	OKGE	
Ontario—Independent Electricity System Operator	ONT	✓
OPPDCA/TP	OPPD	
Otter Tail Power Company	OTP	

EQR DATA DICTIONARY—Continued

[Appendix B. Balancing Authority]

Balancing authority	Abbreviation	Outside US*
P.U.D. No. 1 of Douglas County	DOPD	
PacifiCorp-East	PACE	
PacifiCorp-West	PACW	
PJM Interconnection	PJM	
Portland General Electric	PGE	
Public Service Company of Colorado	PSCO	
Public Service Company of New Mexico	PNM	
Puget Sound Energy Transmission	PSEI	
Reedy Creek Improvement District	RC	
Sacramento Municipal Utility District	SMUD	
Salt River Project	SRP	
Santee Cooper	SC	
SaskPower Grid Control Centre	SPC	✓
Seattle City Light	SCL	
Seminole Electric Cooperative	SEC	
Sierra Pacific Power Co.—Transmission	SPPC	
South Carolina Electric & Gas Company	SCEG	
South Mississippi Electric Power Association	SME	
South Mississippi Electric Power Association	SMEE	
Southeastern Power Administration—Hartwell	SEHA	
Southeastern Power Administration—Russell	SERU	
Southeastern Power Administration—Thurmond	SETH	
Southern Company Services, Inc.	SOCO	
Southern Illinois Power Cooperative	SIPC	
Southern Indiana Gas & Electric Co.	SIGE	
Southern Minnesota Municipal Power Agency	SMP	
Southwest Power Pool	SWPP	
Southwestern Power Administration	SPA	
Southwestern Public Service Company	SPS	
Sunflower Electric Power Corporation	SECI	
Tacoma Power	TPWR	
Tampa Electric Company	TEC	
Tennessee Valley Authority ESO	TVA	
Trading Hub	HUB	
TRANSLink Management Company	TLKN	
Tucson Electric Power Company	TEPC	
Turlock Irrigation District	TIDC	
Upper Peninsula Power Co.	UPPC	
Utilities Commission, City of New Smyrna Beach	NSB	
Westar Energy—MoPEP Cities	MOWR	
Western Area Power Administration—Colorado-Missouri	WACM	
Western Area Power Administration—Lower Colorado	WALC	
Western Area Power Administration—Upper Great Plains East	WAUE	
Western Area Power Administration—Upper Great Plains West	WAUW	
Western Farmers Electric Cooperative	WFEC	
Western Resources dba Westar Energy	WR	
Wisconsin Energy Corporation	WEC	
Wisconsin Public Service Corporation	WPS	
Yadkin, Inc.	YAD	

*Balancing authorities outside the United States may only be used in the Contract Data section to identify specified receipt/delivery points in jurisdictional transmission contracts.

EQR DATA DICTIONARY

[Appendix C. Hub]

HUB	Definition
ADHUB	The aggregated Locational Marginal Price (“LMP”) nodes defined by PJM Interconnection, LLC as the AEP/Dayton Hub.
AEPGenHub	The aggregated Locational Marginal Price (“LMP”) nodes defined by PJM Interconnection, LLC as the AEPGenHub.
COB	The set of delivery points along the California-Oregon commonly identified as and agreed to by the counterparties to constitute the COB Hub.
Cinergy (into)	The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Cinergy balancing authority.
Cinergy Hub (MISO)	The aggregated Elemental Pricing nodes (“Epnodes”) defined by the Midwest Independent Transmission System Operator, Inc., as Cinergy Hub (MISO).
Entergy (into)	The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Entergy balancing authority.

EQR DATA DICTIONARY—Continued

[Appendix C. Hub]

HUB	Definition
FE Hub	The aggregated Elemental Pricing nodes (''Epnodes'') defined by the Midwest Independent Transmission System Operator, Inc., as FE Hub (MISO).
Four Corners	The set of delivery points at the Four Corners power plant commonly identified as and agreed to by the counterparties to constitute the Four Corners Hub.
Illinois Hub (MISO)	The aggregated Elemental Pricing nodes (''Epnodes'') defined by the Midwest Independent Transmission System Operator, Inc., as Illinois Hub (MISO).
Mead	The set of delivery points at or near Hoover Dam commonly identified as and agreed to by the counterparties to constitute the Mead Hub.
Michigan Hub (MISO)	The aggregated Elemental Pricing nodes (''Epnodes'') defined by the Midwest Independent Transmission System Operator, Inc., as Michigan Hub (MISO).
Mid-Columbia (Mid-C)	The set of delivery points along the Columbia River commonly identified as and agreed to by the counterparties to constitute the Mid-Columbia Hub.
Minnesota Hub (MISO)	The aggregated Elemental Pricing nodes (''Epnodes'') defined by the Midwest Independent Transmission System Operator, Inc., as Minnesota Hub (MISO).
NEPOOL (Mass Hub)	The aggregated Locational Marginal Price (''LMP'') nodes defined by ISO New England Inc., as Mass Hub.
NIHUB	The aggregated Locational Marginal Price (''LMP'') nodes defined by PJM Interconnection, LLC as the Northern Illinois Hub.
NOB	The set of delivery points along the Nevada-Oregon border commonly identified as and agreed to by the counterparties to constitute the NOB Hub.
NP15	The set of delivery points north of Path 15 on the California transmission grid commonly identified as and agreed to by the counterparties to constitute the NP15 Hub.
NWMT	The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Northwestern Energy Montana balancing authority.
PJM East Hub	The aggregated Locational Marginal Price nodes (''LMP'') defined by PJM Interconnection, LLC as the PJM East Hub.
PJM South Hub	The aggregated Locational Marginal Price (''LMP'') nodes defined by PJM Interconnection, LLC as the PJM South Hub.
PJM West Hub	The aggregated Locational Marginal Price (''LMP'') nodes defined by PJM Interconnection, LLC as the PJM Western Hub.
Palo Verde	The switch yard at the Palo Verde nuclear power station west of Phoenix in Arizona. Palo Verde Hub includes the Hassayampa switchyard 2 miles south of Palo Verde.
SOCO (into)	The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Southern Company balancing authority.
SP15	The set of delivery points south of Path 15 on the California transmission grid commonly identified as and agreed to by the counterparties to constitute the SP15 Hub.
TVA (into)	The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Tennessee Valley Authority balancing authority.
ZP26	The set of delivery points associated with Path 26 on the California transmission grid commonly identified as and agreed to by the counterparties to constitute the ZP26 Hub.

EQR DATA DICTIONARY

[Appendix D. Time Zone]

Time zone	Definition
AD	Atlantic Daylight.
AP	Atlantic Prevailing.
AS	Atlantic Standard.
CD	Central Daylight.
CP	Central Prevailing.
CS	Central Standard.
ED	Eastern Daylight.
EP	Eastern Prevailing.
ES	Eastern Standard.
MD	Mountain Daylight.
MP	Mountain Prevailing.
MS	Mountain Standard.
NA	Not Applicable.
PD	Pacific Daylight.
PP	Pacific Prevailing.
PS	Pacific Standard.
UT	Universal Time.

EQR DATA DICTIONARY

[Appendix E. Units]

Units	Definition
KV	Kilovolt.
KVA	Kilovolt Amperes.
KVR	Kilovar.
KW	Kilowatt.
KWH	Kilowatt Hour.
KW–DAY	Kilowatt Day.
KW–MO	Kilowatt Month.
KW–WK	Kilowatt Week.
KW–YR	Kilowatt Year.
MVAR–YR	Megavar Year.
MW	Megawatt.
MWH	Megawatt Hour.
MW–DAY	Megawatt Day.
MW–MO	Megawatt Month.
MW–WK	Megawatt Week.
MW–YR	Megawatt Year.
RKVA	Reactive Kilovolt Amperes.
FLAT RATE	Flat Rate.

EQR DATA DICTIONARY

[Appendix F. Rate Units]

Rate units	Definition
$/KV	dollars per kilovolt.
$/KVA	dollars per kilovolt amperes.
$/KVR	dollars per kilovar.
$/KW	dollars per kilowatt.
$/KWH	dollars per kilowatt hour.
$/KW–DAY	dollars per kilowatt day.
$/KW–MO	dollars per kilowatt month.
$/KW–WK	dollars per kilowatt week.
$/KW–YR	dollars per kilowatt year.
$/MW	dollars per megawatt.
$/MWH	dollars per megawatt hour.
$/MW–DAY	dollars per megawatt day.
$/MW–MO	dollars per megawatt month.
$/MW–WK	dollars per megawatt week.
$/MW–YR	dollars per megawatt year.
$/MVAR–YR	dollars per megavar year.
$/RKVA	dollars per reactive kilovar amperes.
CENTS	cents.
CENTS/KVR	cents per kilovolt amperes.
CENTS/KWH	cents per kilowatt hour.
FLAT RATE	rate not specified in any other units.

EQR DATA DICTIONARY

[Appendix G. Index Price Publisher]

Index price publisher abbreviation	Index price publisher
AM	Argus Media.
EIG	Energy Intelligence Group, Inc.
IP	Intelligence Press.
P	Platts.
B	Bloomberg.
DJ	Dow Jones.
Pdx	Powerdex.
SNL	SNL Energy.

EQR DATA DICTIONARY

[Appendix H. Exchange/Broker Services]

Exchange/ brokerage service	Definition
BROKER	A broker was used to consummate or effectuate the transaction.
ICE	Intercontinental Exchange.
NYMEX	New York Mercantile Exchange.

[FR Doc. 2012–28230 Filed 11–29–12; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. FDA–1999–F–4617 (Formerly Docket No. 1999F–5321)]

Irradiation in the Production, Processing and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a 4.5 kilogray (kGy) maximum absorbed dose of ionizing radiation to treat unrefrigerated (as well as refrigerated) uncooked meat, meat byproducts, and certain meat food products to reduce levels of foodborne pathogens and extend shelf life. This action is in response to a petition filed by the U.S. Department of Agriculture, Food Safety and Inspection Service (USDA/FSIS).

DATES: This rule is effective November 30, 2012. Submit either electronic or written objections and requests for a hearing by December 31, 2012. See section VIII of this document for information on the filing of objections.

ADDRESSES: You may submit either electronic or written objections and requests for a hearing identified by Docket No. FDA–1999–F–4617, by any of the following methods:

Electronic Submissions

Submit electronic objections in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Written Submissions

Submit written objections in the following ways:

- *Fax:* 301–827–6870.
- *Mail/Hand Delivery/Courier* (For paper or CD–ROM submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–1999–F–4617 for this rulemaking. All objections received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting objections, see the ''Objections'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or objections received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lane A. Highbarger, Center for Food Safety and Applied Nutrition (HFS–255), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1204.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Safety Evaluation
A. Radiation Chemistry
B. Toxicological Considerations
C. Nutritional Considerations
D. Microbiological Considerations
III. Labeling
IV. Comments
V. Conclusions
VI. Paperwork Reduction Act of 1995
VII. Environmental Impact
VIII. Objections
IX. Section 301(ll) of the Federal Food, Drug, and Cosmetic Act
X. References

I. Background

In a notice published in the **Federal Register** of December 22, 1999 (64 FR 71792), FDA announced that a food additive petition (FAP 9M4695) had been filed by the USDA/FSIS, 300 12th St. SW., rm. 112, Washington, DC 20250 (currently, Food Safety and Inspection Service, Stop Code 3782, Patriots Plaza III, Cubicle 8–163A, 1400 Independence Ave. SW., Washington, DC 20250–3700). The petition proposed that the food additive regulations in part 179, Irradiation in the Production, Processing and Handling of Food (21 CFR part 179), be amended to provide for the safe use of a 4.5 kGy maximum dose of ionizing radiation to treat unrefrigerated (as well as refrigerated [1]) uncooked meat, meat byproducts,[2] and certain meat food products to reduce levels of foodborne pathogens and extend shelf-life.

FDA's current regulation under § 179.26(b)(8) permits the irradiation of refrigerated or frozen, uncooked products that are meat within the meaning of 9 CFR 301.2(rr), meat byproducts within the meaning of 9 CFR 301.2(tt), or meat food products within the meaning of 9 CFR 301.2(uu), with or without nonfluid seasoning, that are otherwise composed solely of intact or ground meat, meat byproducts, or both meat and meat byproducts. The foods covered under § 179.26(b)(8) are subject to the Federal Meat Inspection Act (21 U.S.C. 601, *et seq.*), and, as described previously in this document, are defined by the USDA/FSIS in Title 9 of the Code of Federal Regulations. In this document, the term ''meat'' will be used to refer collectively to meat, meat byproducts, and certain meat food products applicable to this notice.

II. Safety Evaluation

FDA has previously reviewed the irradiation of meat and meat byproducts (62 FR 64107, December 3, 1997), and concluded that the irradiation of refrigerated meat and meat byproducts is safe. The current rulemaking concerns the irradiation of meat at temperatures that are above refrigerated temperature. FDA has previously reviewed and evaluated the safety of irradiated food products in a variety of applications. Discussions of these applications have been presented in various **Federal Register** documents (see, *e.g.,* 62 FR 64107 and 70 FR 48057, August 16, 2005). FDA has also updated its review

[1] For the purpose of this final rule, refrigeration temperature is a maximum of 40 °F (4 °C).

[2] The Agency notes that in the filing notice dated December 22, 1999 (64 FR 71792), the phrase ''meat products'' was used while the petitioner used the phrase ''meat byproducts'' in their filing request dated August 19, 1999.

of the safety of irradiation of food with a thorough survey of the literature to the present time and found no new studies on the irradiation of meat (Ref. 1).

Under section 201(s) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 321(s)), a source of radiation used to treat food is a food additive. The additive is not added to food literally, but is rather a source of radiation used to process or treat food such that, analogous to other food processing technologies, its use can affect the characteristics of the food. Under section 409(c)(3)(A) of the FD&C Act (21 U.S.C. 348(c)(3)(A)), a food additive cannot be approved for a particular use unless a fair evaluation of the evidence establishes that the additive is safe under the conditions of that use. Importantly, the statute does not prescribe the safety tests to be performed but leaves that determination to the discretion and scientific expertise of FDA. Not all food additives require the same amount or type of testing to establish safety. The testing and data required to establish the safety of an additive will vary depending on the particular additive and its intended use.

In evaluating the safety of a source of radiation to treat food intended for human consumption, the Agency must identify the various effects that may result from irradiating the food and assess whether any of these effects pose a public health concern. In doing so, the following three general areas need to be addressed: (1) Potential toxicity, (2) nutritional adequacy, and (3) effects on the microbiological profile of the treated food. Each of these areas is discussed in this document.

The term ''radiation chemistry'' refers to the chemical reactions that occur as a result of the absorption of ionizing radiation. Because an understanding of radiation chemistry is fundamental in addressing these three areas, key aspects of radiation chemistry are also discussed.

FDA has fully considered the data and studies submitted in the subject petition as well as other data and information relevant to safety. The safety data that have been obtained from irradiating various foods under various conditions support conclusions about the safety of many irradiated foods, including unrefrigerated meat (Refs. 2 through 6).

A. Radiation Chemistry

The conditions under which foods are irradiated are important in considering the radiation chemistry of a given food. These conditions include: The radiation dose, the physical state of the food (*e.g.,* frozen or dried), and the atmosphere in the package.

The radiolysis products generated in any food are directly proportional to the absorbed radiation dose (Ref. 2). Radiation-induced chemical changes may cause changes in the organoleptic properties of the food. The radiation chemistry of food is strongly influenced by the physical state of the food. If all other conditions, including radiation dose and ambient atmosphere, are the same, the extent of chemical change that occurs in a particular food in the frozen state is less than the change that occurs in the non-frozen state. This is because of the reduced mobility, in the frozen state, of the initial radiolysis products, which will tend to recombine rather than diffuse and react with other food components. For similar reasons, if all other conditions are the same, the extent of chemical change that occurs in the dehydrated state is less than the change that occurs in the fully hydrated state (62 FR 64107 at 64110 and references cited therein).

1. Radiation Chemistry of the Major Components of Meat

The major components of meat are proteins and lipids and the ratios vary. Ground beef is a food defined by USDA and ranges from 5 percent to 30 percent lipids. The ratio of protein to lipid in whole cuts of beef varies depending on many factors.[3] FDA has extensively reviewed the radiation chemistry of flesh foods[4] in its rulemakings on the use of ionizing radiation to treat meat (62 FR 64107) and molluscan shellfish (70 FR 48057). In the meat rule (62 FR 64107 at 64111), FDA concluded: ''In summary, the results obtained from chemical analyses of irradiated flesh foods establish that there would be very small amounts of individual radiolytic products generated by radiation doses comparable to those proposed in the petition. In addition, most of these radiolytic products are either the same as, or structurally very similar to, compounds found in foods that have not been irradiated. Because of their structural similarities to compounds found in foods that have not been irradiated, these radiolytic products would be expected to be toxicologically similar to such compounds as well. Thus, the available information regarding the radiation chemistry of the major components of flesh foods supports the proposition that there is no reason to suspect a toxicological hazard due to consumption of an irradiated flesh food.''

During its review of this food additive petition (FAP 9M4695), the Agency evaluated the changes that may occur from the irradiation of meat at temperatures greater than those previously approved. These evaluations are discussed in the following sections of this section II.A.1.

a. *Proteins.* As noted previously in this document, FDA has previously provided detailed discussions of the radiation chemistry of proteins in its rulemakings on the use of ionizing radiation to treat meat (62 FR 64107 at 64110) and molluscan shellfish (70 FR 48057 at 48059–48060). Those prior discussions support the findings in this rule. Studies conducted with high-protein foods (*e.g.,* meat, poultry, and seafood), have established that most of the radiolysis products derived from food proteins have the same amino acid composition as the original protein and are altered only in their secondary and tertiary structures (*i.e.,* they are denatured, Ref. 2). These changes are similar to those that occur as a result of heating, but in the case of irradiation, even at doses up to 50 kGy and when food is irradiated at temperatures ranging from −168 °C to 60 °C in various studies, such changes are far less pronounced than heating and the amounts of reaction products generated are far lower (62 FR 64107 at 64110). Based on these studies and on the analysis set forth in the prior rulemakings referenced previously in this document, FDA concludes that there will be no significant change in the amino acid composition of meat that is irradiated at doses up to 4.5 kGy at temperatures higher than refrigeration temperature.

b. *Lipid.* FDA has also previously provided detailed discussions of the radiation chemistry of lipids in the meat rule (62 FR 64107 at 64110–64111) and molluscan shellfish rule (70 FR 48057 at 48060). Those discussions also support this rule.

To summarize the previous discussions, a variety of radiolysis products derived from lipids have been identified. These include the following: Fatty acids, esters, aldehydes, ketones, alkanes, alkenes, and other hydrocarbons (Ref. 2). Identical or analogous products are found in foods that have not been irradiated. In particular, heating food produces generally the same types of products, but in amounts far greater than the trace amounts produced by irradiating food (62 FR 64107 at 64111 and references cited therein).

[3] Information on the composition of foods can be found at: *http://www.nal.usda.gov/fnic/foodcomp/search/;* the USDA National Nutrient Database for Standard Reference. Search with keyword: Meat.

[4] Defined by USDA as meat, fish, poultry, and egg products.

A class of radiolysis products that is derived from lipids, 2-alkylcyclobutanones (2-ACBs), has been reported to form in small quantities when fats are exposed to ionizing radiation. Any 2-ACB formed will depend on the fatty acid composition of the food, *e.g.,* 2-dodecylcyclobutanone (2-DCB) is a radiation byproduct of palmitic acid (Refs. 7 and 8). In the molluscan shellfish rule, the Agency noted the reported creation of 2-DCB in irradiated chicken and ground beef, which contain triglycerides with esterified palmitic acid. FDA did not find that the presence of low levels of 2-DCB raised a safety issue (70 FR 48057 at 48060).

2. Furan

During the course of reviewing the chemical effects of irradiation, FDA became aware of a report that suggested that the irradiation of apple juice might produce furan (Ref. 9). Because furan has been shown to cause tumors in laboratory animals, FDA has extensively researched the occurrence of furan in irradiated foods over the last 10 years. FDA has confirmed that certain foods form furan in low quantities when irradiated (Ref. 10). Studies conducted by FDA scientists and other researchers show that some foods form furan when heated and still other foods form furan during storage at refrigeration temperatures (Refs. 10 and 12). Testing of irradiated non-refrigerated meat found no furan at the limit of detection in the tests and detected no furan above the background levels of natural furan formation during storage (Refs. 10, 11, and 12). Therefore, the Agency concludes that the irradiation of meat at the requested maximum absorbed dose will not increase the amount of furan in the diet and does not present a toxicological hazard under the conditions proposed in the USDA/FSIS petition.

B. Toxicological Considerations

As discussed previously in this document, the available information from chemical analyses of irradiated foods suggests that there is no reason to suspect a toxicological hazard due to consumption of an irradiated food (Ref. 4.) The Agency notes that the large body of data from studies where irradiated foods were fed to laboratory animals provides an independent way to assess toxicological safety. These studies include those relied on by the Agency in previous evaluations of the safety of irradiated foods (see 51 FR 13376, April 18, 1986; 55 FR 18538, May 2, 1990; 62 FR 64107; 65 FR 45280, July 21, 2000; and 70 FR 48057, August 16, 2005). The Agency is also relying on additional data and information in FDA files (Ref. 13). The Agency reviewed the data from chemical analysis of beef irradiated at 45 kGy (Ref. 19) and concluded that, although there will be an increase in the yields of some of the radiolysis products produced by irradiating meat at 30–40 °C versus 5 °C, the increase is no greater than an order of magnitude (Ref. 14), and is insignificant with respect to toxicity (Ref. 15).

In summary, FDA has reviewed data relevant to the assessment of potential toxicity of irradiated meat. While all of the studies are not of equal quality or rigor, the Agency has concluded that the quantity and breadth of testing and the number and significance of endpoints assessed would have identified any meaningful risk. Based on the totality of the evidence, FDA concludes that irradiation of meat under the conditions proposed in this petition does not present a toxicological hazard.

C. Nutritional Considerations

It has been established that the nutrient values of the macronutrients in the diet (protein, fats, and carbohydrates) are not significantly altered by irradiation at the petitioned doses (62 FR 64107 at 64114 and Refs. 16 and 17). Minerals (*e.g.,* calcium and iron) are also unaffected by irradiation (62 FR 64107 at 64114 and Ref. 17). Levels of certain vitamins may be reduced as a result of irradiation. The extent to which this reduction occurs depends on the specific vitamin, the type of food, and the conditions of irradiation. Not all vitamin loss is nutritionally significant; the extent to which the reduction in a specific vitamin level is significant depends on the relative contribution of the food in question to the total dietary intake of the vitamin (62 FR 64107 at 64114).

FDA has extensively reviewed the nutritional losses that occur when meat is irradiated (62 FR 64107 at 64114). During this review, FDA noted that the majority of meat would be irradiated at refrigerated temperatures or frozen, and possibly in a reduced oxygen environment, which would reduce the loss of vitamins. Although this rule covers irradiation of meat under unrefrigerated conditions, FDA concludes that this difference in temperature will not result in significant vitamin loss. Thiamine is known to be more sensitive to irradiation than other vitamins; FDA considered a worst-case scenario (*e.g.,* thiamine levels in all these foods would be reduced by 50 percent) and the Agency concluded that, if all flesh foods (*i.e.,* meat, poultry, and fish) were irradiated under such conditions, there would be no deleterious effect on the total dietary intake of thiamine as a result of irradiating flesh foods, including meat (62 FR 64107 at 64115).

In summary, based on the available data and information, FDA concludes that amending the regulations, as set forth in this document, to allow for the use of ionizing radiation to treat unrefrigerated meat up to a maximum dose of 4.5 kGy will not have an adverse impact on the nutritional adequacy of the overall diet.

D. Microbiological Considerations

FDA previously examined the effects of radiation-induced changes in the microbiological profile of meat and on the growth patterns of any surviving microorganisms, including *Clostridium botulinum,* to determine whether the microbiological safety of meat will be adversely affected by irradiation (62 FR 64107 at 64115). The Agency determined that irradiation of frozen and refrigerated meat and meat byproducts at a dose up to 4.5 kGy will not result in any additional health hazard from *C. botulinum.* Likewise, FDA also determined that irradiation will not result in any additional hazard from common pathogens other than *C. botulinum* (Ref. 18).

The Agency has determined that, although the use would be modestly different in the current petitioned request, the microbial hazards that carcasses would be subjected to would be equivalent to the microbial hazards from meat that has been further processed, *i.e.,* meat from a completely broken-down carcass that has been refrigerated. Moreover, the same doses of irradiation would be expected to be equally effective in lowering levels of pathogenic and spoilage microorganisms.[5] Therefore, the Agency concludes, based on all the evidence before it, that irradiation of meat under the conditions set forth in the regulation presented in this document will not result in a microbiological hazard (Ref. 18).

In summary, based on the available data and information, FDA concludes that irradiation of meat conducted in accordance with good manufacturing practices will reduce or eliminate bacterial populations with no increased

[5] USDA/FSIS provided a list of pertinent pathogens from sources of the meat they regulate and irradiation D-values (conditions under which 90 percent of the microorganisms have been eliminated) derived from published sources. D-values are typically obtained at various temperatures and FDA considers the food matrix to be more important than temperature for D-values.

microbial risk from pathogens that may survive the irradiation process (Ref. 18).

III. Labeling

The meat products covered by this rule are defined under the Federal Meat Inspection Act (21 U.S.C. 601, *et seq.*). Therefore, the labeling of these products irradiated under the conditions set forth in the regulation must comply with any requirements imposed by USDA/FSIS under its authority to approve the labeling of such products.

IV. Comments

FDA has received numerous comments, primarily form letters, from individuals that state their opinions regarding the potential dangers and unacceptability of irradiating food. FDA has also received several comments from individuals or organizations that state their opinions regarding the potential benefits of irradiating food and urging FDA to approve the petition. Additionally, FDA received several comments from Public Citizen (PC) and the Center for Food Safety (CFS) requesting the denial of this and other food irradiation petitions.

Overall, the comments were of a general nature and not necessarily specific to the requests in the individual petitions, and did not contain any substantive information that could be used in a safety evaluation of irradiated meat. Many of these comments from PC and CFS were also submitted to the docket for this Agency rulemaking on irradiation of molluscan shellfish (Docket No. 1999F–4372, FAP 9M4682). The topics raised in these comments included the following: Studies reviewed in the 1999 Food and Agriculture Organization of the United Nations/International Atomic Energy Agency/World Health Organization (FAO/IAEA/WHO) report on high-dose irradiation; a review article that analyzed studies of irradiated foods performed in the 1950s and 1960s; the findings of a 1971 study in which rats were fed irradiated strawberries; the findings regarding reproductive performance in a 1954 study in which mice were fed a special irradiated diet; issues regarding mutagenicity studies; certain international opinions; issues related to 2-ACBs, including purported promotion of colon cancer; the findings of certain studies conducted by the Indian Institute of Nutrition in the 1970s; general issues regarding toxicity data; FDA's purported failure to meet certain statutory requirements; data from a 2002 study purportedly showing an irradiation-induced increase in trans fatty acids in ground beef; studies regarding purported elevated hemoglobin levels and their significance; and an affidavit describing the opinions of a scientist regarding the dangers of irradiation and advocating the use of alternative methods for reducing the risk of foodborne disease. These comments have all been addressed by FDA in a previous rulemaking. For a detailed discussion of the Agency's response to each of the previous general comments, the reader is referred to the molluscan shellfish rule (70 FR 48057 at 48062 through 48071). Because these comments do not raise issues specific to irradiated meat and meat byproducts, and the previous responses are sufficient to address these issues as they pertain to the rule to permit the irradiation of meat as described in this document, the Agency will not address these comments further here.

V. Conclusions

Based on the data and studies submitted in the petition and other information in the Agency's files, FDA concludes that the proposed use of irradiation to provide for the safe use of a 4.5 kGy maximum dose of ionizing radiation to treat unrefrigerated (as well as refrigerated) uncooked meat, meat byproducts, and certain meat food products to reduce levels of foodborne pathogens and extend shelf-life is safe, and therefore the regulations in § 179.26 should be amended as set forth in this document.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the use of irradiation of unrefrigerated meat in response to the petition will be made available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 171.1(h), the Agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VI. Paperwork Reduction Act of 1995

This final rule does not provide for the collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Environmental Impact

The Agency has carefully considered the potential environmental effects of this action. The Agency has determined under 21 CFR 25.32(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Objections

Any person who will be adversely affected by this regulation may file with the Division of Dockets Management (see **ADDRESSES**) either electronic or written objections. Each objection must be separately numbered, and each numbered objection must specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested must specifically so state. Failure to request a hearing for any particular objection constitutes a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested must include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection constitutes a waiver of the right to a hearing on the objection. It is only necessary to send one set of documents. Identify documents with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IX. Section 301(ll) of the Federal Food, Drug, and Cosmetic Act

FDA's review of this petition was limited to section 409 of the FD&C Act. This final rule is not a statement regarding compliance with other sections of the FD&C Act. For example, the Food and Drug Administration Amendments Act of 2007, which was signed into law on September 27, 2007, amended the FD&C Act to, among other things, add section 301(ll) (21 U.S.C. 331(ll)). Section 301(ll) of the FD&C Act prohibits the introduction or delivery for introduction into interstate commerce of any food that contains a drug approved under section 505 of the FD&C Act (21 U.S.C. 355), a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or a drug or biological product for which substantial clinical investigations have been instituted and their existence has been made public, unless one of the exceptions in section 301(ll)(1) to (ll)(4) of the FD&C Act applies. In our review of this petition, FDA did not consider whether section 301(ll) of the FD&C Act or any of its exemptions apply to the

ionizing radiation source. Accordingly, this final rule should not be construed to be a statement that ionizing radiation used to treat meat, if introduced or delivered for introduction into interstate commerce, would not violate section 301(ll) of the FD&C Act. Furthermore, this language is included in all food additive final rules and therefore, should not be construed to be a statement of the likelihood that section 301(ll) of the FD&C Act applies.

X. References

The following sources are referred to in this document. References marked with an asterisk (*) have been placed on display at the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* References without asterisks are not on display; they are available as published articles and books.

1. Memorandum for FAP 9M4695 from K. Morehouse, FDA, to L. Highbarger, FDA, dated August 10, 2010.*
2. Diehl, J. F., ''Chemical Effects of Ionizing Radiation,'' pp. 43–88, in *Safety of Irradiated Foods,* Second Edition, Marcel Dekker, Inc., New York, 1995.
3. Elias, P. S. and A. J. Cohen, ''Recent Advances in Food Irradiation,'' Elsevier Biomedical, Amsterdam, 1983.
4. World Health Organization, ''High-Dose Irradiation: Wholesomeness of Food Irradiated With Doses Above 10 kGy,'' World Health Organization Technical Report Series No. 890, pp. 9–37, Geneva, 1999.
5. *Preservation of Food by Ionizing Radiation,* edited by E. S. Josephson, and M. S. Peterson, Vol. II, CRC Press, Boca Raton, 1982.
6. Diehl, J. F., ''Radiolytic Effects in Foods,'' pp. 279–357, in *Preservation of Food By Ionizing Radiation,* Vol. I, edited by E. S. Josephson, and M. S. Peterson, CRC Press, Boca Raton, 1982.
7. Crone, A. V. J., *et al.,* ''Effect of Storage and Cooking on the Dose Response of 2-Dodecylcyclobutanone, a Potential Marker for Irradiated Chicken,'' *Journal of the Science of Food and Agriculture,* 58:249–252, 1992.
8. Gadgil, P., K. A. Hachmeister, J. S. Smith, and D. H. Kropf, ''2-Alkylcyclobutanones as Irradiation Dose Indicators in Irradiated Ground Beef Patties,'' *Journal of Agriculture and Food Chemistry,* 50:5746–5750, 2002.
9. Seibersdorf Project Report, International Programme on Irradiation of Fruit and Fruit Juices, Chemistry and Isotopes Department, National Centre for Nuclear Energy, Madrid, Spain, Vol. 8, 1966.
10. Memorandum for FAP 9M4695 from K. Morehouse, FDA, to L. Highbarger, FDA, dated May 18, 2009.*
11. Locas, C.; and V. A.Yaylayan, ''Origin and Mechanistic Pathways of Formation of the Parent Furan—a Toxicant,'' *Journal of Agricultural and Food Chemistry,* 52:6830–6836, 2005.
12. Fan, X., and K. J. B. Sokorai, ''Effect of Ionizing Radiation on Furan Formation in Fresh-Cut Fruits and Vegetables,'' *Journal of Food Science,* 73(2): C79–C83, 2008.
13. Memorandum from Food Additives Evaluation Branch, FDA (HFS–156), to C. Takaguchi, Petition Control Branch, FDA, December 28, 1982.*
14. Memorandum for FAP 9M4696 from E. Jensen, FDA, to R. Alrefai, FDA, dated December 10, 1999.*
15. Memorandum to the file for FAP 4M4428, from D. Hattan, FDA, dated November 18, 1997.*
16. Underdal, B., J. Nordal, G. Lunde, and B. Eggum, ''The Effect of Ionizing Radiation on the Nutritional Value of Fish (Cod) Protein,'' *Lebensmittel Wissenschaft Technologie,* 6:90–93, 1973.
17. Diehl, J. F., ''Nutritional Adequacy of Irradiated Foods,'' pp. 241–282, in *Safety of Irradiated Foods,* Marcel Dekker, New York, 1995.
18. Memorandum for FAP 9M4695 from R. Merker, FDA, to L. Highbarger, FDA, dated May 26, 2010.*
19. Merritt, C., Jr., P. Angelini, E. Wierbicki, and G. W. Shults, ''Chemical Changes Associated With Flavor in Irradiated Meat,'' *Journal of Agricultural and Food Chemistry,* 23:1037–1041, 1975.

List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

■ 1. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 373, 374.

■ 2. Section 179.26 is amended in the table in paragraph (b) by adding a new entry ''13.'' under the headings ''Use'' and ''Limitations'' to read as follows:

§ 179.26 Ionizing radiation for the treatment of food.

* * * * *

(b) * * *

Use	Limitations
* * * * * * *	
13. For control of foodborne pathogens, and extension of shelf-life, in unrefrigerated (as well as refrigerated) uncooked meat, meat byproducts, and certain meat food products.	Not to exceed 4.5 kGy.

* * * * *

Dated: November 27, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–28967 Filed 11–29–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. FDA–1999–F–1267 (Formerly Docket No. 1999F–5322)]

Irradiation in the Production, Processing and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to increase the maximum dose of ionizing radiation permitted in the treatment of poultry products, to include specific language intended to clarify the poultry products covered by the regulations, and to remove the limitation that any packaging used during irradiation of poultry shall not exclude oxygen. This action is in response to a petition filed by the U.S. Department of Agriculture, Food Safety and Inspection Service (USDA/FSIS).

DATES: This rule is effective November 30, 2012. Submit either electronic or written objections and requests for a hearing by December 31, 2012. See section VIII of this document for information on the filing of objections.

ADDRESSES: You may submit either electronic or written objections and requests for a hearing identified by Docket No. FDA–1999–F–1267 (formerly Docket No. 1999F–5322) by any of the following methods:

Electronic Submissions

Submit electronic objections in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written objections in the following ways:

- *FAX:* 301–827–6870.
- *Mail/Hand delivery/Courier (for paper or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–1999–F–1267 for this rulemaking. All objections received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting objections, see the ''Objections'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or objections received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lane A. Highbarger, Center for Food Safety and Applied Nutrition (HFS–255), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1204.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Safety Evaluation
  A. Radiation Chemistry
  B. Toxicological Considerations
  C. Nutritional Considerations
  D. Microbiological Considerations
III. Labeling
IV. Comments
V. Conclusions
VI. Paperwork Reduction Act of 1995
VII. Environmental Impact
VIII. Objections
IX. Section 301(ll) of the Federal Food, Drug, and Cosmetic Act
X. References

I. Background

In a notice published in the **Federal Register** of December 21, 1999 (64 FR 71461), FDA announced that a food additive petition (FAP 9M4696) had been filed by the USDA/FSIS, 300 12th St. SW., rm. 112, Washington, DC 20250 (currently, Food Safety and Inspection Service, Stop Code 3782, Patriots Plaza III, Cubicle 8–163A, 1400 Independence Ave. SW., Washington, DC 20250–3700). The petition proposed to amend the food additive regulation, *Ionizing radiation for the treatment of food* (§ 179.26 (21 CFR 179.26)) in item 6 of the table in paragraph (b) to: (1) Increase the maximum dose of ionizing radiation permitted in the treatment of poultry products; (2) include specific language intended to clarify the poultry products covered by the regulations; and (3) remove the limitation that any packaging used during irradiation of poultry shall not exclude oxygen.

FDA's current regulation under § 179.26(b)(6) permits the irradiation of fresh or frozen, uncooked poultry products that are: (1) Whole carcasses or disjointed portions of such carcasses that are ''ready-to-cook poultry'' within the meaning of 9 CFR 381.1(b)(44) or (2) mechanically separated poultry product (a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses) up to a maximum absorbed dose of 3.0 kiloGray (kGy) with the restriction that any packaging used shall not exclude oxygen.

The amended regulation clarifies the range of poultry products that may be irradiated, increases the maximum dose of ionizing radiation permitted in the treatment of covered poultry products, and will remove the requirement that the packaging for covered poultry products must not exclude oxygen. The amended regulation clarifies that the regulation covers fresh (refrigerated or unrefrigerated) or frozen, uncooked poultry products that are: (1) Whole carcasses or disjointed portions (or other parts) of such carcasses that are ''ready-to-cook poultry'' within the meaning of 9 CFR 381.1(b) (with or without nonfluid seasoning; includes, e.g., ground poultry) or (2) mechanically separated poultry product (a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses). In this document, the term ''poultry'' will be used to refer collectively to all of these products.

This amendment will bring the poultry regulation into conformity with the current regulation permitting the irradiation of refrigerated or frozen, uncooked products that are meat, meat byproducts, or meat food products; i.e., it permits a maximum absorbed dose of 4.5 kGy for non-frozen products and 7.0 kGy for frozen products (§ 179.26(b)(8)), and provides no limitation that the packaging shall not exclude oxygen, which would allow the use of packaging including modified atmosphere packaging and vacuum packaging.

II. Safety Evaluation

FDA has previously evaluated the safety of irradiated protein food products in a variety of applications. Discussions of these applications have been presented in various **Federal Register** documents (see 51 FR 13376, April 18, 1986; 55 FR 18538, May 2, 1990; 62 FR 64107, December 3, 1997; 65 FR 45280, July 21, 2000; and 70 FR 48057, August 16, 2005). FDA specifically reviewed the irradiation of flesh foods and concluded that the irradiation of refrigerated flesh foods is safe at the absorbed doses that were reviewed (see 62 FR 64107 at 64111). FDA has also updated its review of the safety of irradiation of food with a thorough review of the literature to the present time and found no new studies on the irradiation of poultry (Ref. 1).

Under section 201(s) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 321(s)), a source of radiation used to treat food is a food additive. The additive is not added to food literally but is rather a source of radiation used to process or treat food such that, analogous to other food processing technologies, its use can affect the characteristics of the food. Under section 409(c)(3)(A) of the FD&C Act (21 U.S.C. 348(c)(3)(A)), a food additive cannot be approved for a particular use unless a fair evaluation of the evidence establishes that the additive is safe under the conditions of that use. Importantly, the statute does not prescribe the safety tests to be performed but leaves that determination to the discretion and scientific expertise of FDA. Not all food additives require the same amount or type of testing to establish safety. The testing and data required to establish the safety of an additive will vary depending on the particular additive and its intended use.

In evaluating the safety of a source of radiation to treat food intended for human consumption, the Agency must identify the various effects that may result from irradiating the food and

assess whether any of these effects pose a public health concern. In doing so, the following three general areas need to be addressed: (1) Potential toxicity, (2) nutritional adequacy, and (3) effects on the microbiological profile of the treated food. Each of these areas is discussed in this document.

The term ''radiation chemistry'' refers to the chemical reactions that occur as a result of the absorption of ionizing radiation. Because an understanding of radiation chemistry is fundamental in addressing the three areas noted in this document, key aspects of radiation chemistry are also discussed.

FDA has fully considered the data and studies submitted in the subject petition as well as other relevant data and information. The safety data that have been obtained from irradiating various foods under various conditions support conclusions about the safety of irradiating the poultry products covered in this rule (Refs. 2 and 4 through 7).

A. Radiation Chemistry

The conditions under which foods are irradiated are important in considering the radiation chemistry of a given food. These conditions include: The radiation dose, the physical state of the food (e.g., frozen or dried), and the atmosphere in the package.

The radiolysis products generated in any food are directly proportional to the absorbed radiation dose (Ref. 2). Radiation-induced chemical changes may cause changes in the organoleptic properties of the food, and the radiation chemistry of food is strongly influenced by the physical state of the food. If all other conditions, including radiation dose and ambient atmosphere, are the same, the extent of chemical change that occurs in a particular food in the frozen state is less than the change that occurs in the non-frozen state. This is because of the reduced mobility, in the frozen state, of the initial radiolysis products, which will tend to recombine rather than diffuse and react with other food components. For similar reasons, if all other conditions are the same, the extent of chemical change that occurs in the dehydrated state is less than the change that occurs in the fully hydrated state (62 FR 64107 at 64110 and references cited therein).

1. Radiation Chemistry of the Major Components of Poultry

FDA has previously determined that flesh foods, including poultry, can be considered a single group for the purposes of evaluating the safety of irradiation because they are similar in composition (62 FR 64107 at 64111). Specifically, the approximate composition of beef and lamb is 17 percent to 20 percent protein, 15 percent to 25 percent fat, and 56 percent to 65 percent water. Chicken (depending on cut and whether or not skin is included) is about 18 percent to 25 percent protein, 5 percent to 19 percent fat, and 57 percent to 75 percent water (Ref. 3). Fatty acids in the triglycerides from all flesh foods are comprised of the same predominant species: Oleic, palmitic, linoleic, and stearic acid.

Because of the commonality in the chemistry of the components of flesh foods and the predictability of the types and amounts of radiolytic products produced when food is irradiated, the Agency determined in the 1997 rule permitting the irradiation of meat, meat byproducts, and certain meat food products, that the conclusions regarding the irradiation of specific flesh foods can be used to draw conclusions about the irradiation of flesh foods as a class (62 FR 64107 at 64111). The effects of irradiation on non-frozen poultry irradiated at levels up to 4.5 kGy and in frozen poultry irradiated at levels up to 7.0 kGy are similar to the effects that occur in irradiated meat and have been shown to be safe.

a. *Protein.* As noted previously in this document, FDA has previously provided detailed discussions of the radiation chemistry of proteins in its rulemakings on the use of ionizing radiation to treat meat, meat byproducts, and certain meat food products (62 FR 64107 at 64110) and molluscan shellfish (70 FR 48057 at 48059–48060). Studies conducted with high-protein foods (e.g., meat, poultry, and seafood) have established that most of the radiolysis products derived from food proteins have the same amino acid composition as the original protein and are altered only in their secondary and tertiary structures (i.e., they are denatured, Ref. 2). These changes are similar to those that occur as a result of heating, but in the case of irradiation, even at doses up to 50 kGy and when food is irradiated at temperatures ranging from −168 °C to 60 °C in various studies, such changes are far less pronounced than heating and the amounts of reaction products generated are far lower (62 FR 64107 at 64110). Based on these studies, FDA concludes that there will be no significant change in the amino acid composition of poultry that is irradiated at absorbed doses not to exceed 4.5 kGy for non-frozen products and not to exceed 7.0 kGy for frozen products.

b. *Lipid.* FDA has also previously provided a detailed discussion of the radiation chemistry of lipids in the rules to permit the irradiation of meat, meat byproducts, and certain meat food products (62 FR 64107 at 64110–64111) and molluscan shellfish (70 FR 48057 at 48060). Those discussions also support this rule.

To summarize the previous discussions, a variety of radiolysis products derived from lipids have been identified. These include the following: Fatty acids, esters, aldehydes, ketones, alkanes, alkenes, and other hydrocarbons (Ref. 2). Identical or analogous products are also found in foods that have not been irradiated. In particular, heating food produces generally the same types of products, but in amounts far greater than the trace amounts produced by irradiating food (62 FR 64107 at 64111 and references cited therein).

A class of radiolysis products that is derived from lipids, 2-alkylcyclobutanones (2-ACBs), has been reported to form in small quantities when fats are exposed to ionizing radiation. Any 2-ACB formed will depend on the fatty acid composition of the food, e.g., 2-dodecylcyclobutanone (2-DCB) is a radiation byproduct of palmitic acid. (Refs. 8 and 9). In the molluscan shellfish rule, the Agency noted the reported creation of 2-DCB in irradiated chicken and ground beef, which contain triglycerides with esterified palmitic acid. FDA did not find that the presence of low levels of 2-DCB raised a safety issue (70 FR 48057 at 48060).

2. Furan

During the course of reviewing the chemical effects of irradiation, FDA became aware of a report that suggested that the irradiation of apple juice may produce furan (Ref. 10). Because furan has been shown to cause tumors in laboratory animals, FDA has extensively researched the occurrence of furan in irradiated foods over the last 10 years.

FDA has confirmed that certain foods form furan in low quantities when irradiated (Ref. 11). Studies conducted by FDA scientists and other researchers show that some foods form furan when heated and still other foods form furan during storage at refrigeration temperatures (Refs. 11 and 13). Testing of irradiated poultry found no furan at the limit of detection in the tests and detected no furan above the background levels of natural furan formation during storage (Refs. 11, 12, and 13). Therefore, the Agency concludes that the irradiation of poultry at the requested maximum absorbed dose will not increase the amount of furan in the diet and does not present a toxicological hazard under the conditions proposed in the USDA/FSIS petition.

B. Toxicological Considerations

As discussed previously in this document, the available information from chemical analyses of irradiated foods suggests that there is no reason to suspect a toxicological hazard due to consumption of an irradiated food (Ref. 5). The Agency notes that the large body of data from studies where irradiated foods were fed to laboratory animals provides an independent way to assess toxicological safety. These studies include those relied on by the Agency in previous evaluations of the safety of irradiated foods (see 51 FR 13376, April 18, 1986; 55 FR 18538, May 2, 1990; 62 FR 64107; 65 FR 45280, July 21, 2000 and 70 FR 48057, August 16, 2005). Additionally, FDA has looked at data and information in FDA files summarized by the Bureau of Foods Irradiated Food Committee (Refs. 14 and 15).

In summary, FDA has reviewed data relevant to the assessment of potential toxicity of irradiated poultry. While all of the studies are not of equal quality or rigor, the Agency has concluded that the quantity and breadth of testing and the number and significance of endpoints assessed would have identified any meaningful risk. Based on the totality of the evidence, FDA concludes that irradiation of poultry under the conditions proposed in the petition does not present a toxicological hazard.

C. Nutritional Considerations

It has been established that the nutrient values of the macronutrients in the diet (protein, fats, and carbohydrates) are not significantly altered by irradiation at the petitioned doses (62 FR 64107 at 64114 and Refs. 16 and 17). Minerals (e.g., calcium and iron) are also unaffected by irradiation (62 FR 64107 at 64114 and Ref. 17). Levels of certain vitamins may be reduced as a result of irradiation. The extent to which this reduction occurs depends on the specific vitamin, the type of food, and the conditions of irradiation. Not all vitamin loss is nutritionally significant; the extent to which the reduction in a specific vitamin level is significant depends on the relative contribution of the food in question to the total dietary intake of the vitamin (62 FR 64107 at 64114).

FDA has made the following finding with respect to the nutritional impact of consuming non-frozen flesh foods irradiated at levels up to 4.5 kGy and frozen flesh foods irradiated at levels up to 7.0 kGy: The effects of irradiation on the nutritional adequacy of irradiated flesh foods, which includes poultry, at or above the petitioned doses have been considered previously. Although the meat final rule (62 FR 64107, December 3, 1997), codified only the irradiation of red meat at up to the petitioned doses, the safety evaluation took into account the effects on the diet of irradiating all flesh foods. The Agency concluded that permitting the irradiation of poultry at the petitioned levels will not affect the nutritional status of poultry consumers (Ref. 3).

In summary, based on the available data and information, FDA concludes that amending the regulations, as set forth in this document, to allow for the use of ionizing radiation to treat poultry up to a maximum absorbed dose of 4.5 kGy for non-frozen products and not to exceed 7.0 kGy for frozen products will not have an adverse impact on the nutritional adequacy of the overall diet.

D. Microbiological Considerations

In the 1990 final rule for irradiation of poultry (55 FR 18538), FDA determined that while irradiation at a dose of 3 kGy reduces the number of many pathogenic and spoilage bacteria, it does not eliminate the relatively radiation-resistant spore-forming bacteria such as *Clostridium botulinum* (55 FR 18541). FDA also determined in the final rule that *C. botulinum,* if present, would not render fresh poultry irradiated at 3 kGy toxic before normal signs of spoilage became apparent (55 FR 18542).[1] As an extra margin of safety, however, the final rule established the limitation that packaging shall not exclude oxygen with respect to poultry, because *C. botulinum* does not grow in oxygenated environments (Ref. 18).

Since the final rule permitting the irradiation of poultry was published in 1990, the Agency notes that poultry production practices have changed, making *C. botulinum* contamination and growth less of a concern.[2] As part of the 1990 rulemaking, the Agency considered the fact that *C. botulinum* type E could potentially contaminate fish meal, which was typically used in chicken feed. Currently, however, fish meal has almost been completely replaced with high protein soybean and corn meal. Additionally, *C. botulinum* does not produce toxin when held at 10 °C (Ref. 19), and current USDA/FSIS regulations generally require that poultry plants maintain poultry at temperatures below 10 °C during processing (9 CFR 381.66(b)(1)). Finally, controlling microbiological contamination, including contamination from *C. botulinum,* is now required under mandatory USDA/FSIS poultry processing Hazard Analysis Critical Control Point plans (9 CFR part 417).

In addition to the changes in poultry production practices after the issuance of the 1990 final rule, a study published after the issuance of the 1990 poultry regulation demonstrates that lactic acid producing bacteria predominate on irradiated raw chilled meat at doses up to 5 kGy (Ref. 20) and flourish in an anaerobic environment that could potentially allow *C. botulinum* to grow. The growth of *C. botulinum* and other pathogens is inhibited by these non-pathogenic lactic acid producing bacteria (such as *Lactobacillus* species).

All of the previously mentioned factors would render it unlikely that *C. botulinum* could either grow or produce toxin in poultry under the conditions of irradiation specified in the regulation as amended by this final rule, including removal of the restriction on packaging that excludes oxygen (Ref. 18). Further, the presence of spoilage bacteria will warn consumers of spoilage before any *C. botulinum* present would produce toxin.

In summary, based on the available data and information, FDA concludes that irradiation of poultry under the conditions in this amended regulation will reduce or eliminate bacterial populations with no increased microbial risk from pathogens that may survive the irradiation process in either an aerobic or anaerobic atmosphere (Ref. 18).

III. Labeling

Poultry products are subject to the Poultry Products Inspection Act (21 U.S.C. 451, *et seq.*). Therefore, the labeling of these products irradiated under the conditions set forth in the regulation must comply with any requirements imposed by USDA/FSIS under its authority to approve the labeling of such products.

IV. Comments

FDA has received numerous comments, primarily form letters, from individuals that state their opinions regarding the potential dangers and unacceptability of irradiating food. FDA has also received several comments from individuals or organizations that state their opinions regarding the potential benefits of irradiating food and urging FDA to approve the petition. Additionally, FDA received several comments from Public Citizen (PC) and the Center for Food Safety (CFS) requesting the denial of this and other food irradiation petitions.

[1] We note that *C. botulinum* is not able to grow at temperatures below freezing.

[2] We note that *C. botulinum* generally occurs in very low numbers in chicken.

Overall, the comments were of a general nature and not necessarily specific to the requests in the individual petitions, and did not contain any substantive information that could be used in a safety evaluation of irradiated poultry. Many of the comments from PC and CFS were also submitted to the docket for the Agency rulemaking on irradiation of molluscan shellfish (Docket No. 1999F–4372, FAP 9M4682). The topics raised in these comments included the following: Studies reviewed in the 1999 Food and Agriculture Organization of the United Nations/International Atomic Energy Agency/World Health Organization (FAO/IAEA/WHO) report on high-dose irradiation; a review article that analyzed studies of irradiated foods performed in the 1950s and 1960s; the findings of a 1971 study in which rats were fed irradiated strawberries; the findings regarding reproductive performance in a 1954 study in which mice were fed a special irradiated diet; issues regarding mutagenicity studies; certain international opinions; issues related to 2-ACBs, including purported promotion of colon cancer; the findings of certain studies conducted by the Indian Institute of Nutrition in the 1970s; general issues regarding toxicity data; FDA's purported failure to meet certain statutory requirements; data from a 2002 study purportedly showing an irradiation-induced increase in trans fatty acids in ground beef; studies regarding purported elevated hemoglobin levels and their significance; and an affidavit describing the opinions of a scientist regarding the dangers of irradiation and advocating the use of alternative methods for reducing the risk of foodborne disease. These comments have all been addressed by FDA in a previous rulemaking. For a detailed discussion of the Agency's response to each of the previously mentioned general comments, the reader is referred to the molluscan shellfish rule (70 FR 48057 at 48062 through 48071). Because these comments do not raise issues specific to irradiated poultry, and the previous responses are sufficient to address these issues as they pertain to the rule to permit the irradiation of poultry as described in this document, the Agency will not address these comments further here.

V. Conclusions

Based on the data and studies submitted in the petition and other information in the Agency's files, FDA concludes that the proposed use of irradiation to treat fresh (refrigerated and unrefrigerated) poultry food products [3] with absorbed doses that will not exceed 4.5 kGy and frozen poultry products not to exceed 7.0 kGy is safe with no need for a requirement that the packaging shall not exclude oxygen, and therefore, § 179.26 should be amended as set forth in this document.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the use of irradiation of poultry in response to the petition will be made available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 171.1(h), the Agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VI. Paperwork Reduction Act of 1995

This final rule does not provide for collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Environmental Impact

The Agency has carefully considered the potential environmental effects of this action. The Agency has determined under 21 CFR 25.32(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Objections

Any person who will be adversely affected by this regulation may file with the Division of Dockets Management (see **ADDRESSES**) either electronic or written objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. It is only necessary to send one set of documents. Identify documents with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IX. Section 301(ll) of the Federal Food, Drug, and Cosmetic Act

FDA's review of this petition was limited to section 409 of the FD&C Act. This final rule is not a statement regarding compliance with other sections of the FD&C Act. For example, the Food and Drug Administration Amendments Act of 2007, which was signed into law on September 27, 2007, amended the FD&C Act to, among other things, add section 301(ll) (21 U.S.C. 331(ll)). Section 301(ll) of the FD&C Act prohibits the introduction or delivery for introduction into interstate commerce of any food that contains a drug approved under section 505 of the FD&C Act (21 U.S.C. 355), a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or a drug or biological product for which substantial clinical investigations have been instituted and their existence has been made public, unless one of the exceptions in section 301(ll)(1) to (ll)(4) of the FD&C Act applies. In our review of this petition, FDA did not consider whether section 301(ll) of the FD&C Act or any of its exemptions apply to the ionizing radiation source. Accordingly, this final rule should not be construed to be a statement that ionizing radiation used to treat poultry products, if introduced or delivered for introduction into interstate commerce, would not violate section 301(ll) of the FD&C Act. Furthermore, this language is included in all food additive final rules and therefore, should not be construed to be a statement of the likelihood that section 301(ll) of the FD&C Act applies.

X. References

The following sources are referred to in this document. References marked with an asterisk (*) have been placed on display at the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* References without asterisks are not on display; they are available as published articles and books.

[3] The term ''fresh poultry'' is defined by USDA to include both refrigerated and unrefrigerated poultry food products.

1. Memorandum for FAP 9M4696 from K. Morehouse, FDA, to L. Highbarger, FDA, dated August 10, 2010.*
2. Diehl, J. F., ''Chemical Effects of Ionizing Radiation,'' pp. 43–88, in *Safety of Irradiated Foods,* second edition, Marcel Dekker, Inc., New York, 1995.
3. Memorandum for FAP 9M4696 from E. Jensen, FDA, to R. Alrefai, FDA, dated December 10, 1999.*
4. Elias, P.S. and A.J. Cohen, ''Recent Advances in Food Irradiation,'' Elsevier Biomedical, Amsterdam, 1983.
5. World Health Organization, ''High-Dose Irradiation: Wholesomeness of Food Irradiated With Doses Above 10 kGy,'' World Health Organization Technical Report Series No. 890, pp. 9–37, Geneva, 1999.
6. *Preservation of Food by Ionizing Radiation,* edited by E.S. Josephson and M.S. Peterson, Vol. II, CRC Press, Boca Raton, 1982.
7. Diehl, J.F., ''Radiolytic Effects in Foods,'' pp. 279–357, in *Preservation of Food By Ionizing Radiation,* Vol. I, edited by E.S. Josephson and M.S. Peterson, CRC Press, Boca Raton, 1982.
8. Crone, A.V.J., *et al.,* ''Effect of Storage and Cooking on the Dose Response of 2-Dodecylcyclobutanone, a Potential Marker for Irradiated Chicken,'' *Journal of the Science of Food and Agriculture,* 58:249–252, 1992.
9. Gadgil, P., K.A. Hachmeister, J.S. Smith, and D.H. Kropf, ''2-Alkylcyclobutanones as Irradiation Dose Indicators in Irradiated Ground Beef Patties,'' *Journal of Agriculture and Food Chemistry,* 50:5746–5750, 2002.
10. Seibersdorf Project Report, International Programme on Irradiation of Fruit and Fruit Juices, Chemistry and Isotopes Department, National Centre for Nuclear Energy, Madrid, Spain, Vol. 8, 1966.
11. Memorandum for FAP 9M4697 from K. Morehouse, FDA, to L. Highbarger, FDA, dated February 20, 2008. *
12. Locas, C. and V.A. Yaylayan, ''Origin and Mechanistic Pathways of Formation of the Parent Furan—a Toxicant.,'' *Journal of Agricultural and Food Chemistry,* 52:6830–6836, 2005.
13. Fan, X., and K.J.B. Sokorai, ''Effect of Ionizing Radiation on Furan Formation in Fresh-Cut Fruits and Vegetables.'' *Journal of Food Science.* 73(2):C79–C83, 2008.
14. Memorandum from Food Additives Evaluation Branch, FDA (HFS–156), to C. Takaguchi, Petition Control Branch, FDA, December 28, 1982.*
15. Memorandum to the file for FAP 4M4428, from D. Hattan, FDA, dated November 18, 1997.*
16. Underdal, B., J. Nordal, G. Lunde, and B. Eggum, ''The Effect of Ionizing Radiation on the Nutritional Value of Fish (Cod) Protein,'' *Lebensmittel Wissenschaft Technologie,* 6:90–93, 1973.
17. Diehl, J.F., ''Nutritional Adequacy of Irradiated Foods,'' pp. 241–282, in *Safety of Irradiated Foods,* Marcel Dekker, New York, 1995.
18. Internal Memorandum for FAP 9M4696 from J. Newland, FDA, to the file, dated July 7, 2000.*
19. Firstenberg-Eden, R., D.B. Rowley, and G.E. Shattuck. ''Factors Affecting Growth and Toxin Production by Clostidium Botulinum Type E on Irradiated (0.3 Mrad) Chicken Skins.'' *Journal of Food Protection,* 47:867–870, 1982.
20. Matilla-Sandholm, T. and E. Skytta. ''The Effect of Spoilage Flora on the Growth of Food Pathogens in Minced Meat Stored at Chilled Temperature.'' Lebensmittel-Wissenschaft Technologie, 24:116–120, 1991.

List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

■ 1. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 373, 374.

■ 2. Section 179.26 is amended in the table in paragraph (b) by revising entry ''6.'' under the headings ''Use'' and ''Limitations'' to read as follows:

§ 179.26 Ionizing radiation for the treatment of food.

* * * * *

(b) * * *

Use	Limitations
* * * * * * *	
6. For control of food-borne pathogens in fresh (refrigerated or unrefrigerated) or frozen, uncooked poultry products that are: (1) Whole carcasses or disjointed portions (or other parts) of such carcasses that are ''ready-to-cook poultry'' within the meaning of 9 CFR 381.l(b) (with or without nonfluid seasoning; includes, e.g., ground poultry), or (2) mechanically separated poultry product (a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses).	Not to exceed 4.5 kGy for non-frozen products; not to exceed 7.0 kGy for frozen products.
* * * * * * *	

* * * * *

Dated: November 27, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–28968 Filed 11–29–12; 8:45 am]

BILLING CODE 4160–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting a new table for determining expected retirement ages for participants in pension plans undergoing distress or involuntary termination with valuation dates falling in 2013. This table is needed in order to compute the value of early retirement benefits and, thus, the total value of benefits under a plan.

DATES: *Effective Date:* January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under Title IV. Guaranteed benefits and benefit liabilities under a

plan that is undergoing a distress termination must be valued in accordance with subpart B of part 4044. In addition, when PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart B valuation rules to determine the amount of the plan's underfunding.

Under § 4044.51(b) of the asset allocation regulation, early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.57 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendix D of part 4044 contains tables to be used in determining the expected early retirement ages.

Table I in appendix D (Selection of Retirement Rate Category) is used to determine whether a participant has a low, medium, or high probability of retiring early. The determination is based on the year a participant would reach ''unreduced retirement age'' (*i.e.,* the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant's monthly benefit at unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by the PBGC to reflect changes in the cost of living, etc.

Tables II–A, II–B, and II–C (Expected Retirement Ages for Individuals in the Low, Medium, and High Categories respectively) are used to determine the expected retirement age after the probability of early retirement has been determined using Table I. These tables establish, by probability category, the expected retirement age based on both the earliest age a participant could retire under the plan and the unreduced retirement age. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

This document amends appendix D to replace Table I–12 with Table I–13 in order to provide an updated correlation, appropriate for calendar year 2013, between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I–13 will be used to value benefits in plans with valuation dates during calendar year 2013.

PBGC has determined that notice of and public comment on this rule are impracticable and contrary to the public interest. Plan administrators need to be able to estimate accurately the value of plan benefits as early as possible before initiating the termination process. For that purpose, if a plan has a valuation date in 2013, the plan administrator needs the updated table being promulgated in this rule. Accordingly, the public interest is best served by issuing this table expeditiously, without an opportunity for notice and comment, to allow as much time as possible to estimate the value of plan benefits with the proper table for plans with valuation dates in early 2013.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—[AMENDED]

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. Appendix D to part 4044 is amended by removing Table I–12 and adding in its place Table I–13 to read as follows:

Appendix D to Part 4044—Tables Used To Determine Expected Retirement Age

TABLE I–13—SELECTION OF RETIREMENT RATE CATEGORY

[For plans with valuation dates after December 31, 2012, and before January 1, 2014]

If participant reaches URA in year—	Participant's retirement rate category is—			
	Low [1] if monthly benefit at URA is less than—	Medium [2] if monthly benefit at URA is—		High [3] if monthly benefit at URA is greater than—
		From—	To—	
2014	599	599	2,531	2,531
2015	611	611	2,582	2,582
2016	623	623	2,633	2,633
2017	636	636	2,688	2,688
2018	649	649	2,745	2,745
2019	663	663	2,803	2,803
2020	677	677	2,861	2,861
2021	691	691	2,922	2,922
2022	706	706	2,983	2,983
2023 or later	720	720	3,046	3,046

[1] Table II–A.
[2] Table II–B.
[3] Table II–C.

* * * * *

Issued in Washington, DC, this 20th day of November, 2012.

Laricke Blanchard,

Deputy Director for Policy, Pension Benefit Guaranty Corporation.

[FR Doc. 2012–28892 Filed 11–29–12; 8:45 am]

BILLING CODE 7709–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2009–0234; EPA–HQ–OAR–2011–0044; FRL–9733–2]

RIN 2060–AR62

Reconsideration of Certain New Source and Startup/Shutdown Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules; notice of public hearing.

SUMMARY: On February 16, 2012, pursuant to sections 111 and 112 of the Clean Air Act (CAA), the EPA published the final rules titled ''National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units.'' The National Emission Standards for Hazardous Air Pollutants (NESHAP) rule issued pursuant to CAA section 112 is referred to as the Mercury and Air Toxics Standards (MATS), and the New Source Performance Standards rule issued pursuant to CAA section 111 is referred to as the Utility NSPS. The Administrator received petitions for reconsideration of certain aspects of MATS and the Utility NSPS. In this notice, the EPA is announcing reconsideration of certain new source standards for MATS, the requirements applicable during periods of startup and shutdown for MATS, the startup and shutdown provisions related to the particulate matter (PM) standard in the Utility NSPS, and certain revisions to the definitional and monitoring provisions of the Utility NSPS. We are also proposing certain technical corrections to both MATS and the Utility NSPS.

We seek comment only on the aspects of the final MATS and Utility NSPS rules specifically identified in this notice. We are not opening for reconsideration any other provisions of MATS or the Utility NSPS at this time.

DATES: *Comments.* Comments must be received on or before December 31, 2012. Because of the need to resolve the issues identified in this notice in a timely manner, the EPA does not intend to grant requests for extensions beyond this date.

Public Hearing. If anyone contacts the EPA by December 10, 2012 requesting to speak at a public hearing, the EPA will hold a public hearing on December 18, 2012. If a public hearing is held, it will be held from 9:00 a.m. to 7:00 p.m., Eastern time, in Room 1153 EPA East Hearing room, 1201 Constitution Avenue NW., Washington, DC 20460, (202) 564–1657. For further information on the public hearing and requests to speak, see the **ADDRESSES** section of this preamble.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID. No. EPA–HQ–OAR–2011–0044 (NSPS action) or Docket ID No. EPA–HQ–OAR–2009–0234 (NESHAP/MATS action), by one of the following methods:

- *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *http://www.epa.gov/oar/docket.html.* Follow the instructions for submitting comments on the EPA Air and Radiation Docket Web Site.
- *Email:* Comments may be sent by electronic mail (email) to *a-and-r-docket@epa.gov,* Attention EPA–HQ–OAR–2011–0044 (NSPS action) or EPA–HQ–OAR–2009–0234 (NESHAP/MATS action).
- *Fax:* Fax your comments to: (202) 566–9744, Docket ID No. EPA–HQ–OAR–2011–0044 (NSPS action) or Docket ID No. EPA–HQ–OAR–2009–0234 (NESHAP/MATS action).
- *Mail:* Send your comments on the NESHAP/MATS action to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Docket ID No. EPA–HQ–OAR–2009–0234. Send your comments on the NSPS action to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Docket ID. EPA–HQ–OAR–2011–0044. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, OMB, Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.
- *Hand Delivery or Courier:* Deliver your comments to: EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. Please include a total of two copies. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holiday), and special arrangements should be made for deliveries of boxed information.

Instructions. All submissions must include agency name and respective docket number or Regulatory Information Number (RIN) for this rulemaking. All comments will be posted without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the 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 the EPA without going through *http://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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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.

Public Hearing. If anyone contacts EPA by December 10, 2012 requesting to speak at a public hearing, the EPA will hold a public hearing on December 18, 2012. If a public hearing is held, it will be held from 9:00 a.m. to 7:00 p.m., Eastern time in Room 1153 EPA East Hearing room, 1201 Constitution

Avenue NW., Washington, DC 20460, 202–564–1657. A lunch break is scheduled from 12:00 p.m.–1:00 p.m. Visitors must go through a metal detector, sign in with the security desk, be accompanied by an employee and show identification to enter the building. Contact Pamela Garrett at (919) 541–7966 or at *garrett.pamela@epa.gov* to request a hearing, to determine if a hearing will be held and to register to speak if a hearing is held. If no one contacts the EPA requesting to speak at a public hearing concerning this proposed rule by December 10, 2012, the hearing will be cancelled without further notice. If a hearing is held, the last day to register to present oral testimony in advance will be Friday, December 14, 2012. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning this notice. The record for this action will remain open for 30 days after the date of the hearing to provide an opportunity for submission of rebuttal and supplementary information. We will also specify the date and time of the public hearings on *http://www.epa.gov/airquality/powerplanttoxics/actions.html* and *http://www.epa.gov/ttn/atw/utility/utilitypg.html.*

Docket. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available (e.g., CBI or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, 1301 Constitution Avenue 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 Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For the NESHAP action: Mr. William Maxwell, Energy Strategies Group, Sector Policies and Programs Division, (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–5430; Fax number (919) 541–5450; Email address: *maxwell.bill@epa.gov.* For the NSPS action: Mr. Christian Fellner, Energy Strategies Group, Sector Policies and Programs Division, (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–4003; Fax number (919) 541–5450; Email address: *fellner.christian@epa.gov.*

SUPPLEMENTARY INFORMATION:

Outline. The information presented in this preamble is organized as follows:

I. General Information
A. Does this reconsideration notice apply to me?
B. What should I consider as I prepare my comments to the EPA?
C. How do I obtain a copy of this document and other related information?
II. Background
III. Today's Action
IV. Discussion of Provisions Subject to Reconsideration—NESHAP/MATS
A. New Source MATS Emission Limits
B. Eligibility To Be a New Source
C. Startup and Shutdown Provisions
V. Discussion of Provisions Subject to Reconsideration—Utility NSPS
VI. Technical Corrections and Clarifications
VII. Impacts of This Proposed Rule
A. What are the air impacts?
B. What are the energy impacts?
C. What are the compliance costs?
D. What are the economic and employment impacts?
E. What are the benefits of the proposed standards?
VIII. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

A. Does this reconsideration notice apply to me?

Categories and entities potentially affected by today's notice include:

Category	NAICS code [1]	Examples of potentially regulated entities
Industry	221112	Fossil fuel-fired electric utility steam generating units.
Federal government	[2] 221122	Fossil fuel-fired electric utility steam generating units owned by the Federal government.
State/local/Tribal government	[2] 221122	Fossil fuel-fired electric utility steam generating units owned by municipalities.
	921150	Fossil fuel-fired electric utility steam generating units in Indian country.

[1] North American Industry Classification System.
[2] Federal, State, or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive but rather to provide a guide for readers regarding entities likely to be affected by this action. To determine whether your facility, company, business, organization, etc. would be regulated by this action, you should examine the applicability criteria in 40 CFR 60.40, 60.40Da, or 60.40c or in 40 CFR 63.9982. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative as listed in 40 CFR 60.4 or 40 CFR 63.13 (General Provisions).

B. What should I consider as I prepare my comments to the EPA?

Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Docket ID EPA–HQ–OAR–2011–0044 (Utility NSPS) or Docket ID EPA–HQ–OAR–2009–0234 (NESHAP/MATS). Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information

claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

C. How do I obtain a copy of this document and other related information?

In addition to being available in the docket, electronic copies of these proposed rules will be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of each proposed rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/.* The TTN provides information and technology exchange in various areas of air pollution control.

II. Background

The Administrator signed MATS and the Utility NSPS on December 16, 2011, and the final rules were published in the **Federal Register** at 77 FR 9304, February 16, 2012. Following promulgation of the final rules, the Administrator received petitions for reconsideration of numerous provisions of both MATS and the Utility NSPS pursuant to CAA section 307(d)(7)(B). Copies of the MATS petitions are provided in rulemaking docket EPA–HQ–OAR–2009–0234. Copies of the Utility NSPS petitions are provided in rulemaking docket EPA–HQ–OAR–2011–0044.

III. Today's Action

Today, we are granting reconsideration of, proposing, and requesting comment on the following limited set of issues: (1) Certain revised new source standards in MATS, (2) requirements applicable during periods of startup and shutdown in MATS, (3) startup and shutdown provisions related to the PM standard in the Utility NSPS, and (4) definitional and monitoring provisions in the Utility NSPS. We are also proposing certain technical corrections to both MATS and the Utility NSPS.

This notice is limited to the specific issues identified in this notice. We will not respond to any comments addressing any other provisions of MATS or the Utility NSPS.[1]

The impacts of today's proposed revisions on the costs and the benefits of the final rule are minor. We expect that source owners and operators will install and operate the same or similar control technologies to meet the proposed revised standards in this notice as they would have chosen to comply with the standards in the February 2012 final rule.[2]

IV. Discussion of Provisions Subject to Reconsideration—NESHAP/MATS

A. New Source MATS Emission Limits

The EPA received petitions requesting reconsideration of aspects of the new source emission limits in the final MATS rule. We are granting reconsideration of certain new source emission limits, as discussed below, and we invite comment on the proposed provisions in today's notice.

1. Certain New Source Limits—Use of Data in the Record

The EPA received petitions for reconsideration asserting that the Agency did not use all the data in the record from the best performing sources in establishing certain final new source emission limits for coal- and oil-fired electric utility steam generating units (EGUs). Specifically, the petitioners maintained that the EPA did not consider all of the data in the record when establishing emission standards for filterable PM and hydrogen chloride (HCl) applicable to new coal-fired EGUs and for filterable PM applicable to new solid oil-derived fuel-fired EGUs.

In light of petitioners' assertions, we reviewed the available emissions information in the record for all the new source standards. We determined that we did not use all the data in the record in establishing the new source emission limits for filterable PM and HCl applicable to new coal-fired EGUs and for filterable PM applicable to new solid oil-derived fuel-fired EGUs. We also identified a few additional new source limits for which we did not use all of the data in the record when setting the standards in the final rule. We are proposing to revise the sulfur dioxide (SO_2) limit applicable to solid oil-derived fuel-fired EGUs, the filterable PM limit applicable to continental liquid oil-fired EGUs, and the lead and selenium limits applicable to coal-fired EGUs based on consideration of all the data in the record from the best performing sources for the pollutants at issue. We solicit comment on the revised standards. Additional details on the proposed emission limits can be found in the memo ''Reconsideration of the National Emission Standards for Hazardous Air Pollutants (NESHAP) Maximum Achievable Control Technology (MACT) Floor Analysis for Coal- and Oil-fired Electric Utility Steam Generating Units, Proposed Rule'' in rulemaking docket EPA–HQ–OAR–2009–0234.

We also solicit comment on possible revisions to the Hg limit applicable to low rank virgin coal-fired EGUs based on additional data in the record. See ''Reconsideration of the National Emission Standards for Hazardous Air Pollutants (NESHAP) Maximum Achievable Control Technology (MACT) Floor Analysis for Coal- and Oil-fired Electric Utility Steam Generating Units, Proposed Rule'' in rulemaking docket EPA–HQ–OAR–2009–0234; ''MATS Reconsideration: Beyond-the-Floor Memorandum'' available in rulemaking docket EPA–HQ–OAR–2009–0234.

The proposed revised new source CAA section 112(d) emission standards are presented in tables 1 and 2 of this preamble. The Agency derived these limits by first calculating the floor standards and then assessing whether a more stringent beyond-the-floor standard is appropriate.[3] As explained further below, as to the standards we are proposing to revise, we are proposing a beyond-the-floor standard for HCl for new coal-fired EGUs, but we are not proposing beyond-the-floor standards for the other pollutants and subcategories.

2. SO_2 Limit for New Coal-Fired EGUs—Reliance on Industrial Boiler Emission Data

We are also reconsidering the SO_2 standard for new coal-fired EGUs. The Agency received a petition asserting that the final alternative SO_2 emission limit was developed using, as the best performing source, a unit that is 25 MW in capacity. In order to be classified as an EGU, and thus subject to MATS, a unit must be greater than 25 MW in capacity. A unit that is 25 MW or less is likely an industrial boiler and would be subject to the Industrial-Commercial-Institutional Boiler NESHAP, not MATS.

At the time of the final rule, we believed the unit on which we based the SO_2 standard for new coal-fired EGUs was an EGU. After we received the petition for reconsideration, we re-

[1] The recent decision by the U.S. Court of Appeals for the D.C. Circuit regarding the Cross State Air Pollution Rule (CSAPR) has no impact on the issues being reconsidered in this action.

[2] Because, on an individual EGU-by-EGU basis we anticipate very similar costs, any changes to the baseline since we finalized MATS (e.g., potential impacts of the CSAPR decision) would not impact this determination.

[3] CAA section 112(d)(2) requires the EPA to consider whether more stringent beyond-the-floor standards should be established.

examined the record and determined that the unit was, in fact, an industrial boiler and not an EGU.

As an initial matter, nothing in the CAA precludes the EPA from identifying a source in another source category as the best controlled similar source. However, we believe that it is appropriate in this case, where we have considerable data on EGUs, to base the new source standard on the best performing unit that is an EGU. This is also consistent with our intent in the final rule, as we thought the unit we had selected was, in fact, an EGU. For these reasons, we are reconsidering the SO_2 standard for new coal-fired EGUs. We have reviewed the emissions data and identified the best performing EGU upon which to base the proposed SO_2 standard. The proposed limit is presented in table 2 of this preamble. We solicit comment on the revised limit and the methods used to establish this limit.

3. Hg Limit for New Coal-Fired EGUs Designed for Coal ≥ 8300 Btu/lb—Measurement Issues

The EPA is also reconsidering the emission limit for Hg for new coal-fired EGUs in the units designed for the coal ≥ 8300 Btu/lb (non-low rank virgin coal) subcategory. Some petitioners asserted that this limit, as finalized, was too low for emissions to be reliably measured in a manner that would allow sources to operate their control technology in a way that ensures compliance with the standard. Specifically, petitioners maintained that sorbent trap monitoring systems could not provide sufficiently timely Hg data at the new source level for sources to make adjustments to the EGUs and attendant air pollution control devices (ACPDs) to ensure compliance with the standard and that Hg continuous emissions monitoring systems (CEMS) were not capable of measuring Hg at the new source limit. The petitioners indicated that reliable and frequent emission measurements are needed to maintain the operation of Hg control technology at performance levels set in the final rule.

As we explained in the record to the final rule, owners and operators of new EGUs in the non-low rank virgin coal subcategory could use the sorbent trap monitoring systems to demonstrate compliance with the new source Hg standard because of the potential for a longer sample collection period associated with sorbent traps and their inherent lower emissions detection capability.

As described in the final rule, when establishing emission limits for pollutants, we calculated a representative detection limit (RDL) and then compared the UPL-determined emission floor with a value three times the RDL (3 X RDL), and we set the final limit at the higher of the two numbers. We did not follow that procedure for sorbent trap monitoring systems when setting Hg emission limits as we did not believe sorbent trap monitoring systems were constrained by method detection limits, since operators could increase the sample collection time up to 14 days to guarantee collection of a measurable quantity of mercury with appropriate accuracy. We continue to believe that the promulgated Hg limit for the non-low rank virgin coal subcategory is measurable using a sorbent trap monitoring system.

As noted, however, petitioners have indicated that the long sorbent trap sampling times that may be necessary to measure at the final new source level do not allow sufficiently frequent emissions feedback such that a source could take corrective action and avoid violations of the emission limit within the prescribed compliance time.

We understand that Hg emissions can vary over time, and we acknowledge the value of frequent feedback of emission measurements. We also understand that frequent feedback may be desirable and, at times, necessary to optimize the operation of generation or control technology in order to maintain emissions at or below the standard. The sorbent trap monitoring method required in the MATS rule allows sampling for as long as 14 days. In the final rule, we assumed that most sources would leave the sorbent traps in as long as needed—up to 14 days—to ensure they had no measurement issues. Based on the petitions for reconsideration, we understand that sources will most likely use a shorter sampling period, perhaps as short as 30 minutes. The shorter sampling periods will provide more constant feedback on Hg emissions, which will help the source ensure that it is in compliance with the Hg emission limit, for which compliance is determined on a 30-day rolling average.

Given the petitioners' stated need for more frequent Hg emissions information, we re-evaluated whether detection level issues arise when shorter sampling periods, such as 30 minutes, are employed by sorbent trap monitoring systems. Although the shorter sampling period is adequate to provide information needed to optimize the operation of Hg control technology, we believe the reduced sampling period results in a reduced quantity of collected Hg which constrains the sorbent trap monitoring system by a minimum detection limit. For additional information, see ''Determination of Representative Detection Level (RDL) and 3 X RDL Values for Mercury Measured Using Sorbent Trap Technologies'' in rulemaking docket EPA–HQ–OAR–2009–0234. Specifically, we believe detection level issues may arise from using a sorbent trap when short sampling periods (e.g., 30 minutes) are used, and that, as such, the UPL-calculated floor value should be compared against the 3 X RDL value to account for the shorter sampling periods. We solicit comment on this proposed revised approach in light of the information provided by petitioners regarding the need for prompt Hg emissions information.

Our review of the data in the record shows that for reasonable, shorter sampling conditions—30-minute samples obtained at a sampling rate of 0.5 liter per minute—the UPL-determined new source Hg limit is less than the 3 X RDL value. Therefore, we are proposing to set the Hg limit for the non-low rank virgin coal subcategory at the 3 X RDL value.

Although the value of the resulting limit we are proposing today is higher than that in the final rule, we do not expect this change to alter the emission control strategy of a new EGU, as both emission limits result in Hg removal efficiency in excess of 97 percent. However, the proposed change will improve EGU owners' and operators' ability to track emissions and take preemptive actions to ensure compliance. Based on information provided by the petitioners, our experience, and the National Institute of Standards and Technology's recently confirmed capability to certify Hg calibration gas generators down to 0.2 micrograms per cubic meter ($\mu g/m^3$), the proposed change in the Hg limit will also allow the option of using a Hg CEMS for process control and for determining compliance.

Please refer to the memo ''Data and Procedure for Handling Below Detection Level Data in Analyzing Various Pollutant Emissions Databases for MACT and RTR Emissions Limits'' (docket entry EPA–HQ–OAR–2009–0234–20062) for a discussion of the RDL approach generally, and the memo ''Determination of Representative Detection Level (RDL) and 3 X RDL Values for Mercury Measured Using Sorbent Trap Technologies'' (rulemaking docket EPA–HQ–OAR–2009–0234) for a discussion of our approach for establishing an RDL for Hg. The proposed limit is presented in table 1 of this preamble.

4. Limits for New IGCC EGUs—Use of Permit Limits From Unconstructed IGCC EGUs

We are granting reconsideration of the finalized new source integrated gasification combined cycle (IGCC) limits. The EPA used the permit limits from IGCC EGUs that are permitted but not yet constructed as the basis for some of the final new source IGCC emission limits. Some petitioners asserted that the EPA did not use this approach in the notice of proposed rulemaking and that they therefore were deprived of the opportunity to comment on this approach.

Although we indicated that we considered establishing standards based on IGCC permits at proposal, we are granting reconsideration on the new source IGCC limits so that the public has an additional opportunity to comment on the limits and the approach.

Specifically, we request comment on the proposed new source IGCC standards, which are unchanged from the final standards promulgated for these units on February 16, 2012. These proposed new source limits are presented in tables 1 and 2 of this preamble.

5. Beyond-the-Floor Analysis

The MACT floor level of control for new EGUs is based on the emission control that is achieved in practice by the best controlled similar source, as determined by the Agency, of each HAP for the different subcategories. After the EPA establishes MACT floor levels, CAA section 112(d)(2) requires the EPA to consider whether more stringent beyond-the-floor standards should be established. Under that section, the Agency must consider ''the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements'' before it may establish a standard that is based on a beyond-the-floor level of control.

For most of the new source standards addressed in this proposal, we have not identified additional technologies or HAP emission reduction approaches that would achieve HAP reductions greater than the new source floors for the subcategories, other than multiple controls in series (e.g., multiple scrubbers in series or multiple PM controls in series), which we consider to be unreasonable from a cost perspective. We are therefore proposing to adopt the floor level of control for all but one of these standards. We are proposing a beyond-the-floor standard for HCl emissions from coal-fired EGUs. Summaries of the EPA's beyond-the-floor evaluations for the new source standards addressed in this proposal are provided below. Additional detail of these analyses, including a discussion of costs and non-air quality health and environmental impacts, is provided in the ''MATS Reconsideration: Beyond-the-Floor Memorandum'' available in rulemaking docket EPA–HQ–OAR–2009–0234. We request comment on all aspects of our beyond-the-floor analysis. Specifically, we solicit comment on whether there are any control technologies or HAP emission reduction practices that have been demonstrated to achieve HAP reductions at levels lower than the standards proposed in this notice consistently and in a cost-effective manner. Comments should include information on emissions, pollutant control efficiencies, operational reliability, current demonstrated applications, and costs.

a. Beyond-the-floor analysis for PM from coal-fired EGUs. It is commonly accepted that a baghouse fabric filter (FF) is the technology that provides the best level of PM emission reduction for coal-fired EGUs. Newly constructed coal-fired EGUs will be expected to install FFs to meet the new source NESHAP PM limit that we are proposing in this notice and the applicable NSPS limit. We have considered available options that would allow a new source to achieve greater emission reductions than those achieved in practice by the best controlled source. The EPA is aware that some EGUs have installed downstream secondary ''polishing'' PM control devices to provide for incremental PM reductions beyond what is achieved by the primary PM control device. However, those ''polishing'' PM control devices are most often installed for one of two purposes: (1) To augment the control of an underperforming or undersized primary control device or (2) to allow for injection of activated carbon or other powdered sorbent so that the fly ash and the sorbent remain separated for eventual storage, disposal, or re-use. Given that a new coal-fired EGU would have the opportunity to design the primary PM control device to meet the new source emission limit, we can see no justification for including in the design a secondary downstream ''polishing'' PM control device. Such a device would add considerable cost to the project, and the incremental cost-effectiveness would not be reasonable. See ''MATS Reconsideration: Beyond-the-Floor Memorandum'' in rulemaking docket EPA–HQ–OAR–2009–0234.

b. Beyond-the-floor analysis for Hg from new coal-fired EGUs designed for coal ≥ 8300 Btu/lb. The proposed new source Hg emission limit for EGUs firing non-low rank virgin coal is based on the use of the 3 X RDL approach. As explained above, there is concern that a lower emission limit could not be reliably measured with sufficient frequency to allow consistent and timely compliance. For this reason, we are not proposing a limit based on a beyond-the-floor level of control, and, instead, we are proposing to establish the standard at the MACT floor level.

c. Beyond-the-floor analysis for SO_2 emissions from coal-fired EGUs. The best performing source for SO_2 emissions from a coal-fired EGU is a circulating fluidized bed combustor (CFB) with limestone injection for SO_2 control and a downstream circulating dry scrubber (CDS) for supplemental SO_2 control. Because the EGU already employs a downstream ''polishing'' SO_2 control device, we do not believe that installation of an additional ''polishing'' control device would result in cost-effective reduction (in $/ton of incremental SO_2 reduction) that would justify setting a beyond-the-floor emission limit. See ''MATS Reconsideration: Beyond-the-Floor Memorandum'' in rulemaking docket EPA–HQ–OAR–2009–0234.

d. Beyond-the-floor analysis for PM from solid oil-derived fuel-fired EGUs. This analysis is very similar to that which was presented earlier for PM emissions from coal-fired EGUs. Given that a new solid oil-derived fuel-fired EGU would have the opportunity to design the primary PM control device to meet the new source emission limit, we can see no justification for including in the design a secondary downstream ''polishing'' PM control device. As with the coal-fired source, such a device would add considerable costs to the project, and the incremental cost-effectiveness would not be reasonable.

e. Beyond-the-floor analysis for SO_2 from solid oil-derived fuel-fired EGUs. The best performing source for SO_2 emissions from solid oil-derived fuel-fired EGUs is a CFB combustor with limestone injection for SO_2 control. Additional SO_2 control, beyond that which is obtained by the best controlled source, may be obtained by installing a downstream SO_2 control device such as a spray drier absorber (SDA) or wet-flue gas desulfurization (wet-FGD) scrubber or, as was the case with the best performing coal-fired unit, a CDS. However, as stated earlier, we believe that, in this case, the installation of additional downstream ''polishing'' control technologies does not result in

cost-effective control (in $/ton of incremental SO_2 reduction) that would justify setting a beyond-the-floor emission limit.

f. Beyond-the-floor analysis for PM from continental liquid oil fuel-fired EGUs. The proposed new source filterable PM emission limit for continental liquid oil-fired fuel is based on an EGU which uses an electrostatic precipitator (ESP). Distillate oil-fired facilities do not need add-on PM controls, as their emissions are inherently low, and residual oil-fired units cannot use FFs for PM control due to concerns about bag contamination and fire safety. ESPs are the best filterable PM control technology for liquid oil fuel-fired EGUs. Given that a new continental liquid-oil fuel-fired EGU would have the opportunity to design the primary PM control device to meet the new source emission limit, we can see no justification for including in the design a secondary downstream ''polishing'' PM control device. Such a device would add considerable costs to the project, and the incremental cost-effectiveness would not be reasonable.

g. Beyond-the-floor analysis for HAP emissions from IGCC EGUs. We have no data upon which to assess whether or not technologies exist that can provide additional HAP control beyond the proposed new source emission limits for new IGCC units. Accordingly, we are not proposing to establish beyond-the-floor emission limitations for these pollutants for new IGCC units. We request comment on whether the use of any control technologies or practices have been demonstrated to consistently achieve in a cost-effective manner, emission levels for similar sources that are lower than those proposed for new IGCC sources in this proposal. Comments should include information on emissions, pollutant control efficiencies, operational reliability, current demonstrated applications, and costs.

h. Beyond-the-floor analysis for HCl emissions from coal-fired EGUs. For HCl, the EPA's revised floor analysis for coal units—discussed above—resulted in a revised MACT floor of 2.0E–2 pound per megawatt-hour (lb/MWh). We have estimated that a new coal-fired EGU would need to remove HCl in the range of 81.0 to 96.6 percent (depending upon the initial chlorine (Cl) content of the fuel) in order to meet this revised MACT floor level of control for HCl emissions. We also note that it is reasonable to expect that in most, if not all, cases, advanced FGD control technology (such as a wet-FGD scrubber or a high efficiency SDA) would be required as a result of other federal requirements—specifically a prevention of significant deterioration (PSD) best available control technology (BACT) analysis. More detailed discussion may be found in the memo ''MATS Reconsideration: Control Technology Needed to Meet New Source Limits'' contained in rulemaking docket EPA–HQ–OAR–2009–0234.

A high efficiency SDA is less costly than a wet-FGD, and we think it likely that some new sources will be able to comply with PSD/BACT requirements using that less expensive option.[4] For this reason, we believe that it is reasonable to assume the minimum level of performance for HCl control from a new EGU will be equivalent to that of a well-performing SDA for purposes of the beyond-the-floor analysis. We examined the level of HCl control achieved by those EGUs from the 2010 utility information collection request (ICR) database that were equipped with SDA and we determined that those EGUs achieved HCl control in a range of 90 to 98 percent (coal-to-stack, depending on the coal Cl content).[5]

We, therefore, are proposing to set a beyond-the-floor HCl emission limit for new coal-fired EGUs at 1.0E–2 lb/MWh. We believe that a new EGU firing lower Cl-content coal would need to achieve a minimum of 90 percent control to meet this proposed limit and that a new EGU firing a higher Cl-content coal would need to achieve a minimum of 98 percent control to meet the limit. We believe that this beyond-the-floor emission limit is cost-effective because it does not involve additional cost, as we expect that any new unit will install at least a high efficiency SDA to comply with other CAA requirements.

We also considered a beyond-the-floor emission limit by assuming installation of a wet-FGD scrubber, which generally achieves greater HCl reductions, but at a greater cost, than a high efficiency SDA. We understand that some new coal-fired EGUs will likely be required to install this type of advanced FGD technology for SO_2 control. However, if the EGU is not required to install a wet-FGD scrubber from the PSD BACT determination for SO_2, then the additional costs beyond those for a high efficiency SDA would be attributable to the achievement of additional HCl emission reductions, and the cost-effectiveness would not be reasonable.

6. Proposed New Source Emission Limits

For coal-fired EGUs, the final rule regulates HCl as a surrogate for acid gas HAP, with an alternative equivalent standard for SO_2 as a surrogate for acid gas HAP for coal-fired EGUs with FGD systems installed and operational; filterable PM as a surrogate for non-mercury HAP metals, with total non-mercury HAP metals and individual non-mercury HAP metals as alternative equivalent standards; Hg; and organic HAP. For oil-fired EGUs, the final rule regulates HCl and HF; filterable PM as a surrogate for total HAP metals, with individual HAP metals as alternative equivalent standards; and organic HAP. The filterable PM, HCl, and Hg limits that we are proposing to revise are provided in table 1; the alternate limits that we are proposing to revise are provided in table 2. We are soliciting comment on the revised new source emission limits proposed in this action.[6]

[4] New Source Review (NSR) permit requirements include, among other things, the application of BACT (best available control technology) under PSD. BACT control technology determinations and associated emission limit establishment involve case-by-case analyses and, such analyses take into account site-specific factors such as energy, environmental and economic impacts. For that reason, it is impossible to strictly predict the outcome of such analyses. However, based on recent BACT determinations for SO_2 emissions from coal-fired EGUs, it is reasonable to expect that in most, if not all, cases, flue gas desulfurization control technologies (such as wet-FGD scrubbers or high efficiency spray drier absorbers) would be required (see *http://cfpub.epa.gov/RBLC/*).

[5] Note that the HCl emission levels achieved are very similar for all EGUs. The difference observed in level of control (percentage) is due to the difference in chlorine levels seen in various coals.

[6] Tables 1 and 2 in this preamble set forth the new source limits the Agency is proposing to revise. However, to comply with **Federal Register** guidelines, ''Table 1 to Subpart UUUUU of Part 63—Emission Limits for New or Reconstructed EGUs'' in the regulatory text includes all of the new source limits, including the limits that are not proposed to be revised and are not part of this reconsideration action. The EPA is only accepting comments on the new source limits that are set forth in tables 1 and 2 of this preamble, which are the limits that are the subject of this reconsideration action.

TABLE 1—PROPOSED EMISSION LIMITATIONS FOR NEW EGUS

Subcategory	Filterable particulate matter	Hydrogen chloride	Mercury
New—Unit not designed for low rank virgin coal	9.0E–2 lb/MWh	1.0E–2 lb/MWh [a]	3.0E–3 lb/GWh.
New—Unit designed for low rank virgin coal	9.0E–2 lb/MWh	1.0E–2 lb/MWh [a]	NR.
New—IGCC	7.0E–2 lb/MWh [b] 9.0E–2 lb/MWh [c]	2.0E–3 lb/MWh [d]	3.0E–3 lb/GWh. [e]
New—Solid oil-derived	3.0E–2 lb/MWh	NR	NR.
New—Liquid oil—continental	4.0E–1 lb/MWh	NR	NR.

Note: lb/MWh = pounds pollutant per megawatt-hour electric output (gross).
lb/GWh = pounds pollutant per gigawatt-hour electric output (gross).
NR = limit not revised.
[a] Beyond-the-floor value.
[b] Duct burners on syngas; based on permit levels in comments received.
[c] Duct burners on natural gas; based on permit levels in comments received.
[d] Based on best-performing similar source.
[e] Based on permit levels in comments received.

TABLE 2—PROPOSED REVISED ALTERNATE EMISSION LIMITATIONS FOR NEW EGUS

Subcategory/pollutant	Coal-fired EGUs	IGCC [a]	Solid oil-derived
SO_2	1.0 lb/MWh	4.0E–1 lb/MWh [b]	1.0 lb/MWh.
Total non-mercury metals	NR	4.0E–1 lb/GWh	NR.
Antimony, Sb	NR	2.0E–2 lb/GWh	NR.
Arsenic, As	NR	2.0E–2 lb/GWh	NR.
Beryllium, Be	NR	1.0E–3 lb/GWh	NR.
Cadmium, Cd	NR	2.0E–3 lb/GWh	NR.
Chromium, Cr	NR	4.0E–2 lb/GWh	NR.
Cobalt, Co	NR	4.0E–3 lb/GWh	NR.
Lead, Pb	3.0E–2 lb/GWh	9.0E–3 lb/GWh	NR.
Mercury, Hg	NA	NA	NR.
Manganese, Mn	NR	2.0E–2 lb/GWh	NR.
Nickel, Ni	NR	7.0E–2 lb/GWh	NR.
Selenium, Se	5.0E–2 lb/GWh	3.0E–1 lb/GWh	NR.

NA = not applicable.
NR = limit not revised.
[a] Based on best-performing similar source unless otherwise noted.
[b] Based on DOE information.

7. Control Technologies To Meet Proposed New Source Emission Limits

We have evaluated the levels of control that would generally be needed to meet the proposed emission limits for new sources and have compared those to the levels of control needed to meet the new source emission limits in the final MATS rule. We compared the level of control needed by analyzing requirements for a new hypothetical 500 MW facility. The comparison led us to conclude that new EGUs would need to be designed to use the same types of emission control technologies to meet the proposed new source limits as would have been needed to meet the final MATS new source limits. More detailed discussion of this evaluation may be found in the memo ''MATS Reconsideration: Control Technology Needed to Meet New Source Limits'' contained in rulemaking docket EPA–HQ–OAR–2009–0234.

Nothing in the statute requires the EPA to demonstrate that an existing source is able to meet all of the new source limits. Nevertheless, we note that based on our review of the data EPA collected as part of the 2010 ICR process, at least eight existing non-low rank virgin coal-fired EGUs and one low rank virgin coal-fired EGU have reported short-term stack test data that demonstrate that these EGUs have in practice achieved the new source limits proposed in this notice (considering all of their submitted data). Furthermore, for HCl (as well as the SO_2 surrogate) and filterable PM, the new source limits proposed in this notice are consistent with those in several permits for EGUs that have not yet commenced construction. For Hg, the new source limits proposed in this notice are consistent with the levels that a number of control vendors have suggested in their petitions for reconsideration are achievable and capable of being measured with an appropriate level of accuracy.

8. Filterable PM Monitoring

We provided several monitoring options for the filterable PM standard in the final rule, including quarterly stack testing, PM CEMS, and PM continuous parameter monitoring system (PM CPMS) with annual testing. For many reasons, including continued use of already-installed instruments on some EGUs, direct (as opposed to parametric) measurement of the pollutant of concern, and continuous feedback for process control, we believe that many EGU owners or operators will choose to use PM CEMS to monitor the proposed filterable PM limit.

We solicit comment on whether to retain the quarterly stack testing compliance option, as this option may not be necessary because continuous, direct measurement of filterable PM or a correlated parameter is available and likely to be used by most sources to monitor compliance with the revised standard.

With respect to the PM CPMS compliance option for new EGUs, we considered three approaches to establish an operating limit based on emissions testing. The first approach would allow an EGU owner or operator to use the highest parameter value obtained during an individual emissions test when the result of that individual test was below the limit as the operating limit. The

second approach would allow an EGU owner or operator to use the average parameter value obtained from all runs pertaining to an individual emissions test as the operating limit. The third approach would allow an EGU owner or operator whose PM emissions as demonstrated during performance testing do not exceed 75 percent of the PM emissions limit to set his PM CPMS operating limit by linearly scaling the average operating value obtained during all the runs to be equivalent to the value at 75 percent of the limit; an EGU owner or operator whose PM emissions as demonstrated during performance testing exceed 75 percent of the PM emissions limit would establish his operating limit as a 30-day rolling average equal to the average PM CPMS values recorded during performance testing. Such an approach would prevent unnecessary retests for EGUs with low PM emissions. See ''75 Percent CPMS Operating Limit Approach—MATS Reconsideration'' in rulemaking docket EPA–HQ–OAR–2009–0234.

Even though this rule proposes the first approach, we solicit comments on the appropriateness of any of the three approaches to establish a PM CPMS operating limit for new EGUs.

In addition, this rule proposes to require emissions testing after each exceedance of the operating limit for new sources. This rule proposes a number of consequences if the PM monitoring parameter is exceeded. First, the EGU owner or operator will have 48 hours to conduct an inspection of the control device(s) and to take action to restore the controls to proper operation, if necessary, and 45 days to conduct a Method 5 compliance test under the same operating conditions to verify ongoing compliance with the filterable PM limit. Within 60 days, the EGU owner or operator will have to complete the emissions sampling, sample analyses, and verification that the EGU is in compliance with its emissions limit, as well as having to determine an operating limit based on the PM CPMS data collected during the performance test. The EGU owner or operator would then compare the recalculated operating limit with the existing operating limit and, as appropriate, adjust the numerical operating limit to reflect compliance performance. Adjustments could include applying the most recently established value or combining the data collected over multiple performance tests to establish a more representative value. The EGU owner or operator would then apply the reverified or adjusted operating limit value from that time forward.

Second, this rule proposes to limit the number of exceedances of the site-specific CPMS limit leading to follow-up performance tests in any 12 month process operating period and that an excess of this number be considered a violation of the standard. This presumption of violation could be rebutted by the EGU owner or operator, but would require more than a Method 5 test as a basis for the rebuttal (e.g., results of physical inspections would also need to be included). This additional information is necessary since a Method 5 test could not be conducted during or immediately following the discovery of exceedances and would not necessarily represent conditions identical to those when the exceedances occurred. The basis for this part of the proposal is that the site-specific CPMS operating limit reflects a 30-day average that should represent an actual emissions level lower than the three test run numerical emissions limit since variability is mitigated over time. Consequently, we believe that there should be few, if any, exceedances from the 30-day parametric limit and there is a reasonable basis for presuming that exceedances that lead to multiple performance tests to represent poor control device performance and to be a violation of the standard. Therefore, this rule proposes that PM CPMS exceedances leading to more than four required performance tests in a 12-month process operating period is presumed to be a violation of this standard, subject to an EGU owner or operator's ability to rebut that presumption about process and control device operations in addition to the Method 5 performance test results. We solicit comment on this proposed revised approach.

B. Eligibility To Be a New Source

The CAA section 112(a)(4) defines a new source as a stationary source ''the construction or reconstruction of which is commenced after the Administrator first proposes regulations under this section establishing an emissions standard applicable to such source.'' The EPA views the new source trigger date (the date EPA ''first proposes regulations'') to be the date EPA first proposes standards under a particular rulemaking record. (74 FR 21158). In this case, EPA first proposed standards for EGUs on May 3, 2011, and although we are proposing revisions to certain new source standards, the rulemaking record remains the same. As such, we are not proposing to revise the trigger date for determining whether a source is a new source. Any source which commenced construction or reconstruction after May 3, 2011 is subject to the new source standards.[7]

Furthermore, it is the EPA's technical judgment that new sources would need to adopt the same or similar emissions control strategies under the amended standards as they would have under the promulgated standards. The revised standards remain stringent and can be met, in our view, using the same or similar control strategies as would have been required to meet the standards in the final rule.

C. Startup and Shutdown Provisions

The EPA received petitions asserting that the public lacked an opportunity to comment on the startup and shutdown provisions in the final MATS. Petitioners also assert that the definitions of ''startup'' and ''shutdown'' in the final MATS and the provisions for work practice standards did not adequately address applicability to certain types of units, fuels considered ''clean,'' and operational limitations for certain EGU types and/or pollution control devices.

We proposed numerical standards for startup and shutdown periods, and in response to comments on the proposed rule we changed those standards in the final MATS to work practice standards. Among other things, the work practice standards required sources to combust clean fuels during startup and shutdown periods and required sources to engage APCDs when coal or oil was fired in the EGU. (See 77 FR 9380–83). We also revised the definitions of ''startup'' and ''shutdown'' after considering comments we received. Although we revised these provisions in response to comments, we are granting reconsideration on this issue to provide an opportunity for comment on the final startup and shutdown standards and those we have revised and propose today. For further discussion of petitioners' concerns and these proposed revisions, please refer to the memo ''Startup and shutdown provisions'' in rulemaking docket EPA–HQ–OAR–2009–0234. Below we summarize the startup and shutdown revisions proposed today.

1. Definitions

We are proposing to revise the definitions of startup and shutdown in this reconsideration notice as set forth in 40 CFR 63.10042. Petitioners asserted that the final rule's definitions of startup and shutdown were not sufficiently clear, should accommodate operation of

[7] We are unaware of any new source that has commenced construction or reconstruction since May 3, 2011.

cogeneration units, and did not accurately reflect startup conditions for all affected units, particularly supercritical units. We have clarified the definitions and added provisions including useful thermal energy.[8] We believe that these changes address petitioners' concerns. For more discussion, please refer to the memo ''Startup and shutdown provisions'' in rulemaking docket EPA–HQ–OAR–2009–0234.

2. Work Practice Standards

We are proposing several revisions to the finalized work practice standards. Petitioners asserted that the final rule's work practice standards should include certain additional fuels as ''clean fuels'' and recognize operating limitations of certain EGU types and APCDs. Specifically, petitioners contend that the list of clean fuels required for use during startup in order to minimize emissions should include synthetic natural gas, syngas, and ultra-low sulfur diesel (ULSD). The EPA has also been informed since the final rule that propane is used to startup some EGUs and has been requested to consider it as a clean fuel. Petitioners additionally contend that the standards need to recognize operating conditions for FBC EGUs that inject limestone for acid gas control, selective non-catalytic reduction systems (SNCRs), selective catalytic reduction systems (SCRs), and other systems.

In this reconsideration notice, we are proposing to add certain synthetic natural gas, syngas, propane, and ULSD to the list of clean fuels. We solicit comment on our understanding of clean fuels for startup and shutdown.

We are also proposing to require EGU source owners and operators, when firing coal, solid oil-derived fuel, or residual oil in the EGU during startup or shutdown, to vent emissions to the main stack(s) and operate all control devices necessary to meet the operating standards that apply at all other times under the final rule (with the exception of limestone injection in FBC EGUs, dry scrubbers, SNCRs, and SCRs). Owners and operators of EGUs are responsible for starting limestone injection in FBC EGUs, dry scrubbers, SNCRs, and SCRs as expeditiously as possible, but, in any case, when necessary to comply with other standards applicable to the source that require operation of those control devices.

Additionally, we are proposing to revise the final rule's work practice requirements to recognize constraints of certain EGUs and APCDs. The proposed revised standards allow limestone injection to start after appropriate temperatures have been attained in FBC EGUs that inject limestone for acid gas control and allow SNCR, SCR, and dry scrubber systems to start as soon as technically feasible after the appropriate temperature has been reached.

For more discussion of each of these issues, please refer to the memo ''Startup and shutdown provisions'' in rulemaking docket EPA–HQ–OAR–2009–0234.

3. Treatment of IGCC EGU Syngas

The EPA understands that at an IGCC EGU, syngas is generated in the gasifier and combusted in the turbine. During the startup and shutdown periods, some or all of the syngas produced may not be combusted in the turbine. We are proposing two options for IGCC EGUs for handling syngas not fired in the combustion turbine: (1) syngas must be flared, not vented or (2) syngas must be routed to duct burners, which may need to be installed, and the flue gas from the duct burners must be routed to the heat recovery steam generator. We are soliciting comments on the need to flare the unfired syngas, if it is more appropriate to require routing of the unfired syngas back into the system for all IGCC EGUs, and on the costs of adding duct burners, should they be required.

We solicit comments on the proposed revisions to the startup and shutdown requirements set forth in this notice.

V. Discussion of Provisions Subject To Reconsideration—Utility NSPS

Petitioners state that because the final Utility NSPS rule contains a definition of ''natural gas'' that was not included in the proposed rule, they were not able to comment on the definition. Further, petitioners maintain that the definition established in the final rule is not a ''logical outgrowth'' of the proposed rule. Although the definition was changed between proposal and final based on public comment, we are re-proposing the definition of natural gas that was in the final Utility NSPS to allow additional opportunity to comment.

We are also proposing several additional amendments so that synthetic natural gas will receive similar treatment as natural gas. We seek comment on all aspects of these additional amendments. First, consistent with the NESHAP definition, we are proposing to clarify the definition of coal to include synthetic natural gas derived from coal. As such, we are also proposing to add synthetic natural gas to the opacity exemption in paragraph 40 CFR 60.42Da(b)(2) since facilities burning synthetic natural gas would otherwise be subject to an opacity standard. In addition, we are also proposing to replace ''natural gas'' with ''gaseous fuels'' in 40 CFR 60.49Da(b) so facilities burning desulfurized coal-derived synthetic natural gas are not required to install an SO_2 CEMS. The proposed amendments to the startup and shutdown requirements in the NESHAP portion of this proposal would also allow the use of synthetic natural gas for the work practice standards required for PM emissions control during periods of startup and shutdown.

Additional proposed amendments include amending the definition of an IGCC to be similar to the corresponding NESHAP MATS definition. Potential language is as follows:

> Integrated gasification combined cycle electric utility steam generating unit or IGCC electric utility steam generating unit means an electric utility combined cycle gas turbine that burns a synthetic gas derived from coal and/or solid oil-derived fuel for more than 10.0 percent of the average annual heat input during any 3 consecutive calendar years or for more than 15.0 percent of the annual heat input during any one calendar year in a combined-cycle gas turbine. No solid coal or solid oil-derived fuel is directly burned in the unit during operation.

We believe that this would address the issue of IGCC facilities switching applicability between the stationary combustion turbine NSPS (40 CFR part 60, subpart KKKK) and the Utility NSPS. However, we are specifically requesting comment if it would be more appropriate to maintain the existing NSPS IGCC definition and add ''startup and commissioning, shutdown'' as suggested by one petitioner. Potential language for the alternate definition is as follows:

> Integrated gasification combined cycle electric utility steam generating unit or IGCC electric utility steam generating unit means an electric utility combined cycle gas turbine that is designed to burn fuels containing 50 percent (by heat input) or more solid-derived fuel not meeting the definition of natural gas. The Administrator may waive the 50 percent solid-derived fuel requirement during periods of the gasification system construction, startup and commissioning, shutdown, or repair. No solid fuel is directly burned in the unit during operation.

In addition, the rationale for the filterable PM standard startup and shutdown work practice provision discussed in the NESHAP portion of this notice also applies to the filterable PM startup and shutdown standards in the Utility NSPS. Therefore, we are proposing to amend both the emissions

[8] 16 U.S.C. 796(18)(A) and 18 CFR 292.202(c).

rate calculation procedure and monitoring requirements for PM to be similar to the requirements specified in the NESHAP for new facilities. Owners/operators of EGUs subject to the Utility NSPS would calculate the filterable PM emissions rate as the average of the measured hourly rates during the applicable averaging period (instead of as the sum of the emissions divided by the sum of the output over the applicable averaging period) and would use either a PM CEMS, PM CPMS, or quarterly performance testing to demonstrate compliance with the applicable standard.[9]

Finally, we are proposing to clarify that owners/operators electing to use PM CPMS to monitor PM emissions are exempt from the requirement to install a continuous opacity monitoring system (COMS) and would be allowed to elect to use alternate opacity monitoring procedures currently allowed in the Utility NSPS.

VI. Technical Corrections and Clarifications

On April 19, 2012 (77 FR 23399), we issued a technical corrections notice addressing certain corrections to the February 16, 2012 (77 FR 9304) MATS.

In this notice, we are proposing several additional technical corrections. These amendments are being proposed to correct inaccuracies and other inadvertent errors in the final rule and to make the rule language consistent with provisions addressed through this reconsideration. We are soliciting comment only on whether the proposed changes provide the intended accuracy, clarity and consistency. These proposed technical changes are described in tables 3 and 4 of this preamble. We request comment on all of these proposed changes.

TABLE 3—MISCELLANEOUS PROPOSED TECHNICAL CORRECTIONS TO 40 CFR PART 60, SUBPART DA

Section of subpart Da	Description of proposed correction
40 CFR 60.42Da(a)	Correct the erroneous ''0.030'' to the correct ''0.03.''
40 CFR 60.42Da(e)(1)(ii)	Correct the erroneous conversion ''13 ng/J (0.015 lb/MMBtu)'' to the correct ''6.4 ng/J (0.015 lb/MMBtu)'' by amending the regulatory text to specify that the requirements in 40 CFR 60.42Da(c) or (d), which includes two additional alternative limits, are available compliance alternatives for modified facilities.

TABLE 4—MISCELLANEOUS PROPOSED TECHNICAL CORRECTIONS TO 40 CFR PART 63, SUBPART UUUUU

Section of subpart UUUUU	Description of proposed correction
40 CFR 63.9982(a)	Clarify the language to use the word ''or'' instead of ''and.''
40 CFR 63.9982(b) and (c)	Correct the discrepancy between 63.9982(b) and (c) and 63.9985(a).
40 CFR 63.10005(d)(2)(ii)	Correct the typographical error by replacing the incorrect ''corresponding'' with the correct ''corresponds.''
40 CFR 63.10005(i)(4)(ii) and (i)(5) and add 63.10005(i)(6).	Revise to clarify the determination and measurement of fuel moisture content.
40 CFR 63.10006(c)	Correct the omission of solid oil-derived fuel- and coal-fired EGUs and IGCC EGUs and the omission of section 10000(c).
40 CFR 63.10007(c)	Correct the omission of section 63.10023 from the list of sections to be followed in establishing an operating limit.
40 CFR 63.10009(b)(2)	Correct omission of the term ''boiler operating'' and clarify the term ''Rt_i'' in Equation 2a.
40 CFR 63.10009(b)(3)	Correct omission of the term ''system'' and clarify the term ''Rt_i'' in Equation 3a.
40 CFR 63.10010(j)(1)(i)	Correct the typographical error to use the correct word ''your'' instead of ''you.''
40 CFR 63.10011(g)	Clarify the language to use the word ''and'' instead of ''or'' between the words ''startup'' and ''shutdown.''
	Clarify the language to use the word ''or'' instead of ''and'' between the words ''oil-fired'' and ''solid.''
40 CFR 63.10030(b), (c), and (d)	Clarify the affected-source language.
	Change the period by which a Notification of Intent to conduct a performance test must be submitted to conform to the General Provisions.
40 CFR Section 63.10042	Revise the definition of ''boiler operating day'' to clarify that periods of startup or shutdown are not included.
	Correct the typographical error in the intended definition of ''unit designed for coal ≥ 8,300 Btu/lb subcategory'' by replacing the erroneous ''>'' with the correct ''≥.''
Table 5 to Subpart UUUUU of Part 63	Correct the typographical error in footnote 4 by replacing the erroneous ''≥'' with the correct ''≤.''
Table 7 to Subpart UUUUU of Part 63	Clarify the applicability of the alternate 90-day average for Hg in item 1.
	Revise item 3 in the table to clarify use of CMS for liquid oil-fired EGUs.
Section 4.1 to Appendix A to Subpart UUUUU of Part 63.	Correct the typographical error by replacing the incorrect citation to ''§ 63.10005(g)'' with the correct ''§ 63.9984(f).''
Section 5.2.2.2 to Appendix A to Subpart UUUUU of Part 63.	Correct the typographical error by replacing the incorrect citation to ''Table A–4'' with the correct ''Table A–2.''
Section 3.1.2.1.3 to Appendix B to Subpart UUUUU of Part 63.	Correct the typographical error by replacing the erroneous ''≥'' with the correct ''≤.''
Section 5.3.4 to Appendix B to Subpart UUUUU of Part 63.	Correct the section number from the incorrect ''5.3.4'' to the correct ''5.3.3.''

[9] As discussed in the final Utility NSPS Response to Comments document, because the amended NO_X and SO_2 standards used CEMS data and included all periods of operation when establishing the numerical values for those standards, we are not proposing to amend how periods of startup and shutdown are handled or how the emission rates are calculated for the Utility NSPS NO_X and SO_2 standards. See docket entry EPA–HQ–OAR–2011–0044–5759, p. 7.

VII. Impacts of This Proposed Rule

Summary of Emissions Impacts, Costs and Benefits

Our analysis shows that new EGUs would choose to install and operate the same or similar air pollution control technologies in order to meet the revised emission limits as would have been necessary to meet the previously finalized standards. We project that this rule will result in no significant change in costs, emission reductions, or benefits.[10] Even if there were changes in costs for these units, such changes would likely be small relative to both the overall costs of the individual projects and the overall costs and benefits of the final rule, which is dominated by actions taken by existing units. Further, as noted elsewhere in this preamble, we believe that EGUs would put on the same controls for this proposed rule that they would have for the original final, so there should not be any incremental costs related to this proposed revision.

A. What are the air impacts?

We believe that electric power companies will install the same or similar control technologies to comply with the revised standards proposed in this action as they would have installed to comply with the previously finalized standards. Accordingly, we believe that this proposed rule will not result in significant changes in emissions of any of the regulated pollutants.

B. What are the energy impacts?

This proposed rule is not anticipated to have an effect on the supply, distribution, or use of energy. As previously stated, we believe that electric power companies would install the same or similar control technologies as they would have installed to comply with the previously finalized standards.

C. What are the compliance costs?

We believe there will be no significant change in compliance costs as a result of this proposed rule because electric power companies would install the same or similar control technologies as they would have installed to comply with the previously finalized standards. Moreover, we find no additional monitoring costs are necessary to comply with the proposed rule; however, as in any other rule, EGU owners or operators may choose to conduct additional monitoring (and incur its expense) for their own purposes.

D. What are the economic and employment impacts?

Because we expect that electric power companies would install the same or similar control technologies to meet the standards proposed in this action as they would have chosen to comply with the previously finalized standards, we do not anticipate that this proposed rule will result in significant changes in emissions, energy impacts, costs, benefits, or economic impacts. Likewise, we believe this rule will not have any impacts on the price of electricity, employment or labor markets, or the U.S. economy.

E. What are the benefits of the proposed standards?

As previously stated, the EPA anticipates the power sector will not incur significant compliance costs or savings as a result of this proposal and we do not anticipate any significant emission changes resulting from this rule. Therefore, there are no direct monetized benefits or disbenefits associated with this proposed rule.

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it ''raises novel legal or policy issues arising out of legal mandates.'' Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

In addition, the EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is contained in the ''Economic Impact Analysis for the Proposed Reconsideration of the Mercury and Air Toxics Standards'' found in rulemaking docket EPA–HQ–OAR–2009–0234. Because our analysis shows that new electricity generating units would choose to install the same control technology in order to meet the revised emission limits as would have been necessary to meet the previously finalized standard, we project that this rule will result in no significant change in costs, emission reductions, or benefits.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. Today's notice of reconsideration does not change the information collection requirements previously finalized and, as a result, does not impose any additional burden on industry. However, OMB has previously approved the information collection requirements contained in the existing regulations (see 77FR 9304) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0567). The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

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

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

According to the SBA size standards for NAICS code 221122 Utilities-Fossil Fuel Electric Power Generation, a firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million MWh.

[10] See ''Regulatory Impact Analysis for the Final Mercury and Air Toxics Standards [EPA–452/R–11–011]'' (docket entry EPA–HQ–OAR–2009–0234–20131) and the memo ''Economic Impact Analysis for the Proposed Reconsideration of the Mercury and Air Toxics Standards'' in rulemaking docket EPA–HQ–OAR–2009–0234. As noted earlier, because, on an individual EGU-by-EGU basis we anticipate very similar costs, any changes to the baseline since we finalized MATS (e.g., potential impacts of the CSAPR decision) would not impact this determination.

After considering the economic impacts of today's notice of reconsideration on small entities, I certify that the notice will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that none of the small entities will experience a significant impact because the notice of reconsideration imposes no additional regulatory requirements on owners or operators of affected sources. We have therefore concluded that today's notice of reconsideration will not result in a significant economic impact on a substantial number of small entities. We continue to be interested in the potential impacts of the rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. Therefore, this action is not subject to the requirements of UMRA sections 202 or 205.

This action is also not subject to the requirements of UMRA section 203 because it contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It 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 EO 13132. None of the affected facilities are owned or operated by state governments, and the requirements discussed in today's notice will not supersede state regulations that are more stringent. Thus, EO 13132 does not apply to today's notice of reconsideration.

In the spirit of EO 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comment on this notice of reconsideration from state and local officials.

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

This action does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in EO 13175. No affected facilities are owned or operated by Indian tribal governments. Thus, EO 13175 does not apply to today's notice of reconsideration. The EPA specifically solicits comment on this notice of reconsideration from tribal officials.

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

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866. The EPA has evaluated the environmental health or safety effects of the final Mercury and Air Toxics Standards on children. The results of the evaluation are discussed in that final rule (77 FR 9304; February 16, 2012) and are contained in rulemaking docket EPA–HQ–OAR–2009–0234.

The public is invited to submit comments or identify peer-reviewed studies and data that assess effects of early life exposure to hazardous air pollutants.

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

This action is not a ''significant energy action'' as defined in EO 13211 (66 FR 28355; May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we conclude that today's notice of reconsideration is not likely to have any adverse energy effects because it is not expected to impose any additional regulatory requirements on the owners of affected facilities.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires EPA to provide Congress, through the OMB, with explanations when EPA decides not to use available and applicable voluntary consensus standards.

During the development of the final rule, EPA searched for voluntary consensus standards that might be applicable. The search identified three voluntary consensus standards that were considered practical alternatives to the specified EPA test methods. An assessment of these and other voluntary consensus standards is presented in the preamble to the final rule (77 FR 9441; February 16, 2012). Today's notice of reconsideration does not propose the use of any additional technical standards beyond those cited in the final rule. Therefore, EPA is not considering the use of any additional voluntary consensus standards for this notice.

The EPA welcomes comments on this aspect of this notice of reconsideration and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

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

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

The EPA has determined that this notice of reconsideration will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Our analysis shows that new EGUs would choose to install the same control technology in order to meet the revised emission limits as would have been necessary to meet the previously finalized standard. Under the relevant assumptions, we project that this rule will result in no significant change in emission reductions.

List of Subjects in 40 CFR Parts 60 and 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 16, 2012.

Lisa P. Jackson,

Administrator.

For the reasons discussed in the preamble, the EPA proposes to amend 40 CFR parts 60 and 63 to read as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

■ 2. Amend § 60.41Da by revising the definitions of ''coal'' and ''integrated gasification combined cycle electric utility steam generating unit,'' and by adding the definition of ''natural gas'' in alphabetical order to read as follows:

§ 60.41Da Definitions.

* * * * *

Coal means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society of Testing and Materials in ASTM D388 (incorporated by reference, see § 60.17) and coal refuse. Synthetic fuels derived from coal for the purpose of creating useful heat, including but not limited to solvent-refined coal, gasified coal, coal-oil mixtures, and coal-water mixtures are included in this definition for the purposes of this subpart.

* * * * *

Integrated gasification combined cycle electric utility steam generating unit or *IGCC electric utility steam generating unit* means an electric utility combined cycle gas turbine that burns a synthetic natural gas derived from coal and/or solid oil-derived fuel for more than 10.0 percent of the average annual heat input during any 3 consecutive calendar years or for more than 15.0 percent of the annual heat input during any one calendar year in a combined-cycle gas turbine. No solid coal or solid oil-derived fuel is directly burned in the unit during operation.

* * * * *

Natural gas means a fluid mixture of hydrocarbons (e.g., methane, ethane, or propane), composed of at least 70 percent methane by volume or that has a gross calorific value between 35 and 41 megajoules (MJ) per dry standard cubic meter (950 and 1,100 Btu per dry standard cubic foot), that maintains a gaseous state under ISO conditions. In addition, *natural gas* contains 20.0 grains or less of total sulfur per 100 standard cubic feet. Finally, natural gas does not include the following gaseous fuels: landfill gas, digester gas, refinery gas, sour gas, blast furnace gas, coal-derived gas, producer gas, coke oven gas, or any gaseous fuel produced in a process which might result in highly variable sulfur content or heating value.

* * * * *

■ 3. Amend § 60.42Da by revising paragraphs (a), (b)(2), (e)(1) introductory text, and (e)(1)(ii) to read as follows:

§ 60.42Da Standards for particulate matter (PM).

(a) Except as provided in paragraph (f) of this section, on and after the date on which the initial performance test is completed or required to be completed under § 60.8, whichever date comes first, an owner or operator of an affected facility shall not cause to be discharged into the atmosphere from any affected facility for which construction, reconstruction, or modification commenced before March 1, 2005, any gases that contain PM in excess of 13 ng/J (0.03 lb/MMBtu) heat input.

* * * * *

(b) * * *

(2) An owner or operator of an affected facility that combusts only natural gas and/or synthetic natural gas that chemically meets the definition of natural gas is exempt from the opacity standard specified in paragraph (b) of this section.

* * * * *

(e) * * *

(1) On and after the date on which the initial performance test is completed or required to be completed under § 60.8, whichever date comes first, the owner or operator shall cause to be discharged into the atmosphere from that affected facility any gases that contain PM in excess of the applicable emissions limit specified in paragraphs (e)(1)(i) or (ii) of this section.

* * * * *

(ii) For an affected facility which commenced modification, any gases that contain PM in excess of the emission limits specified in paragraphs (c) or (d) of this section.

* * * * *

■ 4. Amend § 60.48Da by revising paragraphs (a), (f), (o) introductory text, (o)(1), (o)(2) introductory text, (o)(3) introductory text, (o)(3)(i), and (o)(4) introductory text to read as follows:

§ 60.48Da Compliance provisions.

(a) For affected facilities for which construction, modification, or reconstruction commenced before May 4, 2011, the applicable PM emissions limit and opacity standard under § 60.42Da, SO_2 emissions limit under § 60.43Da, and NO_X emissions limit under § 60.44Da apply at all times except during periods of startup, shutdown, or malfunction. For affected facilities for which construction, modification, or reconstruction commenced after May 3, 2011, the applicable SO_2 emissions limit under § 60.43Da, NO_X emissions limit under § 60.44Da, and NO_X plus CO emissions limit under § 60.45Da apply at all times. The applicable PM emissions limit and opacity standard under § 60.42Da apply at all times except during periods of startup and shutdown; however, you are required to meet the work practice requirements as specified in 60.42Da(e)(2) of this subpart during periods of startup and shutdown.

* * * * *

(f) For affected facilities for which construction, modification, or reconstruction commenced before May 4, 2011, compliance with the applicable daily average PM emissions limit is determined by calculating the arithmetic average of all hourly emission rates each boiler operating day, except for data obtained during startup, shutdown, or malfunction periods. Daily averages are only calculated for boiler operating days that have non-out-of-control data for at least 18 hours of unit operation during which the standard applies. Instead, all of the non-out-of-control hourly emission rates of the operating day(s) not meeting the minimum 18 hours non-out-of-control data daily average requirement are averaged with all of the non-out-of-control hourly emission rates of the next boiler operating day with 18 hours or more of non-out-of-control PM CEMS data to determine compliance. For affected facilities for which construction, modification, or reconstruction commenced after May 3, 2011, compliance with the applicable 30-boiler operating day rolling average PM emissions limit is determined by calculating the arithmetic average of all hourly PM emission rates for the 30 successive boiler operating days, except for data obtained during periods of startup or shutdown.

* * * * *

(o) Compliance provisions for sources subject to § 60.42Da(c)(2), (d), or (e)(1)(ii). Except as provided for in paragraph (p) of this section, the owner or operator shall demonstrate

compliance with each applicable emissions limit according to the requirements in paragraphs (o)(1) through (o)(5) of this section.

(1) You must conduct a performance test to demonstrate initial compliance with the applicable PM emissions limit in § 60.42Da by the applicable date specified in § 60.8(a). Thereafter, you must conduct each subsequent performance test within 12 calendar months following the date the previous performance test was required to be conducted. You must conduct each performance test according to the requirements in § 60.8 using the test methods and procedures in § 60.50Da. The owner or operator of an affected facility that has not operated for 60 consecutive calendar days prior to the date that the subsequent performance test would have been required had the unit been operating is not required to perform the subsequent performance test until 30 calendar days after the next boiler operating day. Requests for additional 30 day extensions shall be granted by the relevant air division or office director of the appropriate Regional Office of the U.S. EPA.

(2) You must monitor the performance of each electrostatic precipitator or fabric filter (baghouse) operated to comply with the applicable PM emissions limit in § 60.42Da using a continuous opacity monitoring system (COMS) according to the requirements in paragraphs (o)(2)(i) through (vi) unless you elect to comply with one of the alternatives provided in paragraphs (o)(3) and (o)(4) of this section, as applicable to your control device.

* * * * *

(3) As an alternative to complying with the requirements of paragraph (o)(2) of this section, an owner or operator may elect to monitor the performance of an electrostatic precipitator (ESP) operated to comply with the applicable PM emissions limit in § 60.42Da using an ESP predictive model developed in accordance with the requirements in paragraphs (o)(3)(i) through (v) of this section.

(i) You must calibrate the ESP predictive model with each PM control device used to comply with the applicable PM emissions limit in § 60.42Da operating under normal conditions. In cases when a wet scrubber is used in combination with an ESP to comply with the PM emissions limit, the wet scrubber must be maintained and operated.

* * * * *

(4) As an alternative to complying with the requirements of paragraph (o)(2) of this section, an owner or operator may elect to monitor the performance of a fabric filter (baghouse) operated to comply with the applicable PM emissions limit in § 60.42Da by using a bag leak detection system according to the requirements in paragraphs (o)(4)(i) through (v) of this section.

* * * * *

■ 5. Amend § 60.49Da by:

■ a. Revising paragraphs (a) introductory text and (a)(2);

■ b. Adding paragraphs (a)(2)(v) and (a)(3)(iv); and

■ c. Revising paragraphs (a)(4) introductory text, (b) introductory text, and (t).

The revised and added text reads as follows:

§ 60.49Da Emission monitoring.

(a) An owner or operator of an affected facility subject to the opacity standard in § 60.42Da shall monitor the opacity of emissions discharged from the affected facility to the atmosphere according to the applicable requirements in paragraphs (a)(1) through (4) of this section.

* * * * *

(2) As an alternative to the monitoring requirements in paragraph (a)(1) of this section, an owner or operator of an affected facility that meets the conditions in either paragraph (a)(2)(i), (ii), (iii), (iv), or (v) of this section may elect to monitor opacity as specified in paragraph (a)(3) of this section.

* * * * *

(v) The owner or operator of the affected facility installs, calibrates, operates, and maintains a particulate matter continuous parametric monitoring system (PM CPMS) according to the requirements specified in subpart UUUUU of part 63.

* * * * *

(3) * * *

(iv) If the maximum 6-minute opacity is less than 10 percent during the most recent Method 9 of appendix A–4 of this part performance test, the owner or operator may, as an alternative to performing subsequent Method 9 of appendix A–4 performance tests, elect to perform subsequent monitoring using a digital opacity compliance system according to a site-specific monitoring plan approved by the Administrator. The observations shall be similar, but not necessarily identical, to the requirements in paragraph (a)(3)(iii) of this section. For reference purposes in preparing the monitoring plan, see OAQPS ''Determination of Visible Emission Opacity from Stationary Sources Using Computer-Based Photographic Analysis Systems.'' This document is available from the U.S. Environmental Protection Agency (U.S. EPA); Office of Air Quality and Planning Standards; Sector Policies and Programs Division; Measurement Policy Group (D243–02), Research Triangle Park, NC 27711. This document is also available on the Technology Transfer Network (TTN) under Emission Measurement Center Preliminary Methods.

* * * * *

(4) An owner or operator of an affected facility that is subject to an opacity standard under § 60.42Da is not required to operate a COMS provided that the affected facility combusts only gaseous and/or liquid fuels (excluding residue oil) where the potential SO_2 emissions rate of each fuel is no greater than 26 ng/J (0.060 lb/MMBtu), and the unit operates according to a written site-specific monitoring plan approved by the permitting authority. This monitoring plan must include procedures and criteria for establishing and monitoring specific parameters for the affected facility indicative of compliance with the opacity standard. For testing performed as part of this site-specific monitoring plan, the permitting authority may require as an alternative to the notification and reporting requirements specified in §§ 60.8 and 60.11 that the owner or operator submit any exceedances with the excess emissions report required under § 60.51Da(d).

* * * * *

(b) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a CEMS, and record the output of the system, for measuring SO_2 emissions, except where only gaseous and/or liquid fuels (excluding residual oil) where the potential SO_2 emissions rate of each fuel is 26 ng/J (0.060 lb/MMBtu) or less are combusted, as follows:

* * * * *

(t) The owner or operator of an affected facility demonstrating compliance with the output-based emissions limit under § 60.42Da shall either install, certify, operate, and maintain a CEMS for measuring PM emissions according to the requirements of paragraph (v) of this section, install, calibrate, operate, and maintain a PM CPMS according to the requirements for new facilities specified in subpart UUUUU of part 63 of this chapter, or conduct quarterly testing according to the requirements for new facilities specified in subpart UUUUU of part 63 of this chapter. An owner or operator of an affected facility demonstrating compliance with the input-based

emissions limit in § 60.42Da may install, certify, operate, and maintain a CEMS for measuring PM emissions according to the requirements of paragraph (v) of this section.

* * * * *

■ 6. Revise § 60.50Da paragraph (f) to read as follows:

§ 60.50Da Compliance determination procedures and methods.

* * * * *

(f) The owner or operator of an electric utility combined cycle gas turbines that does not meet the definition of an IGCC shall conduct performance tests for PM, SO_2, and NO_X using the procedures of Method 19 of appendix A–7 of this part. The SO_2 and NO_X emission rates calculations from the gas turbine used in Method 19 of appendix A–7 of this part are determined when the gas turbine is performance tested under subpart GG of this part. The potential uncontrolled PM emission rate from a gas turbine is defined as 17 ng/J (0.04 lb/MMBtu) heat input.

* * * * *

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 7. The authority citation for 40 CFR part 63 continues to read as follows:

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

■ 8. In § 63.9982, revise paragraphs (a) introductory text, (b), and (c) to read as follows:

§ 63.9982 What is the affected source of this subpart?

* * * * *

(a) This subpart applies to each individual or group of two or more new, reconstructed, or existing affected source(s) as described in paragraphs (a)(1) and (2) of this section within a contiguous area and under common control.

* * * * *

(b) An EGU is new if you commence construction of the coal- or oil-fired EGU after May 3, 2011.

(c) An EGU is reconstructed if you meet the reconstruction criteria as defined in § 63.2, or if you commence reconstruction after May 3, 2011.

* * * * *

■ 9. In § 63.10005, revise paragraphs (d)(2)(ii), (i)(4)(ii), and (i)(5) and add paragraph (i)(6) to read as follows:

§ 63.10005 What are my initial compliance requirements and by what date must I conduct them?

* * * * *

(d) * * *

(2) * * *

(ii) You must demonstrate continuous compliance with the PM CPMS site-specific operating limit that corresponds to the results of the performance test demonstrating compliance with the emission limit with which you choose to comply.

* * * * *

(i) * * *

(4) * * *

(ii) ASTM D4006–11, ''Standard Test Method for Water in Crude Oil by Distillation,'' including Annex A1 and Appendix A1.

(5) Use one of the following methods to obtain fuel moisture samples:

(i) ASTM D4177–95 (Reapproved 2010), ''Standard Practice for Automatic Sampling of Petroleum and Petroleum Products,'' including Annexes A1 through A6 and Appendices X1 and X2, or

(ii) ASTM D4057–06 (Reapproved 2011), ''Standard Practice for Manual Sampling of Petroleum and Petroleum Products,'' including Annex A1.

(6) Should the moisture in your liquid fuel be more than 1.0 percent by weight, you must

(i) Conduct HCl and HF emissions testing quarterly (and monitor site-specific operating parameters as provided in § 63.10000(c)(2)(iii) or

(ii) Use an HCl CEMS and/or HF CEMS.

* * * * *

■ 10. In § 63.10006, revise paragraph (c) to read as follows:

§ 63.10006 When must I conduct subsequent performance tests or tune-ups?

* * * * *

(c) Except where paragraphs (a) or (b) of this section apply, or where you install, certify, and operate a PM CEMS to demonstrate compliance with a filterable PM emissions limit, for liquid oil-, solid oil-derived fuel-, and coal-fired EGUs and IGCC EGUs, you must conduct all applicable periodic emissions tests for filterable PM, or individual or total HAP metals emissions according to Table 5 to this subpart, § 63.10007, and § 63.10000(c), except as otherwise provided in § 63.10021(d)(1).

* * * * *

■ 11. In § 63.10007, revise paragraph (c) to read as follows:

§ 63.10007 What methods and other procedures must I use for the performance tests?

* * * * *

(c) If you choose to comply with the filterable PM emission limit and demonstrate continuous performance using a PM CPMS for an applicable emission limit as provided for in § 63.10000(c), you must also establish an operating limit according to § 63.10011(b), § 63.10023, and Tables 4 and 6 to this subpart. Should you desire to have operating limits that correspond to loads other than maximum normal operating load, you must conduct testing at those other loads to determine the additional operating limits.

* * * * *

■ 12. In § 63.10009, revise paragraphs (b)(2) and (b)(3) to read as follows:

§ 63.10009 May I use emissions averaging to comply with this subpart?

* * * * *

(b) * * *

(2) Weighted 30-boiler operating day rolling average emissions rate equations for pollutants other than Hg. Use equation 2a or 2b to calculate the 30 day rolling average emissions daily.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Her_i \times Rm_i)\right]_p + \sum_{i=1}^{m}(Ter_i \times Rt_i)}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Rm_i)\right]_p + \sum_{i=1}^{m} Rt_i} \quad (Eq.\,2a)$$

Where:

Her_i = hourly emission rate (e.g., lb/MMBtu, lb/MWh) from unit i's CEMS for the preceding 30-group boiler operating days,

Rm_i = hourly heat input or gross electrical output from unit i for the preceding 30-group boiler operating days,

p = number of EGUs in emissions averaging group that rely on CEMS or sorbent trap monitoring,

n = number of hourly rates collected over 30-group boiler operating days,

Ter_i = Emissions rate from most recent emissions test of unit i in terms of lb/heat input or lb/gross electrical output,

Rt_i = Total heat input or gross electrical output of unit i for the preceding 30-boiler operating days, and

m = number of EGUs in emissions averaging group that rely on emissions testing.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Her_i \times Sm_i \times Cfm_i)\right]_p + \sum_{i=1}^{m}(Ter_i \times St_i \times Cft_i)}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Sm_i \times Cfm_i)\right]_p + \sum_{i=1}^{m} St_i \times Cft_i} \quad (Eq.\ 2b)$$

Where:

variables with similar names share the descriptions for Equation 2a,

Sm_i = steam generation in units of pounds from unit i that uses CEMS for the preceding 30-group boiler operating days,

Cfm_i = conversion factor, calculated from the most recent compliance test results, in units of heat input per pound of steam generated or gross electrical output per pound of steam generated, from unit i that uses CEMS from the preceding 30 group boiler operating days,

St_i = steam generation in units of pounds from unit i that uses emissions testing, and

Cft_i = conversion factor, calculated from the most recent compliance test results, in units of heat input per pound of steam generated or gross electrical output per pound of steam generated, from unit i that uses emissions testing.

(3) Weighted 90-boiler operating day rolling average emissions rate equations for Hg emissions from EGUs in the ''coal-fired unit not low rank virgin coal'' subcategory. Use equation 3a or 3b to calculate the 90-day rolling average emissions daily.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Her_i \times Rm_i)\right]_p + \sum_{i=1}^{m}(Ter_i \times Rt_i)}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Rm_i)\right]_p + \sum_{i=1}^{m} Rt_i} \quad (Eq.\ 3a)$$

Where:

Her_i = hourly emission rate from unit i's CEMS or Hg sorbent trap monitoring system for the preceding 90-group boiler operating days,

Rm_i = hourly heat input or gross electrical output from unit i for the preceding 90-group boiler operating days,

p = number of EGUs in emissions averaging group that rely on CEMS,

n = number of hourly rates collected over the 90-group boiler operating days,

Ter_i = Emissions rate from most recent emissions test of unit i in terms of lb/heat input or lb/gross electrical output,

Rt_i = Total heat input or gross electrical output of unit i for the preceding 90-boiler operating days, and

m = number of EGUs in emissions averaging group that rely on emissions testing.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Her_i \times Sm_i \times Cfm_i)\right]_p + \sum_{i=1}^{m}(Ter_i \times St_i \times Cft_i)}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}(Sm_i \times Cfm_i)\right]_p + \sum_{i=1}^{m} St_i \times Cft_i} \quad (Eq.\ 3b)$$

Where:

variables with similar names share the descriptions for Equation 2a,

Sm_i = steam generation in units of pounds from unit i that uses CEMS or a Hg sorbent trap monitoring for the preceding 90-group boiler operating days,

Cfm_i = conversion factor, calculated from the most recent compliance test results, in units of heat input per pound of steam generated or gross electrical output per pound of steam generated, from unit i that uses CEMS or sorbent trap monitoring from the preceding 90-group boiler operating days,

St_i = steam generation in units of pounds from unit i that uses emissions testing, and

Cft_i = conversion factor, calculated from the most recent emissions test results, in units of heat input per pound of steam generated or gross electrical output per pound of steam generated, from unit i that uses emissions testing.

* * * * *

■ 13. In § 63.10010, revise paragraph (j)(1)(i) to read as follows:

§ 63.10010 What are my monitoring, installation, operation, and maintenance requirements?

* * * * *

(j) * * *

(1) * * *

(i) Install and certify your HAP metals CEMS according to the procedures and requirements in your approved site-specific test plan as required in § 63.7(e). The reportable measurement output from the HAP metals CEMS must be expressed in units of the applicable emissions limit (*e.g.,* lb/MMBtu, lb/MWh) and in the form of a 30-boiler operating day rolling average.

* * * * *

■ 14. In § 63.10011, revise paragraphs (f) and (g) to read as follows:

§ 63.10011 How do I demonstrate initial compliance with the emissions limits and work practice standards?

* * * * *

(f) You must use during periods of startup or shutdown any one or combination of the following clean fuels: natural gas, synthetic natural gas, propane, distillate oil, synthesis gas (syngas), and ultra-low sulfur diesel (ULSD).

(g) You must follow the startup and shutdown requirements in Table 3 for each coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGU.

■ 15. Amend § 63.10021 by adding paragraphs (c)(1) and (2) to read as follows:

§ 63.10021 How do I demonstrate continuous compliance with the emission limitations, operating limits, and work practice standards?

* * * * *

(c) * * *

(1) For any exceedance of the 30-boiler operating day PM CPMS average value from the established operating parameter limit for an EGU subject to the emissions limits in Table 1 to this subpart, you must:

(i) Within 48 hours of the exceedance, visually inspect the air pollution control device (APCD);

(ii) If the inspection of the APCD identifies the cause of the exceedance, take corrective action as soon as possible, and return the PM CPMS measurement to within the established value; and

(iii) Within 45 days of the exceedance or at the time of the annual compliance test, whichever comes first, conduct a PM emissions compliance test to determine compliance with the PM emissions limit and to verify or re-establish the CPMS operating limit. You are not required to conduct any additional testing for any exceedances that occur between the time of the original exceedance and the PM emissions compliance test required under this paragraph.

(2) PM CPMS exceedances from the operating limit for an EGU subject to the emissions limits in Table 1 of this subpart leading to more than four required performance tests in a 12-month period (rolling monthly) constitute a separate violation of this subpart.

* * * * *

■ 16. In § 63.10023, revise paragraph (b) to read as follows:

§ 63.10023 How do I establish my PM CPMS operating limit and determine compliance with it?

* * * * *

(b) Determine your operating limit as provided in paragraph (b)(1) or (b)(2) of this section. You must verify an existing or establish a new operating limit after each repeated performance test.

(1) For an existing EGU, determine your operating limit based on the highest 1-hour average PM CPMS output value recorded during the performance test.

(2) For a new EGU, determine your operating limit based on the highest 1-hour average PM CPMS output value recorded during the performance test.

* * * * *

■ 17. In § 63.10030, revise paragraphs (b), (c), and (d) to read as follows:

§ 63.10030 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you startup your EGU that is an affected source before April 16, 2012, you must submit an Initial Notification not later than 120 days after April 16, 2012.

(c) As specified in § 63.9(b)(4) and (b)(5), if you startup your new or reconstructed EGU that is an affected source on or after April 16, 2012, you must submit an Initial Notification not later than 15 days after the actual date of startup of the EGU that is an affected source.

(d) When you are required to conduct a performance test, you must submit a Notification of Intent to conduct a performance test at least 60 days before the performance test is scheduled to begin.

* * * * *

■ 18. Amend § 63.10042 by:

■ a. Revising the definitions of ''Boiler operating day,'' ''Shutdown'', ''Startup'', and ''Unit designed for coal > 8,300 Btu/lb subcategory''; and

■ b. Adding, in alphabetical order, a new definition of ''Clean fuel''.

The revised and added text reads as follows:

§ 63.10042 What definitions apply to this subpart?

* * * * *

Boiler operating day means a 24-hour period that begins at midnight and ends the following midnight during which any fuel is combusted at any time in the EGU, excluding periods of startup or shutdown. It is not necessary for the fuel to be combusted the entire 24-hour period.

* * * * *

Clean fuel means natural gas, synthetic natural gas that meets the specification necessary for that gas to be transported on a Federal Energy Regulatory Commission (FERC) regulated pipeline, propane, distillate oil, synthesis gas (syngas), or ultra-low-sulfur diesel (ULSD).

* * * * *

Shutdown means the period in which cessation of operation of an EGU is initiated for any purpose. Shutdown begins when the EGU no longer generates electricity or makes useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes or when no coal, liquid oil, syngas, or solid oil-derived fuel is being fired in the EGU, whichever is earlier. Shutdown ends when the EGU no longer generates electricity or makes useful thermal energy (such as steam or heat) for industrial, commercial, heating, or cooling purposes, and no fuel is being fired in the EGU.

Startup means the period in which operation of an EGU is initiated for any purpose. Startup begins with either the first-ever firing of fuel in an EGU for the purpose of producing electricity or useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes or the firing of fuel in an EGU for any purpose after a shutdown event. Startup ends when the EGU generates electricity that is sold or used for any other purpose (including on site use), or the EGU makes useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes (16 U.S.C. 796(18)(A) and 18 CFR 292.202(c)), whichever is earlier.

* * * * *

Unit designed for coal ≥ 8,300 Btu/lb subcategory means any coal-fired EGU that is not a coal-fired EGU in the ''unit designed for low rank virgin coal'' subcategory.

* * * * *

■ 19. Revise Table 1 to Subpart UUUUU of Part 63 to read as follows:

Table 1 to Subpart UUUUU of Part 63—Emission Limits for New or Reconstructed EGUs

As stated in § 63.9991, you must comply with the following applicable emission limits:

If your EGU is in this subcategory . . .	For the following pollutants . . .	You must meet the following emission limits and work practice standards . . .	Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 . . .
1. Coal-fired unit not low rank virgin coal	a. Filterable particulate matter (PM).	9.0E–2 lb/MWh [1]	Collect a minimum of 4 dscm per run.
	OR	OR	
	Total non-Hg HAP metals	6.0E–2 lb/GWh	Collect a minimum of 4 dscm per run.
	OR	OR	
	Individual HAP metals:	.....	Collect a minimum of 3 dscm per run.
	Antimony (Sb)	8.0E–3 lb/GWh.	
	Arsenic (As)	3.0E–3 lb/GWh.	
	Beryllium (Be)	6.0E–4 lb/GWh.	
	Cadmium (Cd)	4.0E–4 lb/GWh.	

If your EGU is in this subcategory . . .	For the following pollutants . . .	You must meet the following emission limits and work practice standards . . .	Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 . . .
	Chromium (Cr)	7.0E–3 lb/GWh.	
	Cobalt (Co)	2.0E–3 lb/GWh.	
	Lead (Pb)	3.0E–2 lb/GWh.	
	Manganese (Mn)	4.0E–3 lb/GWh.	
	Nickel (Ni)	4.0E–2 lb/GWh.	
	Selenium (Se)	5.0E–2 lb/GWh.	
	b. Hydrogen chloride (HCl).	1.0E–2 lb/MWh	For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour.
	OR		
	Sulfur dioxide (SO_2)[3]	1.0 lb/MWh	SO_2 CEMS.
	c. Mercury (Hg)	3.0E–3 lb/GWh	Hg CEMS or sorbent trap monitoring system only.
2. Coal-fired units low rank virgin coal	a. Filterable particulate matter (PM).	9.0E–2 lb/MWh[1]	Collect a minimum of 4 dscm per run.
	OR	OR	
	Total non-Hg HAP metals	6.0E–2 lb/GWh	Collect a minimum of 4 dscm per run.
	OR	OR	
	Individual HAP metals:	.....	Collect a minimum of 3 dscm per run.
	Antimony (Sb)	8.0E–3 lb/GWh.	
	Arsenic (As)	3.0E–3 lb/GWh.	
	Beryllium (Be)	6.0E–4 lb/GWh.	
	Cadmium (Cd)	4.0E–4 lb/GWh.	
	Chromium (Cr)	7.0E–3 lb/GWh.	
	Cobalt (Co)	2.0E–3 lb/GWh.	
	Lead (Pb)	3.0E–2 lb/GWh.	
	Manganese (Mn)	4.0E–3 lb/GWh.	
	Nickel (Ni)	4.0E–2 lb/GWh.	
	Selenium (Se)	5.0E–2 lb/GWh.	
	b. Hydrogen chloride (HCl).	1.0E–2 lb/MWh	For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour.
	OR		
	Sulfur dioxide (SO_2)[3]	1.0 lb/MWh	SO_2 CEMS.
	c. Mercury (Hg)	4.0E–2 lb/GWh	Hg CEMS or sorbent trap monitoring system only.
3. IGCC unit	a. Filterable particulate matter (PM).	7.0E–2 lb/MWh[4] ..... 9.0E–2 lb/MWh[5]	Collect a minimum of 1 dscm per run.
	OR	OR	
	Total non-Hg HAP metals	4.0E–1 lb/GWh	Collect a minimum of 1 dscm per run.
	OR	OR	
	Individual HAP metals:	.....	Collect a minimum of 2 dscm per run.
	Antimony (Sb)	2.0E–2 lb/GWh.	
	Arsenic (As)	2.0E–2 lb/GWh.	
	Beryllium (Be)	1.0E–3 lb/GWh.	
	Cadmium (Cd)	2.0E–3 lb/GWh.	
	Chromium (Cr)	4.0E–2 lb/GWh.	
	Cobalt (Co)	4.0E–3 lb/GWh.	
	Lead (Pb)	9.0E–3 lb/GWh.	
	Manganese (Mn)	2.0E–2 lb/GWh.	
	Nickel (Ni)	7.0E–2 lb/GWh.	
	Selenium (Se)	3.0E–1 lb/GWh.	
	b. Hydrogen chloride (HCl).	2.0E–3 lb/MWh	For Method 26A, collect a minimum of 1 dscm per run; for Method 26, collect a minimum of 120 liters per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour.
	OR		
	Sulfur dioxide (SO_2)[3]	4.0E–1 lb/MWh	SO_2 CEMS.
	c. Mercury (Hg)	3.0E–3 lb/GWh	Hg CEMS or sorbent trap monitoring system only.
4. Liquid oil-fired unit—continental (excluding limited-use liquid oil-fired subcategory units).	a. Filterable particulate matter (PM).	4.0E–1 lb/MWh[1] ..... OR	Collect a minimum of 1 dscm per run. Collect a minimum of 2 dscm per run.
	OR	2.0E–4 lb/MWh	
	Total HAP metals	OR	
	OR		
	Individual HAP metals:	.....	Collect a minimum of 2 dscm per run.
	Antimony (Sb)	1.0E–2 lb/GWh.	

If your EGU is in this subcategory . . .	For the following pollutants . . .	You must meet the following emission limits and work practice standards . . .	Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 . . .
	Arsenic (As)	3.0E–3 lb/GWh.	
	Beryllium (Be)	5.0E–4 lb/GWh.	
	Cadmium (Cd)	2.0E–4 lb/GWh.	
	Chromium (Cr)	2.0E–2 lb/GWh.	
	Cobalt (Co)	3.0E–2 lb/GWh.	
	Lead (Pb)	8.0E–3 lb/GWh.	
	Manganese (Mn)	2.0E–2 lb/GWh.	
	Nickel (Ni)	9.0E–2 lb/GWh.	
	Selenium (Se)	2.0E–2 lb/GWh.	
	Mercury (Hg)	1.0E–4 lb/GWh	For Method 30B sample volume determination (Section 8.2.4), the estimated Hg concentration should nominally be <½ the standard.
	b. Hydrogen chloride (HCl).	4.0E–4 lb/MWh	For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour.
	c. Hydrogen fluoride (HF)	4.0E–4 lb/MWh	For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour.
5. Liquid oil-fired unit—non-continental (excluding limited-use liquid oil-fired subcategory units).	a. Filterable particulate matter (PM).	2.0E–1 lb/MWh[1]	Collect a minimum of 1 dscm per run.
	OR	OR	
	Total HAP metals	7.0E–3 lb/MWh	Collect a minimum of 1 dscm per run.
	OR	OR	
	Individual HAP metals:		Collect a minimum of 3 dscm per run.
	Antimony (Sb)	8.0E–3 lb/GWh.	
	Arsenic (As)	6.0E–2 lb/GWh.	
	Beryllium (Be)	2.0E–3 lb/GWh.	
	Cadmium (Cd)	2.0E–3 lb/GWh.	
	Chromium (Cr)	2.0E–2 lb/GWh.	
	Cobalt (Co)	3.0E–1 lb/GWh.	
	Lead (Pb)	3.0E–2 lb/GWh.	
	Manganese (Mn)	1.0E–1 lb/GWh.	
	Nickel (Ni)	4.1E0 lb/GWh.	
	Selenium (Se)	2.0E–2 lb/GWh.	
	Mercury (Hg)	4.0E–4 lb/GWh	For Method 30B sample volume determination (Section 8.2.4), the estimated Hg concentration should nominally be <½ the standard.
	b. Hydrogen chloride (HCl).	2.0E–3 lb/MWh	For Method 26A, collect a minimum of 1 dscm per run; for Method 26, collect a minimum of 120 liters per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour.
	c. Hydrogen fluoride (HF)	5.0E–4 lb/MWh	For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour.
6. Solid oil-derived fuel-fired unit.	a. Filterable particulate matter (PM).	3.0E–2 lb/MWh[1]	Collect a minimum of 1 dscm per run.
	OR	OR	
	Total non-Hg HAP metals	6.0E–1 lb/GWh	Collect a minimum of 1 dscm per run.
	OR	OR	
	Individual HAP metals:		Collect a minimum of 3 dscm per run.
	Antimony (Sb)	8.0E–3 lb/GWh.	
	Arsenic (As)	3.0E–3 lb/GWh.	
	Beryllium (Be)	6.0E–4 lb/GWh.	
	Cadmium (Cd)	7.0E–4 lb/GWh.	
	Chromium (Cr)	6.0E–3 lb/GWh.	
	Cobalt (Co)	2.0E–3 lb/GWh.	
	Lead (Pb)	2.0E–2 lb/GWh.	
	Manganese (Mn)	7.0E–3 lb/GWh.	
	Nickel (Ni)	4.0E–2 lb/GWh.	
	Selenium (Se)	6.0E–3 lb/GWh.	
	b. Hydrogen chloride (HCl).	4.0E–4 lb/MWh	For Method 26A, collect a minimum of 3 dscm per run. For ASTM D6348–03[2] or Method 320, sample for a minimum of 1 hour.

If your EGU is in this subcategory . . .	For the following pollutants . . .	You must meet the following emission limits and work practice standards . . .	Using these requirements, as appropriate (e.g., specified sampling volume or test run duration) and limitations with the test methods in Table 5 . . .
	OR Sulfur dioxide (SO_2)[3] ..... c. Mercury (Hg)	1.0 lb/MWh ..... 2.0E–3 lb/GWh	SO_2 CEMS. Hg CEMS or Sorbent trap monitoring system only.

[1] Gross electric output.
[2] Incorporated by reference, see § 63.14.
[3] You may not use the alternate SO_2 limit if your EGU does not have some form of FGD system and SO_2 CEMS installed.
[4] Duct burners on syngas; gross electric output.
[5] Duct burners on natural gas; gross electric output.

■ 20. Revise Table 3 to Subpart UUUUU of Part 63 to read as follows:

Table 3 to Subpart UUUUU of Part 63 — Work Practice Standards

As stated in §§ 63.9991, you must comply with the following applicable work practice standards:

If your EGU is . . .	You must meet the following . . .
1. An existing EGU	Conduct a tune-up of the EGU burner and combustion controls at least each 36 calendar months, or each 48 calendar months if neural network combustion optimization software is employed, as specified in § 63.10021(e).
2. A new or reconstructed EGU	Conduct a tune-up of the EGU burner and combustion controls at least each 36 calendar months, or each 48 calendar months if neural network combustion optimization software is employed, as specified in § 63.10021(e).
3. A coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGU during startup.	You must operate all CMS during startup. For startup of an EGU, you must use one or a combination of the following clean fuels: natural gas, synthetic natural gas, propane, distillate oil, syngas, and ultra-low sulfur diesel. Once you start firing coal, residual oil, or solid oil-derived fuel, you must vent emissions to the main stack(s) and engage all of the applicable control devices except limestone injection in FBC EGUs, dry scrubber, SNCR, and SCR. You must start your limestone injection in FBC EGUs, dry scrubber, SNCR, and SCR systems as expeditiously as possible, but, in any case, when necessary to comply with other standards applicable to the source that require operation of the control devices. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during startup, you must either: (1) Flare the syngas or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. You must comply with all applicable emission limits at all times except for startup or shutdown periods conforming with this work practice. You must collect monitoring data during periods of startup, as specified in § 63.10020(a). You must keep records during periods of startup. You must provide reports concerning activities and periods of startup, as specified in § 63.10011(g) and § 63.10021(h) and (i).
4. A coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGU during shutdown.	You must operate all CMS during shutdown. While firing coal, residual oil, or solid oil-derived fuel during shutdown, you must vent emissions to the main stack(s) and operate all applicable control devices, except limestone injection in FBC EGUs, dry scrubber, SNCR, and SCR. You must operate your limestone injection in FBC EGUs, dry scrubber, SNCR, and SCR systems as expeditiously as possible, but, in any case, when necessary to comply with other standards that apply to the source and that require operation of the control devices. If, in addition to the fuel used prior to initiation of shutdown, another fuel must be used to support the shutdown process, that additional fuel must be one or a combination of the following clean fuels: Natural gas, synthetic natural gas, propane, distillate oil, syngas, and ultra-low sulfur diesel. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during shutdown, you must either: (1) Flare the syngas or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. You must comply with all applicable emission limits at all times except during startup and shutdown periods at which time you must meet this work practice. You must collect monitoring data during periods of startup, as specified in § 63.10020(a). You must keep records during periods of startup. You must provide reports concerning activities and periods of startup, as specified in § 63.10011(g) and § 63.10021(h) and (i).

■ 21. Revise Table 4 to Subpart UUUUU of Part 63 to read as follows:

Table 4 to Subpart UUUUU of Part 63— Operating Limits for EGUs

As stated in §§ 63.9991, you must comply with the applicable operating limits:

If you demonstrate compliance using . . .	You must meet these operating limits . . .
1. PM CPMS for an existing EGU.	Maintain the 30-boiler operating day rolling average PM CPMS output at or below the highest 1-hour average measured during the most recent performance test demonstrating compliance with the filterable PM, total non-mercury HAP metals (total HAP metals, for liquid oil-fired units), or individual non-mercury HAP metals (individual HAP metals including Hg, for liquid oil-fired units) emissions limitation(s).
2. PM CPMS for a new EGU.	Maintain the 30-boiler operating day rolling average PM CPMS output at or below the highest 1-hour average PM CPMS output value recorded during the most recent performance test run demonstrating compliance with the filterable PM, total non-mercury HAP metals (total HAP metals, for liquid oil-fired units), or individual non-mercury HAP metals (individual HAP metals including Hg, for liquid oil-fired units) emissions limitation(s).

■ 22. Revise footnote 4 of Table 5 to Subpart UUUUU of Part 63 to read as follows:

Table 5 to Subpart UUUUU of Part 63—Performance Testing Requirements

* * * * *

[4] When using ASTM D6348–03, the following conditions must be met: (1) The test plan preparation and implementation in the Annexes to ASTM D6348–03, Sections A1 through A8 are mandatory; (2) For ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent (%)R must be determined for each target analyte (see Equation A5.5); (3) For the ASTM D6348–03 test data to be acceptable for a target analyte, %R must be 70% ≤ R ≤ 130%; and (4) The %R value for each compound must be reported in the test report and all field measurements corrected with the calculated %R value for that compound using the following equation:

* * * * *

■ 23. Revise Table 6 to Subpart UUUUU of Part 63 to read as follows:

Table 6 to Subpart UUUUU of Part 63—Establishing PM CPMS Operating Limits

As stated in § 63.10007, you must comply with the following requirements for establishing operating limits:

If you have an applicable emission limit for . . .	And you choose to establish PM CPMS operating limits, you must . . .	And . . .	Using . . .	According to the following procedures . . .
1. Filterable Particulate matter (PM), total non-mercury HAP metals, individual non-mercury HAP metals, total HAP metals, or individual HAP metals for an existing EGU.	Install, certify, maintain, and operate a PM CPMS for monitoring emissions discharged to the atmosphere according to § 63.10010(h)(1).	Establish a site-specific operating limit in units of PM CPMS output signal (*e.g.,* milliamps, mg/acm, or other raw signal).	Data from the PM CPMS and the PM or HAP metals performance tests.	1. Collect PM CPMS output data during the entire period of the performance tests. 2. Record the average hourly PM CPMS output for each test run in the three run performance test. 3. Determine the highest 1-hour average PM CPMS measured during the performance test demonstrating compliance with the filterable PM or HAP metals emissions limitations.
2. Filterable Particulate matter (PM), total non-mercury HAP metals, individual non-mercury HAP metals, total HAP metals, or individual HAP metals for a new EGU.	Install, certify, maintain, and operate a PM CPMS for monitoring emissions discharged to the atmosphere according to § 63.10010(h)(1).	Establish a site-specific operating limit in units of PM CPMS output signal (*e.g.,* milliamps, mg/acm, or other raw signal).	Data from the PM CPMS and the PM or HAP metals performance tests.	1. Collect PM CPMS output data during the entire period of the performance tests. 2. Record the average hourly PM CPMS output for each test run in the three run performance test. 3. Determine the highest 1-hour average PM CPMS measured during the performance run demonstrating compliance with the filterable PM or HAP metals emissions limitations.

■ 24. Revise Table 7 to Subpart UUUUU of Part 63 to read as follows:

Table 7 to Subpart UUUUU of Part 63—Demonstrating Continuous Compliance

As stated in § 63.10021, you must show continuous compliance with the emission limitations for affected sources according to the following:

If you use one of the following to meet applicable emissions limits, operating limits, or work practice standards . . .	You demonstrate continuous compliance by . . .
1. CEMS to measure filterable PM, SO_2, HCl, HF, or Hg emissions, or using a sorbent trap monitoring system to measure Hg.	Calculating the 30- (or 90-) boiler operating day rolling arithmetic average emissions rate in units of the applicable emissions standard basis at the end of each boiler operating day using all of the quality assured hourly average CEMS or sorbent trap data for the previous 30- (or 90-) boiler operating days, excluding data recorded during periods of startup or shutdown.
2. PM CPMS to measure compliance with a parametric operating limit.	Calculating the arithmetic 30- (or 90-) boiler operating day rolling average of all of the quality assured hourly average PM CPMS output data (e.g., milliamps, PM concentration, raw data signal) collected for all operating hours for the previous 30 boiler operating days, excluding data recorded during periods of startup or shutdown.
3. Site-specific monitoring using CMS for liquid oil-fired EGUs for HCl and HF emission limit monitoring.	If applicable, by conducting the monitoring in accordance with an approved site-specific monitoring plan.
4. Quarterly performance testing for coal-fired, solid oil derived fired, or liquid oil-fired EGUs to measure compliance with one or more applicable emissions limit in Table 1 or 2.	Calculating the results of the testing in units of the applicable emissions standard.
5. Conducting periodic performance tune-ups of your EGU(s)	Conducting periodic performance tune-ups of your EGU(s), as specified in § 63.10021(e).
6. Work practice standards for coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGUs during startup.	Operating in accordance with Table 3.
7. Work practice standards for coal-fired, liquid oil-fired, or solid oil-derived fuel-fired EGUs during shutdown.	Operating in accordance with Table 3.

■ 25. Revise sections 4.1 and 5.2.2.2 to Appendix A to Subpart UUUUU of Part 63 to read as follows:

Appendix A to Subpart UUUUU—Hg Monitoring Provisions

4.1 *Certification Requirements.* All Hg CEMS and sorbent trap monitoring systems and the additional monitoring systems used to continuously measure Hg emissions in units of the applicable emissions standard in accordance with this appendix must be certified in a timely manner, such that the initial compliance demonstration is completed no later than the applicable date in § 63.9984(f).

* * * * *

5.2.2.2 The same RATA performance criteria specified in Table A–2 for Hg CEMS shall apply to the annual RATAs of the sorbent trap monitoring system.

* * * * *

■ 26. Revise section 3.1.2.1.3 and the heading to section 5.3.4 to Appendix B to Subpart UUUUU of Part 63 to read as follows:

Appendix B to Subpart UUUUU—HCl and HF Monitoring Provisions

3.1.2.1.3 For the ASTM D6348–03 test data to be acceptable for a target analyte, %R must be 70% ≤ R ≤ 130%; and

* * * * *

5.3.3 *Conditional Data Validation*

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R06–RCRA–2012–0473; FRL–9745–1]

Texas: Final Authorization of State-initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: During a review of Texas' regulations, the EPA identified a variety of State-initiated changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We have determined that these changes are minor and satisfy all requirements needed to qualify for Final authorization and are authorizing the State-initiated changes through this Direct Final action.

The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. The EPA uses the regulations entitled ''Approved State Hazardous Waste Management Programs'' to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that will be subject to the EPA's inspection and enforcement. The rule codifies in the regulations the prior approval of Texas' hazardous waste management program and incorporates by reference authorized provisions of the State's statutes and regulations.

DATES: This regulation is effective January 29, 2013, unless the EPA receives adverse written comment on the codification of the Texas authorized RCRA program by the close of business December 31, 2012. If the EPA receives such comments, it will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that this rule will not take effect. The incorporation by reference of authorized provisions in the Texas statutes and regulations contained in this rule is approved by the Director of the Federal Register as of January 29, 2013 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: patterson.alima@epa.gov* or *banks.julia@epa.gov.*

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, or Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, or Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–RCRA–2012–0473. EPA's policy is that all comments received will be included in the public docket without change, including personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or email. The Federal *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the 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 the EPA without going through *http://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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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 the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*).

You can view and copy the documents that form the basis for this authorization and codification and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following location: EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number: (214) 665–8533 or (214) 665–8178. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Regional Authorization Coordinator, or Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–8533, and Email address: *patterson.alima@epa.gov* or *banks.julia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Authorization of State-Initiated Changes

A. Why are revisions to State programs necessary?

States which have received Final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal program changes, the States must change their programs and ask the EPA to authorize the changes. Changes to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279. States can also initiate their own changes to their hazardous waste program and these changes must then be authorized.

B. What decisions have we made in this rule?

We conclude that Texas' revisions to its authorized program meet all of the statutory and regulatory requirements established by RCRA. We found that the State-initiated changes make Texas' rules more clear or conform more closely to the Federal equivalents and are of such nature that a formal application is unnecessary. Therefore, we grant Texas final authorization to operate its hazardous waste program with the changes described in the table at Section G below. Texas has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out all authorized aspects of the RCRA program, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Texas, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

The effect of this decision is that a facility in Texas subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Texas has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the statutes and regulations for which Texas is being authorized by this direct action are already effective and are not changed by this action.

D. Why wasn't there a proposed rule before this rule?

The EPA did not publish a proposal before this rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that proposes to authorize the State program changes.

E. What happens if EPA receives comments that oppose this action?

If the EPA receives comments that oppose this authorization or the incorporation-by-reference of the State program, we will withdraw this rule by publishing a timely document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes, or the incorporation-by-reference, on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. If you want to comment on this authorization and incorporation-by-reference, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program or the incorporation-by-reference of the State program, we may withdraw only that part of this rule, but the authorization of the program changes or the incorporation-by-reference of the State program that the comments do not oppose will become effective on the date specified above.

The **Federal Register** withdrawal document will specify which part of the authorization or incorporation-by-reference of the State program will become effective and which part is being withdrawn.

F. For what has Texas previously been authorized?

The State of Texas initially received final authorization on December 26, 1984 (49 FR 48300), to implement its Base Hazardous Waste Management Program. This authorization was clarified in a notice published March 26, 1985 (50 FR 11858). Texas received authorization for revisions to its program, effective October 4, 1985 (51 FR 3952), February 17, 1987 (51 FR 45320), March 15, 1990 (55 FR 7318), July 23, 1990 (55 FR 21383), October 21, 1991 (56 FR 41626), December 4, 1992 (57 FR 45719), June 27, 1994 (59 FR 16987), June 27, 1994 (59 FR 17273), November 26, 1997 (62 FR 47947), December 3, 1997 (62 FR 49163), October 18, 1999 (64 FR 44836), November 15, 1999 (64 FR 49673), September 11, 2000 (65 FR 43246), June 14, 2005 (70 FR 34371), December 29, 2008, (73 FR 64252), July 13, 2009 (74 FR 22469), May 6, 2011 (76 FR 12283), and May 7, 2012 (77 FR 13200).

G. What changes are we authorizing with this action?

The State has made amendments to the provisions listed in the table which follows. These amendments clarify the State's regulations and make the State's regulations more internally consistent. The State's laws and regulations, as amended by these provisions, provide authority which remains equivalent to, no less stringent than, and not broader in scope than the Federal laws and regulations. These State-initiated changes satisfy the requirements of 40 CFR 271.21(a). We are granting Texas final authorization to carry out the following provisions of the State's program in lieu of the Federal program. These provisions are analogous to the indicated RCRA statutory provisions or RCRA regulations found at 40 CFR as of July 1, 2008. The Texas provisions are from the Texas Administrative Code (TAC), Title 30, effective December 31, 2009.

State requirement	Analogous Federal requirement
30 TAC 37.1	Related to 264.140 and 265.140.
30 TAC 37.21	40 CFR 264.151 related.
30 TAC 37.31	40 CFR parts 264 and 265, subpart H related.
30 TAC 37.41	40 CFR 264.143/145(g); 265.143/145(f).
30 TAC 37.51	40 CFR 264.143/145(h); 265.143/145(g).
30 TAC 37.52	40 CFR 264.143/145(h) related; 265.143/145(g) related.
30 TAC 37.61	40 CFR 264.143/145(i); 265.143/145(h).
30 TAC 37.71	40 CFR 264/265.148.
30 TAC 37.81	40 CFR 264.143/145(i) related; 265.143/145(h) related.
30 TAC 37.100	40 CFR 264/265.140 (partial).
30 TAC 37.101	40 CFR 264/265 subpart H related.
30 TAC 37.111	40 CFR 264.143/145(i) related; 265.143/145(h) related.
30 TAC 37.121	40 CFR 264/265.142(a)(2) related.
30 TAC 37.131	40 CFR 264.142/144(b); 265.142/144(b).
30 TAC 37.141	40 CFR 264.142/144(c); 265.142/144(c).
30 TAC 37.151	40 CFR 264.142/144(c); 265.142/144(c).
30 TAC 37.161	40 CFR 264.143/145(b)(3), (c)(3) and (d)(3); 265.143/145(b)(3), (c)(3).
30 TAC 37.200	40 CFR 264/265.140 (partial).
30 TAC 37.201	40 CFR 264.143/145(a); 265.143/145(a).
30 TAC 37.211	40 CFR 264.143/145(b); 265.143/145(b).
30 TAC 37.221	40 CFR 264.143/145(c).
30 TAC 37.231	40 CFR 264.143/145(d); 265.143/145(c).
30 TAC 37.241	40 CFR 264.143/145(e); 265.143/145(d).
30 TAC 37.251	40 CFR 264.143/145(f); 265.143/145(e).
30 TAC 37.261	40 CFR 264.143(g)/145(f); 265.143/145(e).
30 TAC 37.271	40 CFR 264.143/145(f); 265.143/145(e).
30 TAC 37.281	40 CFR 264.143(g)/145(f); 265.143/145(e).
30 TAC 37.301	40 CFR 264.151(a).
30 TAC 37.321	40 CFR 264.151(c).
30 TAC 37.331	40 CFR 264.151(d).
30 TAC 37.341	40 CFR 264.151(e).
30 TAC 37.361	40 CFR 264.151(h).
30 TAC 37.371	40 CFR 264.151(f).
30 TAC 37.381	40 CFR 264.151(h).
30 TAC 37.400	40 CFR 264/265.140 (partial).
30 TAC 37.402	40 CFR 264/265.141 (partial).
30 TAC 37.404	40 CFR 264/265.147(a) & (b).
30 TAC 37.411	40 CFR 264/265.147(d).
30 TAC 37.501	40 CFR 264/265.147(j).
30 TAC 37.511	40 CFR 264/265.147(i).
30 TAC 37.521	40 CFR 264/265.147(h).
30 TAC 37.531	40 CFR 264/265.147(k).
30 TAC 37.541	40 CFR 264/265.147(f).
30 TAC 37.551	40 CFR 264/265.147(g).
30 TAC 37.601	40 CFR 264.151(m).
30 TAC 37.631	40 CFR 264.151(j).
30 TAC 37.641	40 CFR 264.151(i).
30 TAC 37.661	40 CFR 264.151(h).
30 TAC 37.671	40 CFR 264.151(n).
30 TAC 281.17(f)	40 CFR 270.10(c) related; no direct Federal analog.
30 TAC 305.29	40 CFR 270.61 related; no direct Federal analog.
30 TAC 305.50(a)(4)(B).	40 CFR 270.14(b)(15).
30 TAC 305.50(a)(4)(C).	40 CFR 270.14 related; no direct Federal analog.
30 TAC 305.50(a)(4)(D).	40 CFR 270.14(b)(11)(ii)(A).
30 TAC 305.62(c), except for language regarding TPDES permits.	40 CFR 270.42.
30 TAC 305.69(b)(1) introductory paragraph.	40 CFR 270.42(a)(1) intro.
30 TAC 305.69(b)(1)(A), except for language regarding injection wells, radioactive materials and application fees.	40 CFR 270.42(a)(1)(i).
30 TAC 305.69(b)(1)(B).	40 CFR 270.42(a)(1)(ii).
30 TAC 305.69(b)(2)	40 CFR 270.42(a)(2).
30 TAC 305.69(c)(1) introductory paragraph.	40 CFR 270.42(b)(1) intro.
30 TAC 305.69(c)(1)(D).	40 CFR 270.42(b)(1)(iv).
30 TAC 305.69(c)(2) introductory paragraph.	40 CFR 270.42(b)(2) intro.
30 TAC 305.69(c)(6) introductory paragraph—(6)(C).	40 CFR 270.42(b)(6)(i) intro—(6)(i)(C).

State requirement	Analogous Federal requirement
30 TAC 305.69(c)(6)(D) introductory paragraph—(D)(ii).	40 CFR 270.42(b)(6)(i)(D).
30 TAC 305.69(c)(6)(E).	40 CFR 270.42(b)(6)(i)(E).
30 TAC 305.69(c)(7) introductory paragraph—(7)(C).	40 CFR 270.42(b)(6)(ii) intro—(C).
30 TAC 305.69(c)(7)(D).	40 CFR 270.42(b)(6)(ii)(D).
30 TAC 305.69(c)(8)	40 CFR 270.42(b)(6)(iii).
30 TAC 305.69(c)(9)	40 CFR 270.42(b)(6)(iv)(A).
30 TAC 305.69(c)(12)	40 CFR 270.42(b)(6)(vi).
30 TAC 305.69(d)(1) introductory paragraph.	40 CFR 270.42(c)(1) intro.
30 TAC 305.69(d)(1)(D).	40 CFR 270.42(c)(1)(iv).
30 TAC 305.69(d)(2) introductory paragraph.	40 CFR 270.42(c)(2) intro.
30 TAC 305.69(d)(2)(A).	40 CFR 270.42(c)(2)(i).
30 TAC 305.69(d)(6)	40 CFR 270.42(c)(6).
30 TAC 305.69(e)	40 CFR 270.42(d).
30 TAC 305.69(f)(1) introductory paragraph—(f)(1)(B).	40 CFR 270.42(e)(1).
30 TAC 305.69(f)(4) ..	40 CFR 270.42(e)(2)(iii).
30 TAC 305.69(g)	40 CFR 270.42(f).
30 TAC 305.125(6)	40 CFR 270.30(h).
30 TAC 305.125(13) ..	40 CFR 270.30 related; no direct Federal analog.
30 TAC 305.146 introductory paragraph and 305.146(1) in the 1/1/97 regulations [Removed.].	40 CFR 264.72(b) related.
30 TAC 305.401, except ''§ 55.21 of this title (relating to Requests for Contested Case Hearings, Public Comment)'' at 305.401(b), and 305.401(c) & (g).	40 CFR 270.30 related; no direct Federal analog.
335.1 introductory paragraph.	40 CFR 260.10 intro.
335.41(c)	40 CFR 264.1(e); 265.1(c)(3).
335.41(i)	40 CFR 264.1(d).
335.43(a)	40 CFR 270.1(b) related.
335.43(b)–(d) [No longer in state's code].	40 CFR 270.73(f), (g); 270.70(a) & (c), 270.10(e) Note: The 335.43(b)–(d) provisions have been incorporated into the authorized provisions at 335.2.
335.44	40 CFR 270.10(e) related, 270.13 related.
335.47(c)–(d), except 335.47(c)(3).	40 CFR 270.70(a)(2) related; no direct Federal analog.
335.69(a) introductory paragraph (except ''and (n)'').	40 CFR 270.60(b)–(c), except 270.60(b)(3).
335.112(b)(4)(I) & (J)	40 CFR 262.34(a) intro.
335.112(b)(4)(M)	40 CFR 265 related; no direct Federal analog.
30 TAC 335.128	40 CFR 265 related; no direct Federal analog.
335.167(b)	40 CFR 265 subpart H related; no direct Federal analog.
335.167(d)	40 CFR 264.101(b).
	40 CFR 264.101(d).

H. Who handles permits after the authorization takes effect?

This authorization does not affect the status of State permits and those permits issued by the EPA because no new substantive requirements are a part of these revisions.

I. How does this action affect Indian Country (18 U.S.C. 1151) in Texas?

Texas is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country.

II. Incorporation-by-Reference

A. What is codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs to operate in lieu of the Federal hazardous waste management regulatory program. The EPA codifies its authorization of State programs in 40 CFR part 272 and incorporates by reference State statutes and regulations that the EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and State requirements that can be Federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each State.

B. What is the history of the codification of Texas' hazardous waste management program?

The EPA incorporated by reference Texas' then authorized hazardous waste program effective December 3, 1997 (62 FR 49163), November 15, 1999 (64 FR 49673), December 29, 2008 (73 FR 64252), and May 6, 2011 (76 FR 12283). In this action, EPA is revising Subpart SS of 40 CFR part 272 to include the recent authorization revision actions effective May 7, 2012 (77 FR 13200).

C. What codification decisions have we made in this rule?

The purpose of this **Federal Register** document is to codify Texas' base hazardous waste management program and its revisions to that program. The EPA provided notices and opportunity for comments on the Agency's decisions to authorize the Texas program, and the EPA is not now reopening the decisions, nor requesting comments, on the Texas authorizations as published in the **Federal Register** notices specified in Section F of this document.

This document incorporates by reference Texas' hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. By codifying Texas' authorized program and by amending the Code of Federal Regulations, the public will be more easily able to discern the status of Federally approved requirements of the Texas hazardous waste management program.

The EPA is incorporating by reference the Texas authorized hazardous waste program in subpart SS of 40 CFR part 272. Section 272.2201 incorporates by reference Texas' authorized hazardous waste statutes and regulations. Section 272.2201 also references the statutory provisions (including procedural and enforcement provisions) which provide the legal basis for the State's implementation of the hazardous waste management program, the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are approved as part of the hazardous waste management program under Subtitle C of RCRA.

D. What is the effect of Texas' codification on enforcement?

The EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013, and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement

actions and to issue orders in authorized States. With respect to these actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than any authorized State analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Texas procedural and enforcement authorities. Section 272.2201(c)(2) of 40 CFR lists the statutory and regulatory provisions which provide the legal basis for the State's implementation of the hazardous waste management program, as well as those procedural and enforcement authorities that are part of the State's approved program, but these are not incorporated by reference.

E. What State provisions are not part of the codification?

The public needs to be aware that some provisions of Texas' hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are ''broader in scope'' than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which Texas is not authorized, but which have been incorporated into the State regulations because of the way the State adopted Federal regulations by reference;

(3) Unauthorized amendments to authorized State provisions; and

(4) New unauthorized State requirements.

State provisions that are ''broader in scope'' than the Federal program are not part of the RCRA authorized program and the EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.2201(c)(3) lists the Texas regulatory provisions which are ''broader in scope'' than the Federal program and which are not part of the authorized program being incorporated by reference. ''Broader in scope'' provisions cannot be enforced by the EPA; the State, however, may enforce such provisions under State law.

Texas has adopted but is not authorized for the following Federal rules published in the **Federal Register** on April 12, 1996 (61 FR 16290); December 5, 1997 (62 FR 64504); June 8, 2000 (65 FR 36365); March 4, 2005 (70 FR 10776), as amended June 16, 2005 (70 FR 35034). Therefore, these Federal amendments included in Texas' adoption by reference at 30 Texas Administrative Code (TAC) sections 335.112(a)(1) and (a)(4), 335.152(a)(1) and (a)(4), and 335.431(c)(1) and (c)(3), are not part of the State's authorized program and are not part of the incorporation by reference addressed by this **Federal Register** document.

Additionally, Texas' hazardous waste regulations include amendments which have not been authorized by the EPA. Since the EPA cannot enforce a State's requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to be precise in delineating the scope of a State's authorized hazardous waste program. Regulatory provisions that have not been authorized by the EPA include amendments to previously authorized State regulations as well as new State requirements.

In those instances where Texas has made unauthorized amendments to previously authorized sections of State code, the EPA is identifying in 40 CFR 272.2201(c)(4) any regulations which, while adopted by the State and incorporated by reference, include language not authorized by the EPA. Those unauthorized portions of the State regulations are not Federally enforceable. Thus, notwithstanding the language in Texas hazardous waste regulations incorporated by reference at 40 CFR 272.2201(c)(1), the EPA will only enforce those portions of the State regulations that are actually authorized by the EPA. For the convenience of the regulated community, the actual State regulatory text authorized by the EPA for the citations listed at 40 CFR 272.2201(c)(4) (i.e., without the unauthorized amendments) is compiled as a separate document, *Addendum to the EPA Approved Texas Regulatory Requirements Applicable to the Hazardous Waste Management Program, July 2009.* This document is available from EPA Region 6, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–8533.

State regulations that are not incorporated by reference in this rule at 40 CFR 272.2201(c)(1), or that are not listed in 40 CFR 272.2201(c)(3) (''broader in scope'') or 40 CFR 272.2201(c)(4) (''unauthorized amendments to authorized State provisions''), are considered new unauthorized State requirements. These requirements are not Federally enforceable.

With respect to any requirement pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized, the EPA will continue to enforce the Federal HSWA standards until the State is authorized for these provisions.

F. What will be the effect of Federal HSWA requirements on the codification?

The EPA is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) takes effect in authorized and not authorized States at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by the EPA (50 FR 28702, July 15, 1985). The EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), the EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirement implemented by the EPA. However, until the EPA authorizes those State requirements, the EPA can only enforce the HSWA requirements and not the State analogs. The EPA will not codify those State requirements until the State receives authorization for those requirements.

Statutory and Executive Order Reviews

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore, this action is not subject to review by OMB. This rule incorporated by reference Texas' authorized hazardous waste management regulations, and imposes no additional requirements beyond those imposed by State law. This final rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44

U.S.C. 3501 *et seq.*). Incorporation by reference will not impose any new burdens on small entities. Accordingly, I certify that this action 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 incorporates by reference certain existing State hazardous waste management program requirements which the EPA already approves under 40 CFR part 271, 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 action 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 (64 FR 43255, August 10, 1999), because it merely incorporates by reference existing State hazardous waste management program requirements without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000).

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply Distribution or Use'' (66 FR 28344, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for incorporation by reference as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State incorporation by reference application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. The final rule does not include environmental justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

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 prior to publication 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). This action will be effective January 29, 2013.

List of Subjects

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 272

Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 11, 2012.

Samuel Coleman,

Acting Regional Administrator, Region 6.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), the EPA is granting final authorization under part 271 to the State of Texas for revisions to its hazardous waste program under the Resource Conservation and Recovery Act and is amending 40 CFR part 272 as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Revise § 272.2201 to read as follows:

§ 272.2201 Texas State-Administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Texas final authorization for the following elements as submitted to EPA in Texas' Base program application for final authorization which was approved by EPA effective on December 26, 1984. Subsequent program revision applications were approved effective on October 4, 1985, February 17, 1987, March 15, 1990, July 23, 1990, October 21, 1991, December 4, 1992, June 27, 1994, November 26, 1997, December 3, 1997, October 18, 1999, November 15, 1999, September 11, 2000, June 14, 2005, December 29, 2008, July 13, 2009, May 6, 2011 (76 FR 12283), May 7, 2012 (77 FR 13200), and January 29, 2013.

(b) The State of Texas has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.*

(1) The Texas statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the Texas regulations that are incorporated by reference in this paragraph are available from West Group, 610 Opperman Drive, Eagan, 55123, Attention: Order Entry; Phone: 1–800–328–9352; Web site: *http://west.thomson.com.* You may inspect a copy at EPA Region 6 Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–8533, or at the National Archives

and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(i) The Binder entitled ''EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program'', dated May 2012.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon, 2010); Chapter 361, The Texas Solid Waste Disposal Act, sections 361.002, 361.016, 361.017, 361.018, 361.0215(b)(2) and (b)(3), 361.023, 361.024, 361.029, 361.032, 361.033, 361.035, 361.036, 361.037(a), 361.061, 361.063, 361.0635, 361.064, 361.0641, 361.066(b) and (c), 361.0666, 361.067, 361.068, 361.069, 361.078, 361.079, 361.0791, 361.080, 361.081, 361.082 (except 361.082(a) and (f)), 361.083, 361.833, 361.084, 361.085, 361.0861(c), 361.0871(b), 361.088, 361.0885, 361.089, 361.090, 361.095(b)–(f), 361.096, 361.097, 361.098, 361.099(a), 361.100, 361.101, 361.102 through 361.109, 361.113, 361.114, 361.116, 361.271 through 361.275, 361.278, 361.301, 361.321(a) and (b), 361.321(c) (except the phrase ''Except as provided by Section 361.322(a)''), 361.321(d), 361.321(e) (except the phrase ''Except as provided by Section 361.322(e)''), 361.451, 361.501 through 361.506, and 361.509(a) introductory paragraph, (a)(11), (b), (c) introductory paragraph, and (c)(2); Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.0025(b) and (c), 371.024(a), (c), and (d), 371.026(a) and (b), and 371.028.

(ii) Texas Water Code (TWC), Texas Codes Annotated, as amended effective September 1, 2009: Chapter 5, sections 5.102 through 5.105, 5.112, 5.177, 5.351, 5.501 through 5.505, 5.509 through 5.512, 5.515, and 5.551 through 5.557; Chapter 7, sections 7.031, 7.032, 7.051(a), 7.052(a), 7.052(c) and (d), 7.053 through 7.062, 7.064 through 7.069, 7.075, 7.101, 7.102, 7.104, 7.105, 7.107, 7.110, 7.162, 7.163, 7.176, 7.187(a), 7.189, 7.190, 7.252(1), 7.351, 7.353; Chapter 26, sections 26.001(13), 26.011, 26.020 through 26.022, 26.039, and 26.341 through 26.367; and Chapter 27, sections 27.003, 27.017, 27.018 and 27.019.

(iii) Texas Government Code as amended effective September 1, 2009, section 311.027.

(iv) Texas Rules of Civil Procedure, as amended effective September 1, 2009, Rule 60.

(v) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1994, as amended, effective through January 1, 1994: Chapter 305, sections 305.91 through 305.93, 305.98, and 305.99.

(vi) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1997, as amended, effective through January 1, 1997: Chapter 281, sections 281.17(f); Chapter 305, sections 305.29(b) through (d), 305.94 and 305.95, 305.97, 305.100, 305.101 (except 305.101(c)), 305.102, 305.103, and 305.105.

(vii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 2010, as amended, effective through December 31, 2009: Chapter 10; Chapter 39, sections 39.5(g) and (h), 39.11, 39.13 (except (10)), 39.103 (except (f) and (h)), 39.105, 39.107, 39.109, 39.403(b)(1), 39.405(f)(1), 39.411 (except (b)(4)(B), (b)(10), (b)(11), and (b)(13)), 39.413 (except (10)), 39.420, 39.503 (except the reference to 39.405(h) in (d) introductory paragraph and (g)), and 39.801 through 39.810; Chapter 50, sections 50.13, 50.19, 50.39, 50.113 (except (d)), 50.117(f), 50.119, 50.133, and 50.139; Chapter 55, sections 55.25 (a) and (b), 55.27 (except (b)), 55.152(a)(3), 55.152(b), 55.154, 55.156 (except (d) through (f)), 55.201 (except as applicable to contested case hearings), and 55.211 (except as applicable to contested case hearings); Chapter 70, section 70.10; Chapter 281, sections 281.1 (except the clause ''except as provided by * * * Prioritization Process)''), 281.2 introductory paragraph and (4), 281.3(a) and (b), 281.5 (except the clause ''Except as provided by * * * Discharge Permits)'', the phrase ''radioactive material'', and the phrase ''subsurface area drip dispersal systems''), 281.17(d) (except the references to radioactive material licenses), 281.17(e) and (f), 281.18(a) (except for the sentence ''For applications for radioactive * * * within 30 days.'', 281.19(a) (except the last sentence), 281.19(b) (except the phrase ''Except as provided in subsection (c) of this section,''), 281.20, 281.21(a) (except the phrase ''and the Texas Radiation Control Act * * * Chapter 401.'', the acronym ''TRCA'', and the phrase ''subsurface area drip dispersal systems''), 281.21(b), 281.21(c) (except the phrase ''radioactive materials,'' in 281.21(c)(2)), 281.21(d), 281.22(a) (except the phrase ''For applications for radioactive * * * to deny the license.''), 281.22(b) (except the phrase ''or an injection well,'' in the first sentence and the phrase ''For underground injection wells * * * the same facility or activity.''), 281.23(a), and 281.24; Chapter 305, sections, 305.29, 305.30, 305.64(d) and (f), 305.66(c), 305.66(e) (except for the last sentence), 305.66(f) through (l), 305.123 (except the phrases ''and 401 * * * regulation)'' and ''and 32''), 305.125(1) and (3), 305.125(20), 305.127(1)(B)(i), 305.127(4)(A) and (C), and (6), 305.401 (except the text ''§ 55.21 of this title (relating to Requests for Contested Case Hearings, Public Comment)'' at (b), and 305.401(c)); and Chapter 335, sections 335.2(b), 335.43(b), 335.206, 335.391 through 335.393.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon, 2010): Chapter 361, The Texas Solid Waste Disposal Act, sections 361.131 through 361.140; Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.021, 371.022, 371.024(e), 371.0245, 371.0246, 371.025, and 371.026(c).

(ii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 2010, as amended, effective through December 31, 2009: Chapter 305, sections 305.53, 305.64(b)(4), and 305.69(b)(1)(A) (as it relates to the Application Fee); Chapter 335, sections 335.321 through 335.332, Appendices I and II, and 335.401 through 335.412.

(4) *Unauthorized State Amendments and Provisions.* (i) The following authorized provisions of the Texas regulations include amendments published in the Texas Register that are not approved by EPA. Such unauthorized amendments are not part of the State's authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the Texas hazardous waste regulations incorporated by reference at paragraph (c)(1)(i) of this section, EPA will enforce the State provisions that are actually authorized by EPA. The effective dates of the State's authorized provisions are listed in the Table below. The actual State regulatory text authorized by EPA (i.e., without the unauthorized amendments) is available as a separate document, *Addendum to the EPA-Approved Texas Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management Program, May, 2012.* Copies of the document can be obtained from U.S. EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202.

State provision (December 31, 2009, except as indicated)	Effective date of authorized provision	Unauthorized State amendments	
		Texas register reference	Effective date
335.6(a)	7/29/92	18 TexReg 2799	5/12/93
		22 TexReg 12060	12/15/97
		23 TexReg 10878	10/19/98
335.6(c) introductory paragraph	7/29/92	17 TexReg 8010	11/27/92
		20 TexReg 2709	4/24/95
		20 TexReg 3722	5/30/95
		21 TexReg 1425	3/1/96
		21 TexReg 2400	3/6/96
		22 TexReg 12060	12/15/97
		23 TexReg 10878	10/19/98
		26 TexReg 9135	11/15/01
335.6(g)	7/29/92	18 TexReg 3814	6/28/93
		22 TexReg 12060	12/15/97
		23 TexReg 10878	10/19/98
335.10(b)(22) (December 31, 2001)	7/27/88	17 TexReg 8010	11/27/92
335.24(b) introductory paragraph	3/1/96	21 TexReg 10983	11/20/96
		23 TexReg 10878	10/19/98
335.24(c) introductory paragraph	3/1/96	21 TexReg 10983	11/20/96
		23 TexReg 10878	10/19/98
335.45(b)	9/1/86	17 TexReg 5017	7/29/92
335.204(a)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(b)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(b)(6)	5/28/86	16 TexReg 6065	11/7/91
335.204(c)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(d)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(e)(6)	5/28/86	16 TexReg 6065	11/7/91

(ii) Additionally Texas has partially or fully adopted, but is not authorized to implement, the Federal rules that are listed in the following table. The EPA will continue to implement the Federal HSWA requirements for which Texas is not authorized until the State receives specific authorization for those requirements. The EPA will not enforce the non-HSWA Federal rules although they may be enforceable under State law. For those Federal rules that contain both HSWA and non-HSWA requirements, the EPA will enforce only the HSWA portions of the rules.

Federal requirement	**Federal Register** reference	Publication date
Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision (HSWA) (Checklist 152).	61 FR 16290	April 12, 1996.
Clarification of Standards for Hazardous Waste LDR Treatment Variances (SWA) (Checklist 162).	62 FR 64504	December 5, 1997.
Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions (HSWA) (Checklist 187).	64 FR 36365	June 8, 2000.
Zinc Fertilizers Made from Recycled Hazardous Secondary Materials (HSWA and Non-HSWA) (Checklist 200).	67 FR 48393	July 24, 2002.
Modification of the Hazardous Waste Manifest System (HSWA and Non-HSWA) (Checklist 207).	70 FR 10776 70 FR 35034	March 4, 2005. June 16, 2005.
Methods Innovation Rule and SW–846 Update IIIB (HSWA and Non-HSWA) (Checklist 208) ..	70 FR 34538 70 FR 44150	June 14, 2005. August 1, 2005.

(iii) Texas has chosen not to adopt, and is not authorized to implement, the following optional Federal rules:

Federal requirement	**Federal Register** reference	Publication date
NESHAPS Second Technical Correction, Vacatur (Non-HSWA) (Checklist Rule 188.1)	66 FR 24270	May 14, 2001.
Storage, Treatment, Transportation and Disposal of Mixed Waste (Non-HSWA) (Checklist 191)	66 FR 27218	May 16, 2001.
Inorganic Chemical Manufacturing Waste Identification and Listing (HSWA/Non-HSWA) (Checklist Rule 195.1).	67 FR 17119	April 9, 2002.
Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium, Mercury-Containing Batteries and Silver-Containing Batteries (HSWA) (Checklist 201).	67 FR 62618	October 7, 2002.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards (Non-HSWA) (Checklist 203).	68 FR 44659	July 30, 2003.
National Environmental Performance Track Program (Non-HSWA) (Checklist 204)	69 FR 21737 69 FR 62217	April 22, 2004. October 25, 2004.

Federal requirement	**Federal Register** reference	Publication date
NESHAP: Surface Coating of Automobiles and Light-Duty Trucks (Non-HSWA) (Checklist 205)	69 FR 22601	April 26, 2004.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region VI and the State of Texas, signed by the Executive Director of the Texas Commission on Environmental Quality (TCEQ) on December 20, 2011, and by the EPA Regional Administrator on February 17, 2012, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* ''Attorney General's Statement for Final Authorization'', signed by the Attorney General of Texas on May 22, 1984 and revisions, supplements, and addenda to that Statement dated November 21, 1986, July 21, 1988, December 4, 1989, April 11, 1990, July 31, 1991, February 25, 1992, November 30, 1992, March 8, 1993, January 7, 1994, August 9, 1996, October 16, 1996, as amended February 7, 1997, March 11, 1997, January 5, 1999, November 2, 1999, March 1, 2002, July 16, 2008, and December 6, 2011 are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the listing for ''Texas'' to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Texas

The statutory provisions include:

Texas Health and Safety Code (THSC) Annotated, (Vernon, 2010): Chapter 361, The Texas Solid Waste Disposal Act, sections 361.003 (except (3), (4), (19), (27), (35), and (39)), 361.019(a), 361.0235, 361.066(a), 361.082(a) and (f), 361.086, 361.087, 361.0871(a), 361.094, 361.095(a), 361.099(b), and 361.110; Chapter 371, The Texas Oil Collection, Management, and Recycling Act, sections 371.003, 371.024(b), 371.026(d), and 371.041.

Copies of the Texas statutes that are incorporated by reference are available from West Group, 610 Opperman Drive, Eagan, 55123, ATTENTION: Order Entry; Phone: 1–800–328–9352; Web site: *http://west.thomson.com.*

The regulatory provisions include:

Texas Administrative Code, (TAC), Title 30, Environmental Quality, 2010, as amended, effective through December 31, 2009. Please note that the 2010 TAC, Title 30 is the most recent version of the Texas authorized hazardous waste regulations. For a few provisions, the authorized version is found in the TAC, Title 30, Environmental Quality dated January 1, 1994, January 1, 1997, December 31, 1999, December 31, 2001, or December 31, 2007. Texas made subsequent changes to these provisions but these changes have not been authorized by EPA. The provisions from earlier sets of regulations are noted below.

Chapter 3, Section 3.2(25) ''Person''; Chapter 20, Section 20.15; Chapter 35, Section 35.402(e); Chapter 37, Sections 37.1, 37.11 through 37.81, 37.100 through 37.161, 37.200 through 37.281, 37.301 through 37.381, 37.400 through 37.411, 37.501 through 37.551, 36.601 through 37.671, and 37.6001 through 37.6041; Chapter 281, Section 281.3(c);

Chapter 305, Subchapter A—General Provisions, Sections 305.1(a) (except the reference to Chapter 401, relative to Radioactive Materials); 305.2 introductory paragraph (except the references to Chapter 401, relative to Radioactive Materials and the reference to TWC 32.002); 305.2(1), (6), (11), (12), (14), (15), (19), (20), (24), (26), (27), (28), (31), and (40)–(42); 305.3;

Chapter 305, Subchapter C—Application for Permit, Sections 305.41 (except the reference to Chapter 401, relative to Radioactive Materials and the reference to TWC Chapter 32); 305.42(a), (b), (d), and (f); 305.43(b); 305.44 (except (d)); 305.45 (except (a)(7)(I) and (J)); 305.47; 305.50(a) introductory paragraph—(a)(3) (except the last two sentences in 305.50(a)(2)); 305.50(a)(4) introductory paragraph through 305.50(a)(4)(D); 305.50(a)(4)(G); 305.50(a)(5)–(8) and (13)–(16); 305.50(b); 305.51;

Chapter 305, Subchapter D—Amendments, Modifications, Renewals, Transfers, Corrections, Revocations, and Suspension of Permits, Sections 305.61; 305.62(a) (except the phrase in the first sentence ''§ 305.70 of this title * * * Solid Waste Class I Modifications'' and the phrase in the fifth sentence ''If the permittee requests a modification of a municipal solid waste permit * * * § 305.70 of this title.''); 305.62(b); 305.62(c) introductory paragraph (except the phrase ''other than * * * subsection (i) of this section''); 305.62(c)(1); 305.62(c)(2) introductory paragraph; 305.62(c)(2)(A) (except the phrase ''except for Texas Pollutant Discharge Elimination System (TPDES) permits, ''); 305.62(c)(2)(B) (except the phrase ''except for TPDES permits, ''); 305.62(d) (except (d)(6)); 305.62(e)–(h); 305.63(a) introductory paragraph; 305.63(a)(1) and (2); 305.63(a)(3) (except last sentence); 305.63(a)(4)–(6); 305.64(a); 305.64(b) (except (b)(4) and (b)(5)); 305.64(c); 305.64(e); 305.64(g); 305.66(a) (except (a)(7)–(a)(9)); 305.66(d); 305.67(a) and (b); 305.69(a); 305.69(b) (except for ''Additional Contents of Application for an Injection Well Permit'' and ''Waste Containing Radioactive Materials; and Application Fee'' at (b)(1)(A)); 305.69(c)–(k) (except (k) A.8–A.10);

Chapter 305, Subchapter F—Permit Characteristics and Conditions, Sections 305.121 (except the phrases ''radioactive material disposal'' and ''subsurface area drip dispersal systems''); 305.122(a)–(c); 305.124; 305.125 introductory paragraph; 305.125(2) and (4); 305.125(5) (except the last two sentences); 305.125(6); 305.125(7) and (8); 305.125(9) (except (9)(C)); 305.125(10) (except the phrase ''and 32''); 305.125(11) (except the phrase ''as otherwise required by Chapter 336 of this title'' relative to Radioactive Substances in (11)(B)); 305.125(12); 305.125(13); 305.125(14)–(19), and (21); 305.127 introductory paragraph; 305.127(1)(B)(iii); 305.127(1)(E) and (F); 305.127(2); 305.127(3)(A) (except the last two sentences); 305.127(3)(B) and (C); 305.127(4)(B); 305.127(5)(C); 305.128;

Chapter 305, Subchapter G—Additional Conditions for Hazardous and Industrial Solid Waste Storage, Processing, or Disposal Permits, Sections 305.141 through 305.145; 305.150;

Chapter 305, Subchapter I—Hazardous Waste Incinerator Permits, Sections 305.171, 305.172 (except (2)(A)(iii) & (iv)); 305.172(2)(A)(iii) & (iv) (December 31, 2007); 305.173 through 305.175;

Chapter 305, Subchapter J—Permits for Land Treatment Demonstrations Using Field Tests or Laboratory Analyses, Sections 305.181 through 305.184;

Chapter 305, Subchapter K—Research, Development and Demonstration Permits, Sections 305.191 through 305.194;

Chapter 305, Subchapter L—Groundwater Compliance Plan, Section 305.401(c);

Chapter 305, Subchapter Q—Permits for Boilers and Industrial Furnaces Burning Hazardous Waste, Sections 305.571 through 305.573;

Chapter 305, Subchapter R—Resource Conservation And Recovery Act Standard Permits For Storage And Treatment Units, Sections 305.650 through 305.661;

Chapter 324—Used Oil, Sections 324.1 through 324.2(6); 324.2 ''Secondary containment'' (January 1, 1997); 324.2(8) and (9); 324.3 (except 324.3(5)); 324.4; 324.6; 324.7; 324.11 through 324.14; 324.15 (January 1, 1997); 324.16; 324.21;

Chapter 335, Subchapter A—Industrial Solid Waste and Municipal Hazardous Waste in General, Sections 335.1 introductory paragraph; 335.1(1)–(4), (6)–(12), (16)–(18), (22), (23), (25)–(29), (32), (34)–(37); 335.1(32) ''Designated facility'' (December 31, 2001); 335.1(40)–(46), (47) (except for the phrase ''or is used for neutralizing the pH of non-hazardous industrial solid waste''), (48)–(50), (52)–(57), (59)–(66), (69)–(78), (80)–(87), (88)–(91) (except the phrase ''solid waste or'' in each subsection), (92), (93)–(94) (except the

phrase ''solid waste or'' in both subsections); 335.1(86) ''Manifest'' and (87) ''Manifest document number'' (December 31, 2001); 335.1(97), (98), (99) (except the phrase ''solid waste or''), (100)–(113), (115) (except the phrase ''solid waste or''), (116), (121), (122) (except the phrase ''solid waste or''), (123)–(126), (128), (130)–(134), (136), (137), (138)(A)–(G) (except the phrase ''Except for materials described in subparagraph (H) of this paragraph.'' at (138)(D) and (G) introductory paragraphs), (138)(I) and (J), (139), (141)–(151) (except the phrase ''solid waste or'' at (144), (147) and (149)), (152) (except the phrase ''or industrial solid''), (153), (154), (155) and (156) (except the phrase ''or industrial solid'' in both subsections), (158)–(160), (161) (except the phrase ''solid waste or''), (162)–(167), (168) (except the phrase ''or industrial solid''), (169), (170), and (171) (except the phrase ''solid waste or''); 335.2(a) and (c); 335.2(e)–(g); 335.2(i), (j), (l), and (m); 335.4; 335.5 (except (d)); 335.6(a); 335.6(b) (January 1, 1997); 335.6(c); 335.6(d) (except the last sentence) (January 1, 1994); 335.6(e) (January 1, 1994); 335.6(f)–(j); 335.7; 335.8(a)(1) and (2); 335.9(a) (except (a)(2) and (3)); 335.9(a)(2) and (3) (January 1, 1997); 335.9(b) (January 1, 1994); 335.10(a) introductory paragraph and (a)(1) (except references to ''class 1 wastes'') (January 1, 1994); 335.10(a)(3) (except the phrase '', unless the generator is identified in paragraph (2) of this section'') (December 31, 2001); 335.10(a)(4) (December 31, 2001); 335.10(a)(6); 335.10(b) (except 335.10(b)(5), (8), and (18)) (December 31, 2001); 335.10(b)(5), (8), and (18) (January 1, 1994); 335.10(c) (except the phrase ''the United States customs official,'') (December 31, 2001); 335.10(d) and (e) (December 31, 2001); 335.10(f); 335.11 (except (d)) (December 31, 2001); 335.12 (except (a)(5) and (d)) (December 31, 2001); 335.13(a) (January 1, 1997); 335.13(c) and (d) (January 1, 1994); 335.13(e) and (f) (January 1, 1997); 335.13(g) (January 1, 1994); 335.14; 335.15 introductory paragraph (January 1, 1994); 335.15(1); 335.17(a); 335.18(a); 335.19 (except (d)); 335.20 through 335.22; 335.23 (except (2)); 335.23(2) (January 1, 1994); 335.24(a)–(f); 335.24(m) and (n); 335.29 introductory paragraph through 335.29(3) (December 31, 2001); 335.29(a)(2)–(4); 335.30; 335.31;

Chapter 335, Subchapter B—Hazardous Waste Management General Provisions, Sections 335.41(a)–(c); 335.41(d) (except (d)(1) and (d)(5)–(8)); 335.41(d)(1) (December 31, 2001); 335.41(e); 335.41(f) (except (f)(2)(A)(iii)); 335.41(f)(2)(A)(iii) (December 31, 2001); 335.41(g)–(j); 335.43(a); 335.44; 335.45; 335.47 (except 335.47(b) and the second sentence in (c)(3)); 335.47(b) (December 31, 1999);

Chapter 335, Subchapter C—Standards Applicable to Generators of Hazardous Waste, Sections 335.61 (except (f)); 335.62; 335.63; 335.65; 335.66; 335.67 and 335.68 (December 31, 2001); 335.69 (except ''and (n)'' in the introductory paragraph of (a), (i), and (m)); 335.70; 335.71 (January 1, 1994); 335.73 through 335.75; 335.76 (except 335.76(d) and (h)); 335.76(d) (December 31, 2001); 335.77; 335.78 (except (b), (d)(2), (e) introductory paragraph, (f)(2), and (g)(2)); 335.78(b), (e) introductory paragraph, (f)(2), and (g)(2) (January 1, 1997);

Chapter 335, Subchapter D—Standards Applicable to Transporters of Hazardous Waste, Sections 335.91 (except (e)); 335.92; 335.93 (except (e)); 335.93(e) (December 31, 1999); 335.94 (except the phrase ''owned or operated by a registered transporter'' in (a) introductory paragraph);

Chapter 335, Subchapter E—Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities, Sections 335.111; 335.112(a) (except (a)(17)); 335.112(b) (except (b)(7)); 335.112(c); 335.113; 335.115 through 335.128;

Chapter 335, Subchapter F—Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities, Sections 335.151; 335.152(a) and (b); 335.152(c) (except (c)(5)–(7)); 335.152(d); 335.153; 335.154 (January 1, 1997); 335.155 through 335.179;

Chapter 335, Subchapter G—Location Standards for Hazardous Waste Storage, Processing, or Disposal, Sections 335.201(a) (except (a)(3)); 335.201(c); 335.202 introductory paragraph; 335.202(2), (4), (9)–(11), (13), (15)–(18); 335.203; 335.204(a) introductory paragraph—(a)(5); 335.204(b)(1)–(6); 335.204(c)(1)–(5); 335.204(d)(1)–(5); 335.204(e) introductory paragraph; 335.204(e)(1) introductory paragraph (except the phrase ''Except as * * * (B) of this paragraph,'' and the word ''event'' at the end of the paragraph); 335.204(e)(2)–(7); 335.204(f); 335.205(a) introductory paragraph—(a)(2) and (e);

Chapter 335, Subchapter H—Standards for the Management of Specific Wastes and Specific Types of Facilities, Sections 335.211; 335.212; 335.213 (January 1, 1997); 335.214; 335.221 through 335.225; 335.241 (except (b)(4) and (d)); 335.241(d) (January 1, 1997); 335.251; 335.261 (except (e)); 335.271; 335.272;

Chapter 335, Subchapter O—Land Disposal Restrictions, Section 335.431;

Chapter 335, Subchapter R—Waste Classification, Sections 335.504 introductory paragraph—(3); 335.504(4) (December 31, 1999);

Subchapter U, Standards For Owners And Operators Of Hazardous Waste Facilities Operating Under A Standard Permit, Sections 601 and 602.

Copies of the Texas regulations that are incorporated by reference are available from West Group, 610 Opperman Drive, Eagan, 55123, ATTENTION: Order Entry; Phone: 1–800–328–9352; Web site: *http://west.thomson.com.*

* * * * *

[FR Doc. 2012–28327 Filed 11–29–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 11–116 and 09–158; CC Docket No. 98–170; FCC 12–42]

Empowering Consumers To Prevent and Detect Billing for Unauthorized Charges (''Cramming''); Consumer Information and Disclosure; Truth-in-Billing Format

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In this document, the Federal Communications Commission (FCC) is correcting a final rule that appeared in the **Federal Register** of October 26, 2012. The document announces the effective date of rules containing information collection requirements approved by the Office of Management and Budget that were adopted to help consumers prevent and detect the placement of unauthorized charges on their telephone bills, an unlawful and fraudulent practice commonly referred to as ''cramming.''

DATES: Effective October 26, 2012.

FOR FURTHER INFORMATION CONTACT: Melissa Conway, *Melissa.Conway@fcc.gov* or (202) 418–2887, of the Consumer and Governmental Affairs Bureau.

SUPPLEMENTARY INFORMATION: This document makes the following corrections to the final rule published October 26, 2012, at 77 FR 65320:

[Corrected]

1. On page 65320, column 2, revise the **DATES** section to read as follows:

DATES: The amendments to 47 CFR 64.2401(a)(3) published at 77 CFR 30915, May 24, 2012, is effective December 26, 2012. 47 CFR 64.2401(f)(1) is effective November 13, 2012, and 47 CFR 64.2401(f)(2) is effective December 26, 2012.

Federal Communications Commission.

Bulah P. Wheeler,

Associate Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–28759 Filed 11–29–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 11–116 and 09–158; CC Docket No. 98–170; FCC 12–42]

Empowering Consumers To Prevent and Detect Billing for Unauthorized Charges (''Cramming''); Consumer Information and Disclosure; Truth-in-Billing Format

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In this document, the Federal Communications Commission (FCC) is correcting a final rule that appeared in the **Federal Register** of May 24, 2012. This document corrects rules adopted to help consumers prevent and detect the placement of unauthorized charges on their telephone bills, an unlawful and fraudulent practice commonly referred to as ''cramming.''

DATES: This correction contains modified information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a separate document in the **Federal Register** announcing the effective date of this correction.

FOR FURTHER INFORMATION CONTACT: Melissa Conway, *Melissa.Conway@fcc.gov* or (202) 418–2887, of the Consumer and Governmental Affairs Bureau.

SUPPLEMENTARY INFORMATION: This document makes the following correction to the final rule published May 24, 2012, at 77 FR 30915:

§ 64.2401 [Corrected].

■ 1. On page 30919, in the third column, in § 64.2401, revise paragraph (f) to read as follows:

(f) *Blocking of third-party charges.* (1) Carriers that offer subscribers the option to block third-party charges from appearing on telephone bills must clearly and conspicuously notify subscribers of this option at the point of sale and on each carrier's Web site.

(2) Carriers that offer subscribers the option to block third-party charges from appearing on telephone bills must clearly and conspicuously notify subscribers of this option on each telephone bill.

Federal Communications Commission.

Bulah P. Wheeler,

Associate Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–28760 Filed 11–29–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[FRA–2008–0136, Notice No. 5]

RIN 2130–ZA10

Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents for Calendar Year 2013

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule increases the rail equipment accident/incident reporting threshold from $9,500 to $9,900 for certain railroad accidents/incidents involving property damage that occur during calendar year 2013. This action is needed to ensure that FRA's reporting requirements reflect cost increases that have occurred since the reporting threshold was last published in November of 2011.

DATES: This regulation is effective January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Kebo Chen, Staff Director, U.S. Department of Transportation, Federal Railroad Administration, Office of Safety Analysis, RRS–22, Mail Stop 25, West Building 3rd Floor, Room W33–314, 1200 New Jersey Ave. SE., Washington, DC 20590 (telephone 202–493–6079); or Gahan Christenson, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, RCC–10, Mail Stop 10, West Building 3rd Floor, Room W31–204, 1200 New Jersey Ave. SE., Washington, DC 20590 (telephone 202–493–1381).

SUPPLEMENTARY INFORMATION:

Background

A ''rail equipment accident/incident'' is a collision, derailment, fire, explosion, act of God, or other event involving the operation of railroad on-track equipment (standing or moving) that results in damages to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material, greater than the reporting threshold for the year in which the event occurs. 49 CFR 225.19(c). Each rail equipment accident/incident must be reported to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). 49 CFR 225.19(b) and (c). As revised, effective in 1997, paragraphs (c) and (e) of 49 CFR 225.19 provide that the dollar figure that constitutes the reporting threshold for rail equipment accidents/incidents will be adjusted, if necessary, every year in accordance with the procedures outlined in appendix B to part 225 to reflect any cost increases or decreases.

New Reporting Threshold

Approximately one year has passed since the rail equipment accident/incident reporting threshold was revised. 76 FR 72850 (November 28, 2011). Consequently, FRA has recalculated the threshold, as required by § 225.19(c), based on increased costs for labor and increased costs for equipment. FRA has determined that the current reporting threshold of $9,500, which applies to rail equipment accidents/incidents that occur during calendar year 2012, should increase by $400 to $9,900 for equipment accidents/incidents occurring during calendar year 2013, effective January 1, 2013. The specific inputs to the equation set forth in appendix B (*i.e., Tnew* = *Tprior* * [1 + 0.4(*Wnew* − *Wprior*)/*Wprior* + 0.6(*Enew* − *Eprior*)/100]) to part 225 are:

Tprior	Wnew	Wprior	Enew	Eprior
$9,500	$25.56943	$24.92646	191.50000	186.36667

Where: *Tnew* = New threshold; *Tprior* = Prior threshold (with reference to the threshold, ''prior'' refers to the previous threshold rounded to the nearest $100, as reported in the **Federal Register**); *Wnew* = New average hourly wage rate, in dollars; *Wprior* = Prior average hourly wage rate, in dollars; *Enew* = New equipment average Producer Price Index (PPI) value; *Eprior* = Prior equipment average PPI value. Using the above figures, the calculated new threshold, (Tnew) is $9,890.62, which is rounded to the nearest $100 for a final new reporting threshold of $9,900.

Notice and Comment Procedures

In this rule, FRA has recalculated the monetary reporting threshold based on the formula discussed in detail and adopted, after notice and comment, in the final rule published December 20, 2005, 70 FR 75414. FRA has found that both the current cost data inserted into this pre-existing formula and the original cost data that they replace were obtained from reliable Federal government sources. FRA has found that this rule imposes no additional burden on any person, but rather provides a benefit by permitting the valid comparison of accident data over time. Accordingly, finding that notice and comment procedures are either impracticable, unnecessary, or contrary to the public interest, FRA is proceeding directly to the final rule.

Regulatory Impact

Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

This rule has been evaluated in accordance with existing policies and procedures, and determined to be non-significant under both Executive Order 12866 and 13563 in addition to DOT policies and procedures (44 FR 11034 (Feb. 26, 1979)).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612) requires a review of proposed and final rules to assess their impact on small entities, unless the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. Pursuant to Section 312 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), FRA has issued a final policy that formally establishes ''small entities'' as including railroads that meet the line-haulage revenue requirements of a Class III railroad. 49 CFR part 209, app. C. For other entities, the same dollar limit in revenues governs whether a railroad, contractor, or other respondent is a small entity. *Id.* About 719 of the approximately 764 railroads in the United States are considered small entities by FRA. FRA certifies that this final rule will have no significant economic impact on a substantial number of small entities. To the extent that this rule has any impact on small entities, the impact will be neutral or insignificant.

The frequency of rail equipment accidents/incidents, and therefore also the frequency of required reporting, is generally proportional to the size of the railroad. A railroad that employs thousands of employees and operates trains millions of miles is exposed to greater risks than one whose operation is substantially smaller. Small railroads may go for months at a time without having a reportable occurrence of any type, and even longer without having a rail equipment accident/incident. For example, current FRA data indicate that 2,693 rail equipment accidents/incidents were reported in 2007, with small railroads reporting 364 of them. Data for 2008 show that 2,481 rail equipment accidents/incidents were reported, with small railroads reporting 294 of them. In 2009, 1,910 rail equipment accidents/incidents were reported, and small railroads reported 271 of them. In 2010, 1,902 rail equipment accidents/incidents were reported, with small railroads reporting 258 of them. In 2011, 2010 rail equipment accidents/incidents were reported, with small railroads reporting 267 of them. On average for those five calendar years, small railroads reported about 13% (ranging from 12% to 14%) of the total number of rail equipment accidents/incidents. FRA notes that these data are based on accidents/incidents reported by railroads with less than 400,000 employee hours per year. FRA's accident reporting regulations require railroads to report employee hours; thus for purposes of 49 CFR part 225, FRA has historically categorized and displayed the data in this manner. Of the approximately 764 railroads in the United States, 731 fit into the category of less than 400,000 employee hours per year and the characteristics of such railroads are substantively similar to railroads otherwise considered small entities in accordance with FRA's policy. Accordingly, because the number and characteristics of these railroads are consistent with those otherwise considered small entities FRA believes that this approach is appropriate. FRA notes, however, that these data are accurate as of the date of issuance of this final rule, and are subject to minor changes due to additional reporting. Absent this rulemaking (*i.e.,* any increase in the monetary reporting threshold), the number of reportable accidents/incidents would increase, as keeping the 2012 threshold in place would not allow it to keep pace with the increasing dollar amounts of wages and rail equipment repair costs. Therefore, this rule will be neutral in effect. Increasing the reporting threshold will slightly decrease the recordkeeping burden for railroads over time. Any recordkeeping burden will not be significant and will affect the large railroads more than the small entities, due to the higher proportion of reportable rail equipment accidents/incidents experienced by large entities.

Paperwork Reduction Act

There are no new information collection requirements associated with this final rule. Therefore, no estimate of a public reporting burden is required.

Federalism Implications

Executive Order 13132, entitled, ''Federalism,'' signed on August 4, 1999, requires that each agency ''in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provide[] to the Director of the Office of Management and Budget a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of the State and local officials have been met * * *'' This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This rule will not have a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and the responsibilities among the various levels of government, as specified in the Executive Order 13132. Accordingly, FRA has determined that this rule will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism assessment. Accordingly, a federalism assessment has not been prepared.

Environmental Impact

FRA has evaluated this regulation in accordance with its ''Procedures for Considering Environmental Impacts'' (FRA's Procedures) (64 FR 28545 (May 26, 1999)) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this regulation is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. 64 FR 28545, 28547 (May 26, 1999). In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this

regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this regulation is not a major Federal action significantly affecting the quality of the human environment.

Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) [currently $143,100,000] in any one year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector. The final rule will not result in the expenditure, in the aggregate, of $143,100,000 or more in any one year, and thus preparation of such a statement is not required.

Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). Under the Executive Order, a ''significant energy action'' is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: That (1)(i) is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this final rule in accordance with Executive Order 13211. FRA has determined that this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this regulatory action is not a ''significant energy action'' within the meaning of Executive Order 13211.

Privacy Act

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.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

List of Subjects in 49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, FRA amends part 225 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 225—[AMENDED]

■ 1. The authority citation for part 225 continues to read as follows:

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–02, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

■ 2. Amend § 225.19 by revising the first sentence of paragraph (c) and revising paragraph (e) to read as follows:

§ 225.19 Primary groups of accidents/incidents.

* * * * *

(c) *Group II—Rail equipment.* Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment (standing or moving) that result in damages higher than the current reporting threshold (*i.e.,* $6,700 for calendar years 2002 through 2005, $7,700 for calendar year 2006, $8,200 for calendar year 2007, $8,500 for calendar year 2008, $8,900 for calendar year 2009, $9,200 for calendar year 2010, $9,400 for calendar year 2011, $9,500 for calendar year 2012, and $9,900 for calendar year 2013) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material.

* * *

* * * * *

(e) The reporting threshold is $6,700 for calendar years 2002 through 2005, $7,700 for calendar year 2006, $8,200 for calendar year 2007, $8,500 for calendar year 2008, $8,900 for calendar year 2009, $9,200 for calendar year 2010, $9,400 for calendar year 2011, $9,500 for calendar year 2012 and $9,900 for calendar year 2013. The procedure for determining the reporting threshold for calendar years 2006 and beyond appears as paragraphs 1–8 of appendix B to part 225.

* * * * *

Issued in Washington, DC, on November 26, 2012.

Melissa L. Porter,

Chief Counsel.

[FR Doc. 2012–28925 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–06–P

Proposed Rules

Federal Register
Vol. 77, No. 231
Friday, November 30, 2012

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1251; Directorate Identifier 2012–CE–044–AD]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Pacific Aerospace Limited Models FU24–954 and FU24A–954 airplanes that would supersede an existing AD. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as aircraft operating outside the aircraft aft center of gravity (C of G) limits during parachute-drop operations. Exceeding C of G limits could result in loss of control of the aircraft. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by January 14, 2013.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1251; Directorate Identifier 2012–CE–044–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On September 21, 2010, we issued AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010), information has been received that shows that the operating limitations required by this AD should be different between turbine engine and piston engine Pacific Aerospace Limited Models FU24–954 and FU24A–954 airplanes.

The Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued AD DCA/FU24/182, dated October 25, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The new MCAI AD supersedes the requirements in AD DCA/FU24/179.

The new MCAI requires adding a requirement to install station marking placards inside the rear cabin walls and inserting a supplement into the airplane flight manual (AFM) specifically approved for parachuting operations that contains detailed information for determining the weight and balance of the aircraft for turbine engine airplanes. This proposed AD also retains all actions in AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010), for all airplanes.

FAA's Determination and Requirements of the Proposed AD

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

Costs of Compliance

We estimate that this proposed AD would affect 1 product of U.S. registry. We also estimate that it would take about 22 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $1,870 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue

rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010), and adding the following new AD:

Pacific Aerospace Limited: Docket No. FAA–2012–1251; Directorate Identifier 2012–CE–044–AD.

(a) Comments Due Date

We must receive comments by January 14, 2013.

(b) Affected ADs

This AD supersedes AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010).

(c) Applicability

This AD applies to Pacific Aerospace Limited Models FU24–954 and FU24A–954 airplanes, all serial numbers, that are:

(1) certificated in any category; and

(2) modified to conduct parachute operations.

(d) Subject

Air Transport Association of America (ATA) Code 8: Leveling and Weighing.

(e) Reason

This AD was prompted by reports of aircraft operating outside the aft center of gravity (C of G) limits during parachute-drop operations. We are issuing this AD to prevent exceeding C of G limits, which could result in loss of control of the aircraft.

(f) Actions and Compliance for All Airplanes (Both Turbine and Piston Engine Airplanes) Retained From AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010)

Unless already done, do the following actions:

(1) As of October 18, 2010 (the effective date retained from AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010)), before further parachute-drop operations:

(i) Amend the airplane flight manual (AFM) to restrict maximum occupancy of the cabin aft of fuselage station (F.S) 118.84 to 6 persons. This may be done by inserting a copy of this AD into the AFM adjacent to the applicable supplement for parachuting operations; and

(ii) Fabricate a placard at least 2 by 4 inches (using at least ⅛-inch letters) and install the placard in two places, one on each side of the aft cabin, in view of all occupants as they enter and occupy the cabin which states the following: Maximum occupancy of this cabin limited to six persons for parachuting operations. Weight and Balance must be confirmed for each flight.

(2) As of October 18, 2010 (the effective date retained from AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010)), before further parachute-drop operations, the weight and balance calculation must comply with the following limitations and establish that the aircraft C of G will remain within AFM limits for the duration of the flight:

(i) Use actual weights for all occupants and their equipment to do the calculation;

(ii) Account for the positions of all occupants in the calculation. Do the calculation with the occupants' (parachuting group) positions at the most aft positions that result from the rearmost members of the group sitting against the aft cabin wall and subsequent occupants located immediately forward of them, unless a means of restraint is provided to prevent the occupants moving rearwards from their normal position; and

(iii) Keep a record of the C of G determination for each parachuting operation.

(g) New Actions and Compliance for Turbine Engine Airplanes

Within the next 15 days after the effective date of this AD, do the following:

(1) Add fuselage station (F.S.) reference line placards inside the rear cabin walls following the instructions in Section 2.5, Placards, of the CAA Approved AFM Supplement for Aircraft Modified for Parachuting Operations, PT6 Fletcher-EX Document Reference: AIR 2817–FMS–P1, dated October 15, 2012, or Walter Fletcher Document Reference: AIR 2672–FMS–P1, dated October 15, 2012, as applicable.

(2) Insert Section 2.4, Weight and Balance, of the CAA Approved AFM Supplement for Aircraft Modified for Parachuting Operations, PT6 Fletcher-EX Document Reference: AIR 2817–FMS–P1, dated October 15, 2012, or Walter Fletcher Document Reference: AIR 2672–FMS–P1, dated October 15, 2012, as applicable, into the AFM.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response,

including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(i) Related Information

Refer to MCAI Civil Aviation Authority of New Zealand AD DCA/FU24/182, dated October 25, 2012; CAA Approved Flight Manual Supplement PT6 Fletcher-EX for Aircraft Modified for Parachuting Operations, Document Reference: AIR 2817–FMS–P1, dated October 15, 2012; and CAA Approved Flight Manual Supplement Walter Fletcher for Aircraft Modified for Parachuting Operations, Document Reference: AIR 2672–FMS–P1, dated October 15, 2012, for related information.

Issued in Kansas City, Missouri, on November 21, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–29026 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1250; Directorate Identifier 2012–CE–043–AD]

RIN 2120–AA64

Airworthiness Directives; DG Flugzeugbau GmbH Gliders

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for DG Flugzeugbau GmbH Model DG–1000T gliders equipped with Solo Kleinmotoren Model 2350 C engines. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a material defect of the propeller shaft, most likely caused by a manufacturing error. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by January 14, 2013.

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

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

For service information identified in this proposed AD, contact Solo Kleinmotoren GmbH, Postfach 60 01 52, D 71050 Sindelfingen, Germany; telephone: +49 07031–301–0; fax: +49 07031–301–136; email: *aircraft@solo-germany.com;* Internet: *http://aircraft.solo-online.com/.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1250; Directorate Identifier 2012–CE–043–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2012–0197, dated September 25, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Two reports have been received of a broken P/N 20 31 211 propeller shaft on a Solo 2350 C engine. The results of the investigation showed that the failures were due to a material defect, most likely caused by a manufacturing error.
>
> This condition, if not detected and corrected, could lead to failure of the shaft and detachment of the propeller from the aeroplane, which, depending on the flight conditions, could result in reduced control of the aeroplane, or injury to persons on the ground.
>
> For the reasons described above, this AD requires a one-time inspection (magnetic particle or dye penetrant) of the affected propeller shafts to detect cracks and, depending on findings, replacement of the propeller pulley assembly (module) with a serviceable module.

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

Relevant Service Information

Solo Kleinmotoren GmbH has issued Service Bulletin Nr. 4603–13, Issue 1, dated September 24, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Costs of Compliance

We estimate that this proposed AD will affect 2 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $170, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing $197, for a cost of $282 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

DG Flugzeugbau GmbH: Docket No. FAA–2012–1250; Directorate Identifier 2012–CE–043–AD.

(a) Comments Due Date

We must receive comments by January 14, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to DG Flugzeugbau GmbH Model DG–1000T gliders equipped with Solo Kleinmotoren Model 2350 C engines, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 72: Engine.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a material defect within the propeller shaft, most likely caused by a manufacturing error. We are issuing this AD to prevent failure of the propeller shaft and detachment of the propeller, which could result in reduced control of the aircraft or injury to persons on the ground.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within 25 hours time-in-service (TIS) after the effective date of this AD or 6 months after the effective date of this AD, whichever occurs first, remove the propeller pulley assembly (module) from the engine and inspect the transition region of the part number (P/N) 20 31 211 shaft following Solo Kleinmotoren GmbH Service Bulletin Nr. 4603–13, Issue 1, dated September 24, 2012.

(2) If, during the inspection required by paragraph (f)(1) of this AD, cracks are detected in the P/N 20 31 211 shaft, before further flight, do the following:

(i) Replace the P/N 20 31 211 shaft with an airworthy P/N 20 31 211 shaft; or

(ii) Replace the propeller pulley assembly (module) with an airworthy propeller pulley assembly (module).

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email:. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2012–0197, dated September 25, 2012; and Solo Kleinmotoren GmbH Service Bulletin Nr. 4603–13, Issue 1, dated September 24, 2012, for related information. For service information related to this AD, contact Solo Kleinmotoren GmbH, Postfach 60 01 52, D 71050 Sindelfingen, Germany; telephone: +49 07031–301–0; fax: +49 07031–301–136; email: *aircraft@solo-germany.com;* Internet: *http://aircraft.solo-online.com/.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information

on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on November 21, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–29027 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–1434; Airspace Docket No. 11–ACE–27]

Proposed Amendment of Class E Airspace; West Union, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at West Union, IA. Decommissioning of the West Union non-directional radio beacon (NDB) at George L. Scott Municipal Airport has made reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before January 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2011–1434/Airspace Docket No. 11–ACE–27, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–1434/Airspace Docket No. 11–ACE–27.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by modifying Class E airspace extending upward from 700 feet above the surface for new standard instrument approach procedures at George L. Scott Municipal Airport, West Union, IA. Airspace reconfiguration is necessary due to the decommissioning of the West Union NDB and the cancellation of the NDB approach. Controlled airspace is necessary for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at George L. Scott Municipal Airport, West Union, IA.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

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

* * * * *

ACE IA E5 West Union, IA [Amended]

West Union, George L. Scott Municipal Airport, IA
(Lat. 42°59′06″ N., long. 91°47′26″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of George L. Scott Municipal Airport.

Issued in Fort Worth, TX on November 1, 2012.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2012–29016 Filed 11–29–12; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–1433; Airspace Docket No. 11–ACE–26]

Proposed Amendment of Class E Airspace; Decorah, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Decorah, IA. Decommissioning of the Decorah non-directional radio beacon (NDB) at Decorah Municipal Airport has made reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before January 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2011–1433/Airspace Docket No. 11–ACE–26, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–1433/Airspace Docket No. 11–ACE–26.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by modifying Class E airspace extending upward from 700 feet above the surface for new standard instrument approach procedures at Decorah Municipal Airport, Decorah, IA. Airspace reconfiguration is necessary due to the decommissioning of the Decorah NDB and the cancellation of the NDB approach. Controlled airspace is necessary for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Decorah Municipal Airport, Decorah, IA.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

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

* * * * *

ACE IA E5 Decorah, IA [Amended]

Decorah Municipal Airport, IA
(Lat. 43°16′32″ N., long. 91°44′22″ W.)
Waukon VORTAC
(Lat. 43°16′48″ N., long. 91°32′15″ W.)
Winneshiek County Memorial Hospital, IA
Point in Space Coordinates
(Lat. 43°16′57″ N., long. 91°45′56″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Decorah Municipal Airport, and within 2 miles each side of the 267° radial of the Waukon VORTAC extending from the 6.4-mile radius to the VORTAC, and within a 6-mile radius of the Point in Space serving Winneshiek County Memorial Hospital.

Issued in Fort Worth, TX, on October 30, 2012.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2012–29019 Filed 11–29–12; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0656; Airspace Docket No. 12–AGL–5]

Proposed Amendment of Class E Airspace; Superior, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Superior, WI. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Richard I. Bong Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport. Geographic coordinates of the airport would also be updated.

DATES: 0901 UTC. Comments must be received on or before January 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–0656/Airspace Docket No. 12–AGL–5, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–0656/Airspace Docket No. 12–AGL–5.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14

CFR), part 71 by amending Class E airspace extending upward from 700 feet above the surface to accommodate new standard instrument approach procedures at Richard I. Bong Airport, Superior, WI. Additional controlled airspace extending southeast of the airport is needed for the safety and management of IFR aircraft executing standard instrument approach procedures to the airport. The airport's geographic coordinates also would be updated to coincide with the FAA's aeronautical database.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Richard I. Bong Airport, Superior, WI.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

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

* * * * *

AGL WI E5 Superior, WI [Amended]

Richard I. Bong Airport, WI
(Lat. 46°41′23″ N., long. 92°05′41″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Richard I. Bong Airport, and within 2 miles each side of the 140° bearing from the airport extending from the 6.7-mile radius to 12.2 miles southeast of the airport.

Issued in Fort Worth, TX, on November 1, 2012.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2012–28983 Filed 11–29–12; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0651; Airspace Docket No. 12–AGL–7]

Proposed Amendment of Class E Airspace; Middletown, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Middletown, OH. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Middletown Regional/Hook Field Airport (formerly Hook Field Municipal Airport). The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport. Geographic coordinates and the airport name would also be updated.

DATES: Comments must be received on or before January 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–0651/Airspace Docket No. 12–AGL–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to

Docket No. FAA–2012–0651/Airspace Docket No. 12–AGL–7.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by amending Class E airspace extending upward from 700 feet above the surface with extensions to the northeast and southwest to accommodate new standard instrument approach procedures at Middletown Regional/Hook Field Airport, Middletown, OH. Controlled airspace is needed for the safety and management of IFR operations at the airport. The geographic coordinates of Middletown Regional/Hook Field Airport, formerly known as Hook Field Municipal Airport, and the geographical coordinates of the Hook Field non-directional radio beacon (NDB) would be updated to coincide with the FAA's aeronautical database.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Middletown Regional/Hook Field Airport, Middletown, OH.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

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

* * * * *

AGL OH E5 Middletown, OH [Amended]

Middletown Regional/Hook Field Airport, OH
(Lat. 39°31′55″ N., long. 84°23′47″ W.)
Hook Field NDB
(Lat. 39°29′56″ N., long. 84°26′51″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Middletown Regional/Hook Field Airport, and within 2 miles each side of the 050° bearing from the airport extending from the 6.5-mile radius to 12.3 miles northeast of the airport, and within 2 miles each side of the 229° bearing from the airport extending from the 6.5-mile radius to 11.2 miles southwest of the airport, and within 2 miles each side of the 234° bearing from the Hook Field NDB extending from the 6.5-mile radius to 7 miles southwest of the NDB.

Issued in Fort Worth, TX on November 1, 2012.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2012–29017 Filed 11–29–12; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0821; Airspace Docket No. 12–ASW–8]

Proposed Establishment of Class E Airspace; Beeville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Beeville, TX. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Chase Field Industrial Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: 0901 UTC. Comments must be received on or before January 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of

Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–0821/Airspace Docket No. 12–ASW–8, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–0821/Airspace Docket No. 12–ASW–8.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface to accommodate new standard instrument approach procedures at Chase Field Industrial Airport, Beeville, TX. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Chase Field Industrial Airport, Beeville, TX.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

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

* * * * *

ASW TX E5 Beeville, TX [New]

Chase Field Industrial Airport, TX
(Lat. 28°21′36″ N., long. 97°39′36″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Chase Field Industrial Airport.

Issued in Fort Worth, TX, on November 1, 2012.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2012–29021 Filed 11–29–12; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0771; Airspace Docket No. 12–ASW–7]

Proposed Establishment of Class E Airspace; Round Mountain, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Round Mountain, TX. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at West Ranch Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: 0901 UTC. Comments must be received on or before January 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–0771/Airspace Docket No. 12–ASW–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–0771/Airspace Docket No. 12–ASW–7.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), part 71 by establishing Class E airspace extending upward from 700 feet above the surface for departing aircraft under instrument flight rules, and arriving aircraft utilizing new standard instrument approach procedures at West Ranch Airport, Round Mountain, TX. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at West Ranch Airport, Round Mountain, TX.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

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

* * * * *

ASW TX E5 Round Mountain, TX [New]

Round Mountain, West Ranch Airport, TX (lat. 30°27′23″ N., long. 98°29′23″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of West Ranch Airport, and within 2 miles each side of the 308° bearing from the airport extending from the 7.4-mile radius to 11.1 miles northwest of the airport, and within 2 miles each side of the 128° bearing from the airport extending from the 7.4-mile radius to 10.9 miles southeast of the airport.

Issued in Fort Worth, TX, on November 1, 2012.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2012–29002 Filed 11–29–12; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1098; Airspace Docket No. 12–ACE–5]

Proposed Establishment of Class E Airspace; Tecumseh, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Tecumseh, NE. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Tecumseh Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: 0901 UTC. Comments must be received on or before January 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–1098/Airspace Docket No. 12–ACE–5, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–1098/Airspace Docket No. 12–ACE–5.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface to accommodate new standard instrument approach procedures at Tecumseh Municipal Airport, Tecumseh, NE. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with

prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Tecumseh Municipal Airport, Tecumseh, NE.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

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

* * * * *

ACE NE E5 Tecumseh, NE [New]

Tecumseh Municipal Airport, NE
(Lat. 40°24′03″ N., long. 96°10′14″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Tecumseh Municipal Airport.

Issued in Fort Worth, TX, on November 1, 2012.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2012–28982 Filed 11–29–12; 8:45 am]

BILLING CODE 4901–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–68071; File No. S7–08–12]

RIN 3235–AL12

Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers

Correction

In proposed rule document 2012–26164, appearing on pages 70214–70354 in the issue of Friday, November 23, 2012, make the following correction:

§ 240.15c3–1 [Corrected]

On page 70330, the table is reprinted in its entirety as set forth below.

Length of time to maturity of CDS contract	Basis point spread					
	100 or less (%)	101–300 (%)	301–400 (%)	401–500 (%)	501–699 (%)	700 or more (%)
12 months or less	1.00	2.00	5.00	7.50	10.00	15.00
13 months to 24 months	1.50	3.50	7.50	10.00	12.50	17.50
25 months to 36 months	2.00	5.00	10.00	12.50	15.00	20.00
37 months to 48 months	3.00	6.00	12.50	15.00	17.50	22.50
49 months to 60 months	4.00	7.00	15.00	17.50	20.00	25.00
61 months to 72 months	5.50	8.50	17.50	20.00	22.50	27.50
73 months to 84 months	7.00	10.00	20.00	22.50	25.00	30.00
85 months to 120 months	8.50	15.00	22.50	25.00	27.50	40.00
121 months and longer	10.00	20.00	25.00	27.50	30.00	50.00

[FR Doc. C1–2012–26164 Filed 11–29–12; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Chapter I

46 CFR Chapter I

[Docket No. USCG–2012–0866]

Updates to Voluntary Consensus Standards Incorporated by Reference

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: Many of the Coast Guard's regulations incorporate industry standards. The Coast Guard is reviewing these regulations to determine whether they contain outdated standards and, if so, whether and how these regulations should be updated to incorporate more current standards. We request comments from the public on which current industry standards should be incorporated, which currently incorporated standards are outdated, and how the Coast Guard should ensure incorporated standards are kept current.

DATES: Comments and related material must be received on or before February 28, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2012–0866 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

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

below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this request for comments, call or email Mr. Roger Butturini, Office of Standards Evaluation and Development, U.S. Coast Guard; telephone 202–372–1494, email *Roger.K.Butturini@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:

Request for Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0866), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*), or by fax, mail, or hand delivery, but please use only one of these means.

Submitting Comments

If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number (USCG–2012–0866) and click ''Search.'' Then click ''Submit a Comment.'' 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 may change this proposed rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2012–0866) and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

A list of material the Coast Guard has incorporated by reference may be viewed online using the Standards Incorporated by Reference (SIBR) Database maintained by the National Institute of Standards and Technology (NIST). To view the list online, go to *http://standards.gov/sibr/query/index.cfm.* At the top of that page, click the tab marked ''Regulatory.'' Then, in the line marked ''Incorporated By,'' use the drop-down menu to select ''Department of Homeland Security, U.S. Coast Guard'' and click ''Search.''

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Background and Purpose

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or would otherwise be impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. The Coast Guard has actively participated in the development of industry standards for safety of marine equipment at the International Maritime Organization (IMO), the International Organization for Standardization (ISO), ASTM International, the American Society of Mechanical Engineers (ASME), and 42 other international and domestic standards development organizations.

When appropriate, the Coast Guard incorporates industry standards, and particularly voluntary consensus standards, into its regulations. This process, known as incorporation by reference, gives the content of incorporated standards the same force as regulations published in the Code of Federal Regulations. A list of standards the Coast Guard has incorporated by reference is available as described in the ''Viewing comments and documents'' section of this request for comments.

Incorporation by reference occurs as part of a rulemaking and is governed by specific rules, which are available at 1 CFR part 51. Under these rules the Coast Guard may only incorporate a specific edition of a standard, and that standard must be reasonably available to the class of persons affected by it. Because standards organizations revise and replace standards over time, the specific edition incorporated by the Coast Guard eventually may become outdated, unavailable to the class of persons affected by it, or both. This can lead to conflicts between domestic and international requirements, or between regulatory requirements and modern best practices. Therefore, the Coast Guard reviews its incorporations by reference and updates them if necessary.

In the past the Coast Guard has included these updates in its individual, topic-driven rulemaking efforts. The Coast Guard is interested, however, in conducting one or more rulemakings devoted specifically to updating references to standards that are incorporated in its regulations.

Request for Comments

Through this request for comments, the Coast Guard solicits public comments on whether Coast Guard regulations incorporate standards that should be updated, which current standards should replace those already incorporated, and how the Coast Guard should ensure incorporated standards are kept current. Your experiences with incorporated standards will help us decide which references to update in our regulations, and which revisions should receive priority. In your response to this request for comments, we encourage you to include the following information if possible:

(1) If you are aware of an incorporated standard that is outdated, please provide its full title and publication number, the reasons you believe it is outdated, the standard you suggest should replace it, and the reasons that standard is the best choice. Please be as specific as possible when describing the differences between the incorporated standard and the suggested replacement,

and the reasons those changes are desirable.

(2) If you are aware of an incorporated standard that has been reaffirmed or superseded without change, please provide its title, the publication number, and the title of the edition you believe has replaced it.

(3) If you are aware of instances in which members of the public follow a newer or different standard than the one incorporated in regulation, please indicate which standard and how widespread its use. You may submit anonymous comments, but detailed information on industry practice will help us develop cost estimates when deciding whether to incorporate the newer standard.

(4) If you are aware of conflicts between incorporated standards, or of errors that lead to confusion about incorporated standards, please describe the conflict or confusion.

This request for comments is issued under authority of 5 U.S.C. 552(a) and 33 CFR subpart 1.05.

Dated: November 7, 2012.

F.J. Sturm,

Acting Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2012–28286 Filed 11–29–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2012–0338; FRL–9756–6]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Redesignation of the Ohio Portion of the Wheeling Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 16, 2012, the Ohio Environmental Protection Agency submitted a request for EPA to approve the redesignation of the Ohio portion of the Wheeling, West Virginia-Ohio (WV-OH), nonattainment area to attainment of the 1997 annual standard for fine particulate matter ($PM_{2.5}$). EPA is proposing to approve Ohio's request. EPA is proposing to determine that the entire Wheeling West Virginia-Ohio area attains the 1997 annual $PM_{2.5}$ standard, based on the most recent three years of certified air quality data. EPA is proposing to approve, as revisions to the Ohio State Implementation Plan (SIP), the state's plan for maintaining the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) through 2022 in the Ohio portion of the area. EPA is proposing to approve a 2005 emissions inventory for the Ohio portion of the Wheeling area as meeting the comprehensive emissions inventory requirement of the Clean Air Act (CAA or Act). Ohio's maintenance plan submission includes an insignificance finding for the mobile source contribution of $PM_{2.5}$ and nitrogen oxides (NO_X) to Ohio's portion of the Wheeling $PM_{2.5}$ Area for transportation conformity purposes; EPA agrees with this finding and proposes to determine the insignificance of the 2022 motor vehicle emission budget (MVEB) for the Ohio portion of the Wheeling area for transportation conformity purposes.

DATES: Comments must be received on or before December 31, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2012–0338, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: blakley.pamela@epa.gov.*
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2012–0338. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353–8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov.*

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

I. What should I consider as I prepare my comments for EPA?
II. What actions is EPA proposing to take?
III. What is the background for these actions?
IV. What are the criteria for redesignation to attainment?
V. What is EPA's analysis of the state's request?
1. Attainment
2. The Area Has Met All Applicable Requirements under Section 110 and

Part D and Has a Fully Approved SIP Under Section 110(k) (Sections 107(d)(3)(E)(v) and 107(d)(3)(E)(ii))
3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii))
4. Ohio Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))
5. Insignificance Determination for the Mobile Source Contribution to $PM_{2.5}$ and NO_X
6. 2005 Comprehensive Emissions Inventory
7. Summary of Proposed Actions
VI. What are the effects of EPA's proposed actions?
VII. Statutory and Executive Order Reviews

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. What actions is EPA proposing to take?

EPA is proposing to take several actions related to redesignation of the Ohio portion of the Wheeling area to attainment for the 1997 annual $PM_{2.5}$ NAAQS. In addition to EPA's December 2, 2011 determination that the area meets the NAAQS for $PM_{2.5}$ based on quality-assured, certified 2007–2009 ambient air monitoring data (76 FR 75464), we are proposing to determine that the area continues to attain the NAAQS for $PM_{2.5}$, based on quality-assured and certified ambient air monitoring data for 2009–2011, the most recent three years of quality-assured data for the area. EPA is proposing to find that Ohio meets the requirements for redesignation of the Wheeling area to attainment of the 1997 $PM_{2.5}$ NAAQS under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve Ohio's request to change the legal designation of its portion of the Wheeling area from nonattainment to attainment of the 1997 annual $PM_{2.5}$ NAAQS. This action would not change the legal designation of the West Virginia portion of the area, which will be redesignated in a separate rulemaking.

Second, EPA is proposing to approve Ohio's annual $PM_{2.5}$ maintenance plan for the Wheeling area as a revision to the Ohio SIP, including the insignificance determination for $PM_{2.5}$ and NO_X emissions for the mobile source contribution of the Ohio portion of the Wheeling area.

Finally, EPA is proposing to approve the 2005 primary $PM_{2.5}$, NO_X and sulfur dioxide (SO_2) emissions inventories as satisfying the requirement in section 172(c)(3) of the CAA for a current, accurate and comprehensive emission inventory.

Therefore, EPA is proposing to approve the request from the State of Ohio to change the designation of Belmont County (the Ohio portion of the Wheeling area) from nonattainment to attainment of the 1997 annual $PM_{2.5}$ NAAQS. This action would not change the legal designation of the West Virginia portion of the area. The West Virginia portion of the area will be redesignated in a separate rulemaking.

III. What is the background for these actions?

Fine particulate pollution can be emitted directly from a source (primary $PM_{2.5}$) or formed secondarily through chemical reactions in the atmosphere involving precursor pollutants emitted from a variety of sources. Sulfates are a type of secondary particulate formed from SO_2 emissions from power plants and industrial facilities. Nitrates, another common type of secondary particulate, are formed from combustion emissions of NO_X from power plants, mobile sources and other combustion sources.

The first air quality standards for $PM_{2.5}$ were promulgated on July 18, 1997, at 62 FR 38652. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$) of ambient air, based on a three-year average of the annual mean $PM_{2.5}$ concentrations at each monitoring site. In the same rulemaking, EPA promulgated a 24-hour $PM_{2.5}$ standard at 65 $\mu g/m^3$, based on a three-year average of the annual 98th percentile of 24-hour $PM_{2.5}$ concentrations at each monitoring site.

On January 5, 2005, at 70 FR 944, EPA published air quality area designations for the 1997 annual $PM_{2.5}$ standard based on air quality data for calendar years 2001–2003. In that rulemaking, EPA designated the Wheeling area as nonattainment for the 1997 annual $PM_{2.5}$ standard.

On October 17, 2006, at 71 FR 61144, EPA retained the annual $PM_{2.5}$ standard at 15 $\mu g/m^3$ (2006 annual $PM_{2.5}$ standard), but revised the 24-hour standard to 35 $\mu g/m^3$, based again on the three-year average of the annual 98th percentile of the 24-hour $PM_{2.5}$ concentrations. In response to legal challenges of the 2006 annual $PM_{2.5}$ standard, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) remanded this standard to EPA for further consideration. See *American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA,* 559 F.3d 512 (D.C. Cir. 2009). Since the Wheeling area is designated as nonattainment for the 1997 annual $PM_{2.5}$ standard, today's proposed action addresses redesignation to attainment only for this standard.

On December 2, 2011, EPA issued a final determination that the entire Wheeling area has attained the 1997 $PM_{2.5}$ standard by the applicable attainment date (76 FR 75464). Ohio's original submittal contained complete, quality-assured and certified air monitoring data for years through 2010. Based upon our review of complete, quality-assured and certified ambient air monitoring data from 2009–2011, we are proposing to determine that the area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. Further, preliminary data for 2012 indicate that the data will continue to show the area in attainment of the 1997 annual $PM_{2.5}$ NAAQS.

IV. What are the criteria for redesignation to attainment?

The CAA sets forth the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided that: (1) The Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable SIP for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions resulting from implementation of the

applicable SIP, Federal air pollution control regulations and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

V. What is EPA's analysis of the state's request?

EPA is proposing to approve the redesignation of the Ohio portion of the Wheeling area to attainment of the 1997 annual $PM_{2.5}$ NAAQS and is proposing to approve Ohio's maintenance plan for the area and other related SIP revisions. The bases for these actions follow.

1. Attainment

As noted above, in a rulemaking published on December 2, 2011, EPA determined that the Wheeling area had attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date. The basis and effect of this determination were discussed in the notices of proposed (76 FR 43634) and final (76 FR 75464) rulemaking. The determination was based on quality-assured air quality monitoring data for 2007–2009 showing the area has met the standard. The data have been certified by West Virginia, where the air quality monitors for this area are located.

In this action, we are proposing to determine that the Wheeling area continues to attain the 1997 annual $PM_{2.5}$ NAAQS based upon the most recent three years of complete, certified and quality-assured data. Under EPA's regulations at 40 CFR 50.7, the annual primary and secondary $PM_{2.5}$ standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 15.0 $\mu g/m^3$ at all relevant monitoring sites in the area.

EPA has reviewed the ambient air quality monitoring data in the Wheeling area, consistent with the requirements contained at 40 CFR part 50. EPA's review focused on data recorded in the EPA Air Quality System (AQS) database for the Wheeling $PM_{2.5}$ nonattainment area from 2009–2011. EPA also considered preliminary data for 2012, which have not yet been certified.

The Wheeling area has two monitors located in Marshall and Ohio Counties, West Virginia, that reported a design value from 2008–2010, the most recent three full years of data, for $PM_{2.5}$ that measured 13.1 and 12.4 $\mu g/m^3$ for the 1997 annual standard. The monitors in the Wheeling area recorded complete data in accordance with criteria set forth by EPA in 40 CFR part 50, Appendix N, where a complete year of air quality data comprises four calendar quarters, with each quarter containing data with at least 75 percent capture of the scheduled sampling days. Available data are considered to be sufficient for comparison to the NAAQS if three consecutive complete years of data exist.

TABLE 1—THE 1997 ANNUAL $PM_{2.5}$ DESIGN VALUES FOR THE WHEELING MONITOR WITH COMPLETE DATA FOR THE 2007–2009, 2008–2010 AND 2009–2011 DESIGN VALUES [1] IN MICROGRAMS/m^3

County	Monitor	Annual standard design value 2007–2009 ($\mu g/m^3$)	Annual standard design value 2008–2010 ($\mu g/m^3$)	Annual standard design value 2009–2011 ($\mu g/m^3$)
Marshall, WV	541071002	13.4	13.1	13.0
Ohio, WV	540690010	13.2	12.4	11.9

[1] As defined in 40 CFR 50 Appendix N(1)(c).

EPA's review of monitoring data from the 2007–2009, 2008–2010 and 2009–2011 monitoring periods supports EPA's determination that the Wheeling area has monitored attainment for each time period. Additionally, because the preliminary monitoring data for 2012 are consistent with the area's continued attainment. Therefore, EPA proposes to determine that the Wheeling area continues to attain the 1997 annual $PM_{2.5}$ standard.

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D and Has a Fully Approved SIP Under Section 110(k) (Sections 107(d)(3)(E)(v) and 107(d)(3)(E)(ii))

We believe that Ohio has met all currently applicable SIP requirements for purposes of redesignation for the Ohio portion of the Wheeling area under section 110 of the CAA (general SIP requirements). We are also proposing to find that the Ohio SIP meets all SIP requirements currently applicable for purposes of redesignation under part D of title I of the CAA, in accordance with section 107(d)(3)(E)(v). We are proposing to find that all applicable requirements of the Ohio SIP for purposes of redesignation have been, in accordance with section 107(d)(3)(E)(ii). As discussed below, in this action EPA is proposing to approve Ohio's 2005 emissions inventory as meeting the section 172(c)(3) comprehensive emissions inventory requirement.

In making these proposed determinations, we have ascertained which SIP requirements are applicable for purposes of redesignation, and concluded that there are SIP measures meeting those requirements and that they are approved or will be approved by the time of final rulemaking.

a. Ohio Has Met All Applicable Requirements for Purposes of Redesignation of the Ohio Portion of the Area Under Section 110 and Part D of the CAA

i. Section 110 General SIP Requirements

Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a state must have been adopted by the state after reasonable public notice and hearing, and, among other things, must: include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; provide for implementation of a source permit program to regulate the modification and construction of any stationary source within the areas covered by the plan; include provisions for the

implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; include criteria for stationary source emission control measures, monitoring and reporting; include provisions for air quality modeling; and provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. EPA believes that the requirements linked with a particular nonattainment area's designation are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, we believe that these requirements should not be construed to be applicable requirements for purposes of redesignation.

Further, we believe that the other section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and part D requirements that are linked with a particular area's designation are the relevant measures which we may consider in evaluating a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996) and (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati, Ohio 1-hour ozone redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania 1-hour ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed the Ohio SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA to the extent they are applicable for purposes of redesignation. EPA has previously approved provisions of Ohio's SIP addressing section 110 requirements, including provisions addressing particulate matter, at 40 CFR 52.1870, respectively). On December 5, 2007, and September 4, 2009, Ohio made submittals addressing ''infrastructure SIP'' elements required under CAA section 110(a)(2). EPA proposed approval of the December 5, 2007, submittal on April 28, 2011, at 76 FR 23757, and published final approval on July 14, 2011, at 76 FR 41075. The requirements of section 110(a)(2), however, are statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Wheeling area. Therefore, EPA believes that these SIP elements are not applicable requirements for purposes of review of the state's $PM_{2.5}$ redesignation request.

ii. Part D Requirements

EPA is proposing to determine that, upon approval of the base year emissions inventories discussed in section V(6) of this rulemaking, the Ohio SIP will meet the SIP requirements for the Ohio portion of the Wheeling area applicable for purposes of redesignation under part D of the CAA.

Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas.

Subpart 1 Section 172 Requirements

For purposes of evaluating this redesignation request, the applicable section 172 SIP requirements for the Ohio portion of the Wheeling area are contained in section 172(c)(1)–(9). A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of title I (57 FR 13498, April 16, 1992).

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all Reasonably Achievable Control Measures (RACM) as expeditiously as practicable and to provide for attainment of the primary NAAQS. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Because attainment has been reached, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements are no longer considered to be applicable as long as the area continues to attain the standard until redesignation. (40 CFR 51.1004(c).)

The Reasonable Further Progress (RFP) requirement under section 172(c)(2) is defined as progress that must be made toward attainment. This requirement is not relevant for purposes of redesignation because the Wheeling area has monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. (General Preamble, 57 FR 13564). *See also* 40 CFR 51.918. In addition, because the Wheeling area has attained the 1997 annual $PM_{2.5}$ NAAQS and is no longer subject to an RFP requirement, the requirement to submit the section 172(c)(9) contingency measures is not applicable for purposes of redesignation. *Id.*

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. Ohio submitted a 2005 base year emissions inventory along with their redesignation request. As discussed below in section V.6, EPA is approving the 2005 base year inventory as meeting the section 172(c)(3) emissions inventory requirement for the Ohio portion of the Wheeling area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Ohio's current NSR program on January 10, 2003 (68 FR 1366). Nonetheless, since PSD requirements will apply after redesignation, the area need not have a fully-approved NSR program for purposes of redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Ohio has demonstrated that the Wheeling area will be able to maintain the standard without part D NSR in effect; therefore, the state need not have a fully approved part D NSR program prior to approval of the redesignation request. The state's PSD program will become effective in the Wheeling area upon redesignation to attainment. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Ohio's SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Subpart 1 Section 176(c)(4)(D) Conformity SIP Requirements

The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 of the U.S. Code and the Federal Transit Act (transportation conformity), as well as to all other Federally-supported or funded projects (general conformity).

Section 176(c) of the CAA was amended by provisions contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), which was signed into law on August 10, 2005 (Public Law 109–59). Among the changes Congress made to this section of the CAA were streamlined requirements for state transportation conformity SIPs. State transportation conformity regulations must be consistent with Federal conformity regulations and address three specific requirements related to consultation, enforcement and enforceability. EPA believes that it is reasonable to interpret the transportation conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) for two reasons.

First, the requirement to submit SIP revisions to comply with the transportation conformity provisions of the CAA continues to apply to areas after redesignation to attainment since such areas would be subject to a section 175A maintenance plan. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of Federally-approved state rules. Therefore, because areas are subject to the transportation conformity requirements regardless of whether they are redesignated to attainment and, because they must implement conformity under Federal rules if state rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. *See* also 60 FR 62748, 62749–62750 (Dec. 7, 1995) (Tampa, Florida).

Ohio has an approved transportation conformity SIP (72 FR 20945). Ohio is in the process of updating its approved transportation conformity SIP, and EPA will review its provisions when they are submitted.

b. The Ohio Portion of the Wheeling Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

Upon final approval of Ohio's comprehensive 2005 emissions inventory, EPA will have fully approved the Ohio SIP for the Ohio portion of the Wheeling area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation to attainment for the 1997 annual $PM_{2.5}$ standard. EPA may rely on prior SIP approvals in approving a redesignation request (*See* page 3 of the September 4, 1992, John Calcagni memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' (Calcagni Memorandum); *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001)), plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25413, 25426 (May 12, 2003). Since the passage of the CAA of 1970, Ohio has adopted and submitted, and EPA has fully approved, provisions addressing various required SIP elements under particulate matter standards. In this action, EPA is proposing to approve Ohio's 2005 base year emissions inventory for the Wheeling area as meeting the requirement of section 172(c)(3) of the CAA for the 1997 annual $PM_{2.5}$ standard.

c. Nonattainment Requirements

Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements. On July 16, 2008, Ohio submitted a state-wide attainment demonstration for $PM_{2.5}$, including the Wheeling area. However, pursuant to 40 CFR 51.1004(c) EPA's determination that the area has attained the 1997 $PM_{2.5}$ annual standard suspends the requirement to submit certain planning SIPs related to attainment, including attainment demonstration requirements, the Reasonably Achievable Control Technology (RACT)–RACM requirement of section 172(c)(1) of the CAA, the RFP and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA and the requirement for contingency measures of section 172(c)(9) of the CAA).

As a result, the only remaining requirement under section 172 to be considered is the emissions inventory required under section 172(c)(3). As discussed in a later section, EPA is proposing to approve the inventory that Ohio submitted as part of its maintenance plan as satisfying this requirement.

No SIP provisions applicable for redesignation of the Ohio portion of the Wheeling area are currently disapproved, conditionally approved or partially approved. If EPA approves Ohio's Wheeling area $PM_{2.5}$ emissions inventories as proposed, Ohio will have a fully approved SIP for all requirements applicable for purposes of redesignation.

3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii))

EPA believes that Ohio has demonstrated that the observed air quality improvement in the Wheeling area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures and other state-adopted measures.

In making this demonstration, Ohio has calculated the change in emissions between 2005, one of the years used to designate the Wheeling area as nonattainment, and 2008, one of the years the Wheeling area monitored attainment. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of regulatory control measures that the Wheeling area and contributing areas have implemented in recent years.

a. Permanent and Enforceable Controls Implemented

The following is a discussion of permanent and enforceable measures that have been implemented in the area:

i. Federal Emission Control Measures

Reductions in fine particle precursor emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following.

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. These emission control requirements

result in lower NO_X and SO_2 emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules were phased in between 2004 and 2009. The EPA has estimated that, by the end of the phase-in period, new vehicles will emit the following percentages less NO_X: passenger cars (light duty vehicles)—77%; light duty trucks, minivans, and sports utility vehicles—86%; and, larger sports utility vehicles, vans, and heavier trucks—69% to 95%. EPA expects fleet wide average emissions to come to decline by similar percentages as new vehicles replace older vehicles. The Tier 2 standards also reduced the sulfur content of gasoline to 30 parts per million (ppm) beginning in January 2006. Most gasoline sold in Ohio prior to January 2006 had a sulfur content of about 500 ppm.

Heavy-Duty Diesel Engine Rule. EPA issued this rule in July 2000. This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007 which reduced fine particle emissions from heavy-duty highway engines and further reduced the highway diesel fuel sulfur content to 15 ppm. The total program is estimated to achieve a 90% reduction in direct $PM_{2.5}$ emissions and a 95% reduction in NO_X emissions for these new engines using low sulfur diesel, compared to existing engines using higher sulfur content diesel. The reduction in fuel sulfur content also yielded an immediate reduction in sulfate particle emissions from all diesel vehicles.

Nonroad Diesel Rule. In May 2004, EPA promulgated a new rule for large nonroad diesel engines, such as those used construction, agriculture and mining equipment, to be phased in between 2008 and 2014. The rule also reduces the sulfur content in nonroad diesel fuel by over 99%. Prior to 2006, nonroad diesel fuel averaged approximately 3,400 ppm sulfur. This rule limited nonroad diesel sulfur content to 500 ppm by 2006, with a further reduction to 15 ppm by 2010. The combined engine and fuel rules will reduce NO_X and PM emissions from large nonroad diesel engines by over 90%, compared to current nonroad engines using higher sulfur content diesel. It is estimated that compliance with this rule will cut NO_X emissions from nonroad diesel engines by up to 90%. This rule achieved some emission reductions by 2008 and was fully implemented by 2010. The reduction in fuel sulfur content also yielded an immediate reduction in sulfate particle emissions from all diesel vehicles.

Nonroad Large Spark-Ignition Engine and Recreational Engine Standards. In November 2002 EPA promulgated emission standards for groups of previously unregulated nonroad engines. These engines include large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles using spark-ignition engines such as off-highway motorcycles, all-terrain vehicles and snowmobiles; and recreational marine diesel engines. Emission standards from large spark-ignition engines were implemented in two tiers, with Tier 1 starting in 2004 and Tier 2 in 2007. Recreational vehicle emission standards are being phased in from 2006 through 2012. Marine Diesel engine standards were phased in from 2006 through 2009. With full implementation of the entire nonroad spark-ignition engine and recreational engine standards, an 80% reduction in NO_X expected by 2020. Some of these emission reductions occurred by the 2008–2010 period used to demonstrate attainment, and additional emission reductions will occur during the maintenance period.

i. Control Measures in Contributing Areas

Given the significance of sulfates and nitrates in the Wheeling area, the area's air quality is strongly affected by regulation of SO_2 and NO_X emissions from power plants.

NO_X SIP Call. On October 27, 1998 (63 FR 57356), EPA issued a NO_X SIP Call requiring the District of Columbia and 22 states to reduce emissions of NO_X. Affected states were required to comply with Phase I of the SIP Call beginning in 2004, and Phase II beginning in 2007. Emission reductions resulting from regulations developed in response to the NO_X SIP Call are permanent and enforceable.

CAIR and the Transport Rule. On May 12, 2005, EPA published the Clean Air Interstate Rule (CAIR), which requires significant reductions in emissions of SO_2 and NO_X from electric generating units to limit the interstate transport of these pollutants and the ozone and fine particulate matter they form in the atmosphere. *See* 76 FR 70093. The DC Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (DC Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (DC Cir. 2008). In response to the court's decision, EPA issued the Transport Rule, also known as the Cross-State Air Pollution Rule, to address interstate transport of NO_X and SO_2 in the eastern United States. *See* 76 FR 48208 (August 8, 2011). On August 21, 2012, the DC Circuit issued a decision to vacate the Transport Rule. In that decision, it also ordered EPA to continue administering CAIR ''pending the promulgation of a valid replacement.'' *EME Homer Generation, L.P.* v. *EPA,* No. 11–1302 (DC Cir., August 21, 2012).[2]

In light of these unique circumstances and for the reasons explained below, EPA proposes to approve the redesignation request and the related SIP revision for Belmont County in Ohio, including Ohio's plan for maintaining attainment of the $PM_{2.5}$ standard in the Ohio portion of the Wheeling Area. The air quality modeling analysis conducted for the Transport Rule demonstrates that the Wheeling area would be able to attain the $PM_{2.5}$ standard even in the absence of either CAIR or the Transport Rule. *See* ''Air Quality Modeling Final Rule Technical Support Document,'' App. B, B–62 to B–134. This modeling is available in the docket for this proposed redesignation action.

In addition, CAIR remains in place and enforceable until substituted by a valid replacement rule. Ohio's CAIR SIP was approved on September 25, 2009 (74 FR 48857). As a result of CAIR, EPA projected that in 2009 emissions of NO_X would decrease from a baseline of 264,000 tons per year (tpy) to 93,000 tpy while in 2010 emissions of SO_2 would decrease from a baseline of 1,373,000 tpy to 298,000 tpy within Ohio. And by 2015, we projected emissions of NO_X would decrease to 83,000 tpy while emissions of SO_2 would decrease to 208,000 tpy within Ohio (*http://www.epa.gov/CAIR/oh.html*). The monitoring data used to demonstrate the area's attainment of the 1997 Annual $PM_{2.5}$ NAAQS by the April 2010 attainment deadline was also impacted by CAIR. To the extent that Ohio is relying on CAIR in its maintenance plan, the recent directive from the DC Circuit in *EME Homer* ensures that the reductions associated with CAIR will be permanent and enforceable for the necessary time period. EPA has been ordered by the court to develop a new rule and the opinion makes clear that after promulgating that new rule EPA must provide states an opportunity to draft and submit SIPs to implement that rule. CAIR thus cannot be replaced until EPA has promulgated a final rule through a notice-and-comment rulemaking process, states have had an opportunity to draft and submit SIPs, EPA has reviewed the SIPs to determine if they can be approved, and EPA has

[2] The court's judgment is not final, as of October 31, 2012, as the mandate has not yet been issued.

taken action on the SIPs, including promulgating a Federal Implementation Plan (FIP) if appropriate. These steps alone will take many years, even with EPA and the states acting expeditiously. The court's clear instruction to EPA that it must continue to administer CAIR until a ''valid replacement'' exists provides an additional backstop; by definition, any rule that replaces CAIR and meets the court's direction would require upwind states to have SIPs that eliminate significant contributions to downwind nonattainment and prevent interference with maintenance in downwind areas.

Further, in vacating the Transport Rule and requiring EPA to continue administering CAIR, the DC Circuit emphasized that the consequences of vacating CAIR ''might be more severe now in light of the reliance interests accumulated over the intervening four years.'' *EME Homer,* slip op. at 60. The accumulated reliance interests include the interests of states who reasonably assumed they could rely on reductions associated with CAIR which brought certain nonattainment areas into attainment with the NAAQS. If EPA were prevented from relying on reductions associated with CAIR in redesignation actions, states would be forced to impose additional, redundant reductions on top of those achieved by CAIR. EPA believes this is precisely the type of irrational result the court sought to avoid by ordering EPA to continue administering CAIR. For these reasons also, EPA believes it is appropriate to allow states to rely on CAIR, and the existing emissions reductions achieved by CAIR, as sufficiently permanent and enforceable for purposes such as redesignation. Following promulgation of the replacement rule, EPA will review SIPs as appropriate to identify whether there are any issues that need to be addressed.

b. Emission Reductions

Ohio developed emissions inventories for NO_X, direct $PM_{2.5}$ and SO_2 for 2005, one of the years used to designate the area as nonattainment, and 2008, one of the years the Wheeling area monitored attainment of the standard.

Electric Generating Unit (EGU) SO_2 and NO_X emissions were derived from EPA's Clean Air Market's acid rain database. These emissions reflect Ohio and West Virginia NO_X emission budgets resulting from EPA's NO_X SIP call. The 2008 emissions from EGUs reflect Ohio's emission caps under CAIR. All other point source emissions were obtained from Ohio's source facility emissions reporting.

Area source emissions the Wheeling area for 2005 were taken from periodic emissions inventories.[3] These 2005 area source emission estimates were extrapolated to 2008. Source growth factors were supplied by the Lake Michigan Air Directors Consortium (LADCO).

Non road mobile source emissions were extrapolated from non road mobile source emissions reported in EPA's 2005 National Emissions Inventory (NEI). Contractors were employed by LADCO to estimate emissions for commercial marine vessels and railroads.

On-road mobile source emissions were calculated using EPA's mobile source emission factor model, MOVES2010a, in conjunction with transportation model results developed by the local Metropolitan Planning Organization (MPO), the Belmont-Ohio-Marshall Regional Council (Belomar).

All emissions estimates discussed below were documented in the submittal and appendices of Ohio's redesignation request submittal from April 16, 2012. For these data and additional emissions inventory data, the reader is referred to EPA's digital docket for this rule, *http://www.regulations.gov,* for docket number EPA–R05–OAR–2012–0338, which includes digital copies of Ohio's submittal.

Emissions data in tpy for the entire Wheeling area are shown in Tables 2 and 3, below.

TABLE 2—SUMMARY OF 2005 EMISSIONS FOR THE ENTIRE WHEELING AREA BY SOURCE TYPE (TPY)

	SO_2	NO_X	$PM_{2.5}$
Point (EGU)	133,707.78	35,690.72	3,919.69
Non-EGU	19,111.96	3,159.33	539.17
On-road	55.7	5,144.43	172.57
Nonroad	47.23	505.40	60.63
Area	427.03	1,081.94	886.62
MAR	98.25	1,905.57	68.93
Total Wheeling	153,447.95	47,487.39	5,647.61

TABLE 3—COMPARISON OF 2005 EMISSIONS FROM THE NON-ATTAINMENT YEAR AND 2008 EMISSIONS FOR AN ATTAINMENT YEAR FOR THE ENTIRE WHEELING AREA (TPY)

	2005	2008	Net change (2005–2008)
$PM_{2.5}$	5,647.61	6,001.46	353.85
NO_X	47,487.39	35,970.60	−11,516.79
SO_2	153,447.95	67,103.27	−86,344.68

Table 3 shows that while in the entire Wheeling area shows an increase in direct $PM_{2.5}$ emissions by 353.85 tons, the area reduced NO_X emissions by 11,516.79 tons and SO_2 emissions by 86,344.68 tons between 2005, a nonattainment year, and 2008, an attainment year.

Emissions data in tpy for Belmont County, Ohio (the Ohio portion of the Wheeling area) are shown in Tables 4, and 5, below.

[3] Periodic emission inventories are derived by states every three years and reported to the EPA. These periodic emission inventories are required by the Federal Consolidated Emissions Reporting Rule, codified at 40 CFR Subpart A. EPA revised these and other emission reporting requirements in a final rule published on December 17, 2008, at 73 FR 76539.

TABLE 4—SUMMARY OF 2005 NON-ATTAINMENT YEAR EMISSIONS FOR THE OHIO PORTION OF THE WHEELING AREA BY SOURCE TYPE (TPY)

	SO_2	NO_X	$PM_{2.5}$
Point (EGU)	37,329.95	4,149.93	93.85
Non-EGU	0.13	22.76	3.39
On-road	30.84	3,179.52	105.74
Nonroad	21.98	222.46	27.39
Area	93.50	284.66	307.93
MAR	22.84	261.85	6.21
Total Wheeling	37,499.24	8,121.18	544.51

TABLE 5—COMPARISON OF 2005 EMISSIONS FROM THE NON-ATTAINMENT YEAR AND 2008 EMISSIONS FOR AN ATTAINMENT YEAR FOR THE OHIO PORTION OF THE WHEELING AREA (TPY)

	2005	2008	Net change (2005–2008)
$PM_{2.5}$	544.51	496.81	−47.7
NO_X	8,121.18	7,513.19	−607.99
SO_2	37,499.24	15,252.15	−22,247.09

Table 5 shows that the Ohio portion of the Wheeling area reduced direct $PM_{2.5}$ emissions by 47.7 tpy, NO_X emissions by 607.99 tpy, and SO_2 emissions by 22,247.09 tpy between 2005, a nonattainment year and 2008, an attainment year. The state submission includes multiple lines of evidence to show that even with the increase in $PM_{2.5}$ the area has still reached attainment of the 1997 annual $PM_{2.5}$ NAAQS and will continue to maintain that designation into the future due to multiple actions on the state's behalf. The weight of evidence submitted by the state contains modeling, monitoring and trend analysis. The trend analysis for the area shows a steady trend of declining $PM_{2.5}$ monitored data, with a significant drop in concentrations beginning in 2006. Since meteorology can play a large part in dispersion of $PM_{2.5}$, which can greatly affect monitored concentrations, LADCO and the state have normalized the data to remove meteorological effects using a statistical analysis, the state has shown in their submission that the concentrations observed are due to real reductions in $PM_{2.5}$ and its precursors, and not just meteorological effects. In addition, control of emissions from local power plants through local and national programs have impacted and will continue to impact the area, as we will describe below.

In 2008, the R.E. Burger First Energy Station in Belmont County, Ohio, installed advanced selective non-catalytic reduction controls to reduce NO_X emissions on two Units (Unit #4 and Unit #5), as part of a federally-enforceable consent decree. In December 2010, two 156 megawatt (MW) Units at the R.E. Burger First Energy Station were permanently shut down. The results of federally-mandated consent decree action and the shutdown of two Units at the R.E. Burger First Energy Station are that NO_X reductions from power plants in the Wheeling area have occurred and will continue to occur in the future.

Based on the information summarized above, Ohio has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

4. Ohio Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))

In conjunction with Ohio's request to redesignate the Ohio portion of the Wheeling nonattainment area to attainment status, Ohio has submitted a SIP revision to provide for maintenance of the 1997 annual $PM_{2.5}$ NAAQS in the area through 2022.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for ten years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future annual $PM_{2.5}$ violations.

The Calcagni Memorandum provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following items: The attainment emissions inventories, a maintenance demonstration showing maintenance for the ten years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS and a contingency plan to prevent or correct future violations of the NAAQS.

b. Attainment Inventory

Ohio developed emissions inventories for NO_X, direct $PM_{2.5}$ and SO_2 for 2008, one of the years in the period during which the Wheeling area monitored attainment of the 1997 annual $PM_{2.5}$ standard, as described previously. The attainment levels of emissions for the entire area, as well as the attainment levels of emissions for the Ohio portion of the area are summarized in Tables 3 and 5, above.

c. Demonstration of Maintenance

Along with the redesignation request, Ohio submitted a revision to its $PM_{2.5}$ SIP to include a maintenance plan for the Wheeling area, as required by section 175A of the CAA. Section 175A requires a State seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the

NAAQS in the area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Calcagni Memorandum, p. 9. Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni Memorandum, pp. 9–10.

As discussed in detail in the section below, the state's maintenance plan submission expressly documents that the area's emissions inventories will remain below the attainment year inventories through 2022. In addition, for the reasons set forth below, EPA believes that the state's submission, in conjunction with additional supporting information, further demonstrates that the area will continue to maintain the $PM_{2.5}$ standard at least through 2023. Thus, if EPA finalizes its proposed approval of the redesignation request and maintenance plans in 2013, it is based on a showing, in accordance with section 175A, that the state's maintenance plan provides for maintenance for at least ten years after redesignation.

Ohio's plan demonstrates maintenance of the 1997 annual $PM_{2.5}$ standard through 2022 by showing that current and future emissions of NO_X, directly emitted $PM_{2.5}$ and SO_2 for the area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099–53100 (October 19, 2001), and 68 FR 25413, 25430–25432 (May 12, 2003).

Ohio's submission uses emissions inventory projections for the years 2015 and 2022 to demonstrate maintenance for the Ohio portion of the Wheeling area. The projected emissions were estimated by Ohio, with assistance from LADCO and Belmoar using the MOVES2010a model. Projection modeling of inventory emissions was done for the 2015 interim year emissions using estimates based on the 2009 and 2018 LADCO modeling inventory, using LADCO's growth factors, for all sectors. The 2022 maintenance year is based on emissions estimates from the 2018 LADCO modeling. Table 7 shows the 2008 attainment base year emission estimates and the 2015 and 2022 emission projections for the entire tri-state Wheeling area that Ohio provided in its April 16, 2012, submission.

TABLE 7—COMPARISON OF 2008, 2015 AND 2022 NO_X, DIRECT $PM_{2.5}$ AND SO_2 EMISSION TOTALS (TPY) FOR THE OHIO PORTION OF THE WHEELING AREA

	SO_2	NO_X	$PM_{2.5}$
2008 (baseline)	15,252.15	7,513.19	496.81
2015	8,885.54	6,369.93	387.93
2022	6,517.16	5,803.97	331.83
Change 2008–2022	−8,734.99	−1,709.22	−164.98
	57% decrease	23% decrease	33% decrease

Table 7 shows that the Ohio portion of the Wheeling area reduced NO_X emissions by 1,709.22 tpy between 2008 and the maintenance projection to 2022, direct $PM_{2.5}$ emissions by 164.98 tpy, and reduced SO_2 emissions by 8,734 tpy between 2008 and 2022. The 2022 projected emissions levels are significantly below attainment year inventory levels, and based on the rate of decline, it is highly improbable that any increases in these levels will occur in 2023 and beyond.

EPA has conducted analysis of the area's emission, and has concluded that the Wheeling area's emissions can be expected to stay well below the level of emissions from their attainment year emissions inventory. First, EPA has determined that the overall net rate of decline in emissions of $PM_{2.5}$, NO_X and SO_2 projected from the attainment year 2008 through 2022 are approximately 11.8 tpy, 122.1 tpy and 649.6 tpy, respectively. EPA has also determined that no control measures taken into account in the projected analysis will end in 2023, nor does EPA expect any change in growth for the Wheeling area for the maintenance year 2023. The net rates of decline, coupled with continued control and growth factors, indicate that emissions inventory levels will not only significantly decline between 2008 and 2022, but that the reductions will continue into 2023 and beyond. Second, EPA notes that the rate of emissions decline is consistent with monitored and projected air quality trends. As Table 1 demonstrates, monitored $PM_{2.5}$ design value concentrations in Wheeling are well below the NAAQS in the years beyond 2008, an attainment year for the area. Further, those values are trending downward as time progresses. Based on the future projections of emissions in 2015 and 2022 showing 13 $\mu g/m^3$ provides a sufficient margin in the unlikely event emissions rise slightly in the future. We are proposing to find the mobile source contribution to these emissions insignificant (see section V(5) of this action for further discussion), and the mobile source contribution is expected to remain insignificant in 2023 and beyond because of fleet turnover and engine emission standards in upcoming years that will result in cleaner vehicles and cleaner fuels.

As described in section V(3)(b) of this action, the result of federally-mandated consent decree actions and the shutdown of EGU units demonstrate that the NO_X reductions from power plants in the Wheeling area have occurred and are mandated to continue to occur in 2023 and beyond. Thus the emissions inventories set forth in Table 7 show that the area will continue to maintain the annual $PM_{2.5}$ standard during the maintenance period at least through 2023. These consent decree actions, along with other consent decrees in the area, are significant controls of NO_X and SO_2, along with implementation of Ohio's SIP approved CAIR controls for the area.

In light of the unique circumstances surrounding CAIR and the Transport Rule discussed in section V(3)(a)(i)(1) of this action, and for the reasons explained below, EPA proposes to approve the redesignation request and the related SIP revision for Belmont County in Ohio, including Ohio's plan for maintaining attainment of the $PM_{2.5}$ standard in the Ohio portion of the Wheeling Area. The air quality modeling analysis conducted for the Transport Rule demonstrates that the Wheeling area would be able to attain the $PM_{2.5}$ standard even in the absence of either CAIR or the Transport Rule. *See* ''Air Quality Modeling Final Rule Technical Support Document,'' App. B, B–62 to B–134. This modeling is available in the docket for this proposed redesignation action.

In addition, CAIR remains in place and enforceable until substituted by a valid replacement rule. Ohio's CAIR SIP was approved on September 25, 2009 (74 FR 48857). As a result of CAIR, EPA projected that in 2009 emissions of NO_X would decrease from a baseline of 264,000 tpy to 93,000 tpy while in 2010 emissions of SO_2 would decrease from a baseline of 1,373,000 tpy to 298,000 tpy within Ohio. And by 2015, we project emissions of NO_X will decrease to 83,000 tpy while emissions of SO_2 will decrease to 208,000 tpy within Ohio (*http://www.epa.gov/CAIR/oh.html*). The monitoring data used to demonstrate the area's attainment of the 1997 Annual $PM_{2.5}$ NAAQS by the April 2010 attainment deadline was also impacted by CAIR. To the extent that Ohio is relying on CAIR in its maintenance plan, the recent directive from the DC Circuit in *EME Homer* ensures that the reductions associated with CAIR will be permanent and enforceable for the necessary time period. EPA has been ordered by the court to develop a new rule and the opinion makes clear that after promulgating that new rule EPA must provide states an opportunity to draft and submit SIPs to implement that rule. CAIR thus cannot be replaced until EPA has promulgated a final rule through a notice-and-comment rulemaking process, states have had an opportunity to draft and submit SIPs, EPA has reviewed the SIPs to determine if they can be approved, and EPA has taken action on the SIPs, including promulgating a FIP if appropriate. These steps alone will take many years, even with EPA and the states acting expeditiously. The court's clear instruction to EPA that it must continue to administer CAIR until a ''valid replacement'' exists provides an additional backstop; by definition, any rule that replaces CAIR and meets the court's direction would require upwind states to have SIPs that eliminate significant contributions to downwind nonattainment and prevent interference with maintenance in downwind areas.

Further, in vacating the Transport Rule and requiring EPA to continue administering CAIR, the DC Circuit emphasized that the consequences of vacating CAIR ''might be more severe now in light of the reliance interests accumulated over the intervening four years.'' *EME Homer,* slip op. at 60. The accumulated reliance interests include the interests of states who reasonably assumed they could rely on reductions associated with CAIR which brought certain nonattainment areas into attainment with the NAAQS. If EPA were prevented from relying on reductions associated with CAIR in redesignation actions, states would be forced to impose additional, redundant reductions on top of those achieved by CAIR. EPA believes this is precisely the type of irrational result the court sought to avoid by ordering EPA to continue administering CAIR. For these reasons also, EPA believes it is appropriate to allow states to rely on CAIR, and the existing emissions reductions achieved by CAIR, as sufficiently permanent and enforceable for purposes such as redesignation. Following promulgation of the replacement rule, EPA will review SIPs as appropriate to identify whether there are any issues that need to be addressed.

Based on the information summarized above, Ohio has adequately demonstrated maintenance of the $PM_{2.5}$ standard in this area for a period extending in excess of ten years from expected final action on Ohio's redesignation request.

d. Monitoring Network

Ohio's plan includes a commitment to continue working with West Virginia to operate its EPA-approved monitoring network, as necessary to demonstrate ongoing compliance with the NAAQS. Ohio currently does not operate a $PM_{2.5}$ monitor in Belmont County to monitor the Ohio portion of the Wheeling area. West Virginia currently operates one monitor in Marshall County and one monitor in Ohio County for the Wheeling area.

e. Verification of Continued Attainment

Ohio remains obligated to continue to quality-assure monitoring data and enter all data into the Air Quality System in accordance with Federal guidelines. Ohio will use these data, supplemented with additional information as necessary, to assure that the area continues to attain the standard. Ohio will also continue to develop and submit periodic emission inventories as required by the Federal Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) to track future levels of emissions. Both of these actions will help to verify continued attainment in accordance with 40 CFR part 58.

f. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all measures with respect to control of the pollutant(s) that were contained in the SIP before redesignation of the area to attainment. *See* section 175A(d) of the CAA. Ohio's contingency measures include a Warning Level Response and an Action Level Response. An initial Warning Level Response is triggered when the average weighted annual mean for one year exceeds 15.5 $\mu g/m^3$. In that case, a study will be conducted to determine if the emissions trends show increases; if action is necessary to reverse emissions increases, Ohio will follow the same procedures for control selection and implementation as for an Action Level Response.

The Action Level Response will be prompted by any one of the following: a Warning Level Response study that shows emissions increases, a weighted annual mean over a two-year average that exceeds the standard or a violation of the standard. If an Action Level Response is triggered, Ohio will adopt and implement appropriate control measures within 18 months from the end of the year in which monitored air quality triggering a response occurs.

Ohio's candidate contingency measures include the following:

i. ICI Boilers—SO_2 and NO_X controls;
ii. Process heaters;
iii. EGUS;
iv. Internal combustion engines;
v. Combustion turbines;
vi. Other sources > 100 TPY;
vii. Fleet vehicles;
viii. Concrete manufacturers and;
ix. Aggregate processing plants.

Ohio further commits to conduct ongoing review of its data, and if monitored concentrations or emissions are trending upward, Ohio commits to take appropriate steps to avoid a violation if possible. Ohio commits to continue implementing SIP requirements upon and after redesignation.

EPA believes that Ohio's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of section 175A(d).

As required by section 175A(b) of the CAA, Ohio commits to submit to the EPA an updated $PM_{2.5}$ maintenance plan eight years after redesignation of the Wheeling area to cover an additional ten-year period beyond the initial ten-year maintenance period. As required by section 175A of the CAA, Ohio has also committed to retain the $PM_{2.5}$ control measures contained in the SIP prior to redesignation.

For all of the reasons set forth above, EPA is proposing to approve Ohio's 1997 annual $PM_{2.5}$ maintenance plan for the Wheeling area as meeting the requirements of CAA section 175A.

5. Insignificance Determination for the Mobile Source Contribution to $PM_{2.5}$ and NO_X

Under section 176(c) of the CAA, transportation plans and transportation improvement programs (TIPs) must conform to applicable SIP goals. This means that such actions will not: (1) Cause or contribute to violations of a NAAQS; (2) worsen the severity of an existing violation; or (3) delay timely attainment of a NAAQS or any interim milestone. Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the Transportation Conformity Rule (40 CFR part 93 subpart A). Under this rule, MPOs in nonattainment and maintenance areas coordinate with state air quality agencies and federak aur abd transportation agencies (EPA, FHWA and FTA) to demonstrate that their metropolitan transportation plans (''plans'') and TIPs conform to applicable SIPs. This is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets contained in a SIP.

For budgets to be approvable, they must meet, at a minimum, EPA's adequacy criteria (40 CFR 93.118(e)(4)). However, the Transportation Conformity Rule at 40 CFR 93.109(m) allows areas to forgo establishment of a budget(s) where it is demonstrated that regional motor vehicle emissions for a particular pollutant or precursor pollutant are an insignificant contributor to the air quality problem in the area. The general criteria for insignificance determinations per 40 CFR 93.109(m) are based on a number of factors, including (1) the percentage of motor vehicle emissions in context of the total SIP inventory; (2) the current state of air quality as determined by monitoring data for that NAAQS; (3) the absence of SIP motor vehicle control measures; and (4) historical trends and future projections of the growth of motor vehicle emissions in the area.

The redesignation request that Ohio submitted for its portion of the Wheeling area includes a request for EPA to make an insignificance finding for NO_X and directly emitted $PM_{2.5}$ for the Ohio portion of the Wheeling $PM_{2.5}$ nonattainment area. Pursuant to Section 93.118(e)(4) and 93.109(k) of the Transportation Conformity Rule, as part of the review of Ohio's redesignation request and maintenance plan submittal, we have reviewed Ohio's justification for the finding of insignificance for direct $PM_{2.5}$ and also for NO_X as a precursor of $PM_{2.5}$ in the Ohio portion of the Wheeling area. EPA agrees with Ohio's conclusion that on-road emissions of $PM_{2.5}$ and NO_X in Belmont County, Ohio, are insignificant for transportation conformity purposes. We base our finding on several factors:

—The fact that the area has been determined to attain the annual $PM_{2.5}$ standard, and continues to attain the standard with the most recent three years of complete, quality-assured monitoring data;

—The absence of local on-road control measures; and

—The continued downward trend, historically and in modeled future projections, of on-road NO_X and $PM_{2.5}$ emissions from 2005–2022.

Consistent with EPA's adequacy review of Ohio's redesignation request and maintenance plan and the Agency's thorough review of the entire SIP submission, EPA is proposing to approve Ohio's insignificance determination for the on-road motor vehicle contribution of NO_X and $PM_{2.5}$ emissions to the overall $PM_{2.5}$ emissions in the Ohio portion of the Wheeling $PM_{2.5}$ area.

Because EPA finds that Ohio's submitted maintenance plan and redesignation request meets the criteria in the conformity rule for an insignificance finding for motor vehicle emissions of NO_X and $PM_{2.5}$ in the Ohio portion of the Wheeling $PM_{2.5}$ area, it is not necessary to establish $PM_{2.5}$ and NO_X budgets for the Ohio portion of the Wheeling $PM_{2.5}$ area. That is, EPA finds that the submittal demonstrates that, for NO_X and $PM_{2.5}$, regional motor vehicle emissions are an insignificant contributor to the annual $PM_{2.5}$ air quality problem in the combined Wheeling area. Motor vehicle emissions in general, for the maintenance period of 2015 and 2022, are low and declining in the Ohio portion of the area, and in the combined Wheeling area overall. In 2015 the percentage contribution to emissions from the combined Wheeling area from motor vehicles is 2.1% and 12.4% for NO_X and $PM_{2.5}$, respectively. In 2022, motor vehicles in the combined Wheeling area are projected to contribute only 1.3% and 6.4% of emissions for NO_X, and $PM_{2.5}$, respectively, with the decrease due to Federal regulations on motor vehicle rules such as Heavy-duty Highway Vehicle standards and Tier 2 vehicle and fuel standards. Also, there have been no SIP requirements for motor vehicle control measures for the Ohio portion of the area and it is unlikely that motor vehicle control measures will be implemented for $PM_{2.5}$ in this area in the future.

Finally, as described above, the area has attained the 1997 annual $PM_{2.5}$ NAAQS and we are proposing to approve the maintenance plan and redesignation request for the Ohio portion of the area. Therefore motor vehicle emissions budgets for $PM_{2.5}$ and NO_X are not required for the Wheeling area to maintain the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to approve the inventory and the findings of insignificant contribution by motor vehicles, resulting in no proposed motor vehicle emissions budgets for the Ohio portion of the Wheeling area for 2015 and 2022 projected maintenance years. On-road emissions were calculated using the EPA required MOVES2010a model.

With regard to on-road emissions of SO_2, volatile organic compounds and ammonia, Ohio did not provide emission budgets (or an insignificance demonstration) because it concluded, consistent with EPA's presumptions regarding these $PM_{2.5}$ precursors, that emissions of these precursors from motor vehicles are not significant contributors to the area's $PM_{2.5}$ air quality problem.

As discussed in section V(4)(c) of this action, EPA is proposing that if this approval is finalized in 2013 the area will continue to maintain the $PM_{2.5}$ standard through at least 2023. Consistent with this proposal, EPA is proposing to determine the insignificance of motor vehicle emissions of NO_X and $PM_{2.5}$ as submitted by the State in its April 16, 2012, maintenance plan for the Ohio portion of the Wheeling area. EPA is proposing that the proposed finding insignificance of these emissions is consistent with maintenance of the Ohio portion of the Wheeling area through 2023.

6. 2005 Comprehensive Emissions Inventory

As discussed above, section 172(c)(3) of the CAA requires areas to submit a

comprehensive emissions inventory. Ohio submitted a 2005 base year emissions inventories that meets this requirement. Emissions contained in the submittals cover the general source categories of point sources, area sources, on-road mobile sources, and nonroad mobile sources.

For the point source sector, EGU SO_2 and NO_X emissions were derived from EPA's Clean Air Market's database. All other point source emissions were obtained from Ohio's source facility emissions reporting.

Area source emissions were extrapolated from Ohio's 2005 periodic emissions inventories. Source growth factors were supplied by LADCO.

Nonroad mobile source emissions were extrapolated from nonroad mobile source emissions reported in EPA's 2005 NEI. LADCO estimated emissions for commercial marine vessels and railroads.

On-road mobile source emissions were calculated using EPA's mobile source emission factor model, MOVES2010a, in conjunction with roadway network traffic information prepared by Belmoar.

All emissions discussed in Table 4 were documented in the submittal and the Appendices of Ohio's redesignation request submittal. EPA has reviewed Ohio's documentation of the emissions inventory techniques and data sources used for the derivation of the 2005 emissions estimates and has found that Ohio has thoroughly documented the derivation of these emissions inventories. The submittal from the state shows that the 2005 emissions inventory is currently the most complete emissions inventories for $PM_{2.5}$ and $PM_{2.5}$ precursors in the Wheeling area. Based upon EPA's review, we propose to find that the 2005 emissions inventories are as complete and accurate as possible given the input data available to the Ohio, and we are proposing to approve them under CAA section 172(c)(3).

7. Summary of Proposed Actions

EPA has previously determined that the Wheeling area has attained the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to determine that the entire Wheeling area continues to attain the 1997 annual $PM_{2.5}$ standard using the latest three years of certified, quality-assured data, and that the Ohio portion of the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is proposing to approve the request from Ohio to change the legal designation of the Ohio portion of the Wheeling area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to approve Ohio's $PM_{2.5}$ maintenance plan for the Wheeling area as a revision to the Ohio SIP because the plan meets the requirements of section 175A of the CAA. EPA is proposing to approve the 2005 emissions inventories for primary $PM_{2.5}$, NO_X, and SO_2, documented in Ohio's April 16, 2012, submittal as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. Finally, for transportation conformity purposes EPA is also proposing to approve Ohio's determination that on-road emissions of $PM_{2.5}$ and NO_X are insignificant contributors to $PM_{2.5}$ concentrations in the area.

VI. What are the effects of EPA's proposed actions?

If finalized, approval of the redesignation request would change the official designation of the Ohio portion of the Wheeling area for the 1997 annual $PM_{2.5}$ NAAQS, found at 40 CFR part 81, from nonattainment to attainment. If finalized, EPA's proposal would approve as a revision to the Ohio SIP for the Wheeling area, the maintenance plan for the 1997 annual $PM_{2.5}$ standard as well as the 2005 emissions inventories included with the redesignation request.

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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, these actions:

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

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

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

40 CFR Part 81

Air pollution control, Environmental protection, National Parks, Wilderness.

Dated: November 15, 2012.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2012–29005 Filed 11–29–12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2012–0212; FRL–9756–7]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Redesignation of the Ohio Portion of the Parkersburg-Marietta Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On February 29, 2012, the Ohio Environmental Protection Agency submitted a request for EPA to approve the redesignation of the Ohio portion of the Parkersburg-Marietta West Virginia-Ohio nonattainment area to attainment of the 1997 annual standard for fine particulate matter ($PM_{2.5}$). EPA is proposing to approve Ohio's request. EPA is proposing to determine that the entire Parkersburg-Marietta area attains the 1997 annual $PM_{2.5}$ standard, based on the most recent three years of certified air quality data. EPA is proposing to approve, as revisions to the Ohio State Implementation Plan (SIP), the state's plan for maintaining the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) through 2022 in the area. EPA is proposing to approve a 2005 emissions inventory for the Ohio portion of the Parkersburg-Marietta area as meeting the comprehensive emissions inventory requirement of the Clean Air Act (CAA or Act). Ohio's maintenance plan submission includes an insignificance finding for the mobile source contribution of $PM_{2.5}$ and nitrogen oxides (NO_X) to Ohio's portion of the Parkersburg-Marietta $PM_{2.5}$ area for transportation conformity purposes; EPA agrees with this finding and proposes to determine the insignificance of the 2022 motor vehicle emission budget (MVEB) for the Ohio portion of the Parkersburg-Marietta area for transportation conformity purposes.

DATES: Comments must be received on or before December 31, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2012–0212, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: blakley.pamela@epa.gov*.
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2012–0212. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353–8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov*.

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

I. What should I consider as I prepare my comments for EPA?
II. What actions is EPA proposing to take?
III. What is the background for these actions?
IV. What are the criteria for redesignation to attainment?
V. What is EPA's analysis of the state's request?
  1. Attainment
  2. The Area Has Met All Applicable Requirements Under Section 110 and Part D and Has a Fully Approved SIP Under Section 110(k) (Sections 107(d)(3)(E)(v) and 107(d)(3)(E)(ii))
  3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii))
  4. Ohio Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))
  5. Insignificance Determination for the Mobile Source Contribution to $PM_{2.5}$ and NO_X
  6. 2005 Comprehensive Emissions Inventory
  7. Summary of Proposed Actions
VI. What are the effects of EPA's proposed actions?
VII. Statutory and Executive Order Reviews

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. What actions is EPA proposing to take?

EPA is proposing to take several actions related to redesignation of the Ohio portion of the Parkersburg-Marietta area to attainment of the 1997 annual $PM_{2.5}$ NAAQS. In addition to EPA's December 2, 2011, determination that the area attained the NAAQS for $PM_{2.5}$ by the applicable attainment date based on quality-assured, certified 2007–2009 ambient air monitoring data (76 FR 75464), we are proposing to determine that the area continues to attain the NAAQS for $PM_{2.5}$, based on quality-assured and certified ambient air monitoring data for 2009–2011, the most recent three years of quality-assured data for the area. EPA is proposing to find that Ohio meets the requirements for redesignation of the Parkersburg-Marietta area to attainment of the 1997 $PM_{2.5}$ NAAQS under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve Ohio's request to change the legal designation of its portion of the Parkersburg-Marietta area from nonattainment to attainment of the 1997 annual $PM_{2.5}$ NAAQS. This action would not change the legal designation of the West Virginia portion of the area, which will be redesignated in a separate rulemaking.

Second, EPA is proposing to approve Ohio's annual $PM_{2.5}$ maintenance plan for the Parkersburg-Marietta area as a revision to the Ohio SIP, including the insignificance determination for $PM_{2.5}$ and NO_X emissions for the mobile source contribution of the Ohio portion of the Parkersburg-Marietta area.

Finally, EPA is proposing to approve the 2005 primary $PM_{2.5}$, NO_X and sulfur dioxide (SO_2) emissions inventories as satisfying the requirement in section 172(c)(3) off the CAA for a current, accurate and comprehensive emission inventory.

Therefore, EPA is proposing to approve the request from the State of Ohio to change the designation of Washington County (the Ohio portion of the Parkersburg-Marietta area) from nonattainment to attainment of the 1997 annual $PM_{2.5}$ NAAQS. This action would not change the legal designation of the West Virginia portion of the area, which would be redesignated in a separate rulemaking.

III. What is the background for these actions?

Fine particulate pollution can be emitted directly from a source (primary $PM_{2.5}$) or formed secondarily through chemical reactions in the atmosphere involving precursor pollutants emitted from a variety of sources. Sulfates are a type of secondary particulate formed from SO_2 emissions from power plants and industrial facilities. Nitrates, another common type of secondary particulate, are formed from combustion emissions of NO_X from power plants, mobile sources and other combustion sources.

The first air quality standards for $PM_{2.5}$ were promulgated on July 18, 1997, at 62 FR 38652. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$) of ambient air, based on a three-year average of the annual mean $PM_{2.5}$ concentrations at each monitoring site. In the same rulemaking, EPA promulgated a 24-hour $PM_{2.5}$ standard at 65 $\mu g/m^3$, based on a three-year average of the annual 98th percentile of 24-hour $PM_{2.5}$ concentrations at each monitoring site.

On January 5, 2005, at 70 FR 944, EPA published air quality area designations for the 1997 annual $PM_{2.5}$ standard based on air quality data for calendar years 2001–2003. In that rulemaking, EPA designated the Parkersburg-Marietta area as nonattainment for the 1997 annual $PM_{2.5}$ standard.

On October 17, 2006, at 71 FR 61144, EPA retained the annual $PM_{2.5}$ standard at 15 $\mu g/m^3$ (2006 annual $PM_{2.5}$ standard), but revised the 24-hour standard to 35 $\mu g/m^3$, based again on the three-year average of the annual 98th percentile of the 24-hour $PM_{2.5}$ concentrations. In response to legal challenges of the 2006 annual $PM_{2.5}$ standard, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded this standard to EPA for further consideration. See *American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA,* 559 F.3d 512 (D.C. Cir. 2009). Since the Parkersburg-Marietta area is designated as nonattainment for the 1997 annual $PM_{2.5}$ standard, today's proposed action addresses redesignation to attainment only for this standard.

On December 2, 2011, EPA issued a final determination that the entire Parkersburg-Marietta area has attained the 1997 $PM_{2.5}$ standard by the applicable attainment date (76 FR 75464). Ohio's original submittal contained complete, quality-assured and certified air monitoring data for years through 2010. Based upon our review of complete, quality-assured and certified ambient air monitoring data from 2009–2011, we are proposing to determine that the area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. Further, preliminary data for 2012 indicate that the data will continue to show the area in attainment of the 1997 annual $PM_{2.5}$ NAAQS.

IV. What are the criteria for redesignation to attainment?

The CAA sets forth the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided that: (1) The Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable SIP for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

V. What is EPA's analysis of the state's request?

EPA is proposing to approve the redesignation of the Ohio portion of the Parkersburg-Marietta area to attainment of the 1997 annual $PM_{2.5}$ NAAQS and is proposing to approve Ohio's maintenance plan for the area and other related SIP revisions. The bases for these actions follow.

1. Attainment

As noted above, in a rulemaking published on December 2, 2011, EPA determined that the Parkersburg-Marietta area had attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date. The basis and effect of this determination were discussed in

the proposed (76 FR 43634) and final (76 FR 75464) actions. The determination was based on quality-assured air quality monitoring data for 2007–2009 showing the area had met the standard by the attainment date. The data have been certified by West Virginia, the state in which the monitors for the area are located.

In this action, we are proposing to determine that the Parkersburg-Marietta area has attained the 1997 annual $PM_{2.5}$ NAAQS based upon the most recent three years of complete, certified and quality-assured data, as required by section 107(d)(3)(E) of the CAA. Under EPA's regulations at 40 CFR 50.7, the annual primary and secondary $PM_{2.5}$ standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 15.0 μg/m³ at all relevant monitoring sites in the area.

EPA has reviewed the ambient air quality monitoring data in the Parkersburg-Marietta area, consistent with the requirements contained at 40 CFR part 50. EPA's review focused on data recorded in the EPA Air Quality System (AQS) database for the Parkersburg-Marietta $PM_{2.5}$ nonattainment area from 2009–2011. EPA also considered preliminary data for 2012, which have not yet been certified.

The Parkersburg-Marietta area has one monitor located in Wood County, West Virginia, that reported a design value from 2009–2011, the most recent three years of data, for $PM_{2.5}$ that measured 12.3 μg/m³ for the 1997 annual standard. The monitor in the Parkersburg-Marietta area recorded complete data in accordance with criteria set forth by EPA in 40 CFR part 50, appendix N, where a complete year of air quality data comprises four calendar quarters, with each quarter containing data with at least 75 percent capture of the scheduled sampling days. Available data are considered to be sufficient for comparison to the NAAQS if three consecutive complete years of data exist.

TABLE 1—THE 1997 ANNUAL $PM_{2.5}$ DESIGN VALUES FOR THE PARKERSBURG-MARIETTA MONITOR WITH COMPLETE DATA FOR THE 2007–2009, 2008–2010 AND 2009–2011 DESIGN VALUES[1] IN μg/m³

County	Monitor	Annual standard design value 2007–2009 (μg/m³)	Annual standard design value 2008–2010 (μg/m³)	Annual standard design value 2009–2011 (μg/m³)
Wood, WV	Neale Elementary School 541071002	13.7	13.1	12.3

EPA's review of monitoring data from the 2007–2009, 2008–2010 and 2009–2011 monitoring periods supports EPA's determination that the Parkersburg-Marietta area has monitored attainment for each time period. Additionally, because the preliminary monitoring data for 2012 are consistent with the area's continued attainment, EPA proposes to determine that the Parkersburg-Marietta area has attained the 1997 annual $PM_{2.5}$ standard.

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D and Has a Fully Approved SIP Under Section 110(k) (Sections 107(d)(3)(E)(v) and 107(d)(3)(E)(ii))

We believe that Ohio has met all currently applicable SIP requirements for purposes of redesignation for the Ohio portion of the Parkersburg-Marietta area under section 110 of the CAA (general SIP requirements). We are also proposing to find that the Ohio SIP meets all SIP requirements currently applicable for purposes of redesignation under part D of title I of the CAA, in accordance with section 107(d)(3)(E)(v). We are proposing to find that all applicable requirements of the Ohio SIP for purposes of redesignation have been, in accordance with section 107(d)(3)(E)(ii). As discussed below, in this action EPA is proposing to approve Ohio's 2005 emissions inventory as meeting the section 172(c)(3) comprehensive emissions inventory requirement.

In making these proposed determinations, we have ascertained which SIP requirements are applicable for purposes of redesignation, and concluded that there are SIP measures meeting those requirements and that they are approved or will be approved by the time of final rulemaking.

a. Ohio Has Met All Applicable Requirements for Purposes of Redesignation of the Ohio Portion of the Area Under Section 110 and Part D of the CAA

i. Section 110 General SIP Requirements

Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a state must have been adopted by the state after reasonable public notice and hearing, and, among other things, must: include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; provide for implementation of a source permit program to regulate the modification and construction of any stationary source within the areas covered by the plan; include provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; include criteria for stationary source emission control measures, monitoring and reporting; include provisions for air quality modeling; and provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. EPA believes that the requirements linked with a particular nonattainment area's designation are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, we believe that these requirements should not be construed to be applicable requirements for purposes of redesignation.

Further, we believe that the other section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and

[1] As defined in 40 CFR part 50 appendix N(1)(c).

part D requirements that are linked with a particular area's designation are the relevant measures which we may consider in evaluating a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996) and (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati, Ohio 1-hour ozone redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania 1-hour ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed the Ohio SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA to the extent they are applicable for purposes of redesignation. EPA has previously approved provisions of Ohio's SIP addressing section 110 requirements, including provisions addressing particulate matter, at 40 CFR 52.1870, respectively).

On December 5, 2007, and September 4, 2009, Ohio made submittals addressing ''infrastructure SIP'' elements required under CAA section 110(a)(2). EPA proposed approval of the December 5, 2007, submittal on April 28, 2011, at 76 FR 23757, and published final approval on July 14, 2011, at 76 FR 41075. The requirements of section 110(a)(2), however, are statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Parkersburg-Marietta area. Therefore, EPA believes that these SIP elements are not applicable requirements for purposes of review of the state's $PM_{2.5}$ redesignation request.

ii. Part D Requirements

EPA is proposing to determine that, upon approval of the base year emissions inventories discussed in section V(6) of this rulemaking, the Ohio SIP will meet the SIP requirements for the Ohio portion of the Parkersburg-Marietta area applicable for purposes of redesignation under part D of the CAA.

Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas.

Subpart 1 Section 172 Requirements.

For purposes of evaluating this redesignation request, the applicable section 172 SIP requirements for the Ohio portion of the Parkersburg-Marietta area are contained in section 172(c)(1)–(9). A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of title I (57 FR 13498, April 16, 1992).

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all Reasonably Achievable Control Measures (RACM) as expeditiously as practicable and to provide for attainment of the primary NAAQS. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Because we are determining that the area has attained in this action, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements are no longer considered to be applicable as long as the area continues to attain the standard until redesignation. (40 CFR 51.1004(c).)

The Reasonable Further Progress (RFP) requirement under section 172(c)(2) is defined as progress that must be made toward attainment. This requirement is not relevant for purposes of redesignation because the Parkersburg-Marietta area has monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. (General Preamble, 57 FR 13564). *See also* 40 CFR 51.918. In addition, because the Parkersburg-Marietta area has attained the 1997 annual $PM_{2.5}$ NAAQS and is no longer subject to an RFP requirement, the requirement to submit the section 172(c)(9) contingency measures is not applicable for purposes of redesignation. *Id.*

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. Ohio submitted a 2005 base year emissions inventory along with their redesignation request. As discussed below in section V.6., EPA is approving the 2005 base year inventory as meeting the section 172(c)(3) emissions inventory requirement for the Ohio portion of the Parkersburg-Marietta area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Ohio's current NSR program on January 10, 2003 (68 FR 1366). Nonetheless, since PSD requirements will apply after redesignation, the area need not have a fully-approved NSR program for purposes of redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Ohio has demonstrated that the Parkersburg-Marietta area will be able to maintain the standard without part D NSR in effect; therefore, the state need not have a fully approved part D NSR program prior to approval of the redesignation request. The state's PSD program will become effective in the Parkersburg-Marietta area upon redesignation to attainment. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Ohio's SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Subpart 1 Section 176(c)(4)(D) Conformity SIP Requirements.

The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 of the U.S. Code and the Federal Transit Act (transportation conformity), as well as to all other Federally-supported or funded projects (general conformity).

Section 176(c) of the CAA was amended by provisions contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), which was signed into law on August 10, 2005 (Public Law 109–59). Among the changes Congress made to this section of the CAA were streamlined requirements for state transportation conformity SIPs. State transportation

conformity regulations must be consistent with Federal conformity regulations and address three specific requirements related to consultation, enforcement and enforceability. EPA believes that it is reasonable to interpret the transportation conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) for two reasons.

First, the requirement to submit SIP revisions to comply with the transportation conformity provisions of the CAA continues to apply to areas after redesignation to attainment since such areas would be subject to a section 175A maintenance plan. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of Federally-approved state rules. Therefore, because areas are subject to the transportation conformity requirements regardless of whether they are redesignated to attainment and, because they must implement conformity under Federal rules if state rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. *See* also 60 FR 62748, 62749–62750 (Dec. 7, 1995) (Tampa, Florida).

Ohio has an approved transportation conformity SIP (72 FR 20945). Ohio is in the process of updating its approved transportation conformity SIP, and EPA will review its provisions when they are submitted.

b. The Ohio Portion of the Parkersburg-Marietta Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

Upon final approval of Ohio's comprehensive 2005 emissions inventory, EPA will have fully approved the Ohio SIP for the Ohio portion of the Parkersburg-Marietta area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation to attainment for the 1997 annual $PM_{2.5}$ standard. EPA may rely on prior SIP approvals in approving a redesignation request (*See* page 3 of the September 4, 1992, John Calcagni memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment''; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001)), plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25413, 25426 (May 12, 2003). Since the passage of the CAA of 1970, Ohio has adopted and submitted, and EPA has fully approved, provisions addressing various required SIP elements under particulate matter standards. In this action, EPA is proposing to approve Ohio's 2005 base year emissions inventory for the Parkersburg-Marietta area as meeting the requirement of section 172(c)(3) of the CAA for the 1997 annual $PM_{2.5}$ standard.

c. Nonattainment Requirements

Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements. On July 16, 2008, Ohio submitted a state-wide attainment demonstration for $PM_{2.5}$, including the Parkersburg-Marietta area. However, pursuant to 40 CFR 51.1004(c), EPA's determination that the area has attained the 1997 $PM_{2.5}$ annual standard suspends the requirement to submit certain planning SIPs related to attainment, including attainment demonstration requirements, the Reasonably Achievable Control Technology (RACT)-RACM requirement of section 172(c)(1) of the CAA, the RFP and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA and the requirement for contingency measures of section 172(c)(9) of the CAA).

As a result, the only remaining requirement under section 172 to be considered is the emissions inventory required under section 172(c)(3). As discussed in a later section, EPA is proposing to approve the inventory that Ohio submitted as part of its maintenance plan as satisfying this requirement.

No SIP provisions applicable for redesignation of the Ohio portion of the Parkersburg-Marietta area are currently disapproved, conditionally approved or partially approved. If EPA approves Ohio's Parkersburg-Marietta area $PM_{2.5}$ emissions inventories as proposed, Ohio will have a fully approved SIP for all requirements applicable for purposes of redesignation.

3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii))

EPA believes that Ohio has demonstrated that the observed air quality improvement in the Parkersburg-Marietta area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures and other state-adopted measures.

In making this demonstration, Ohio has calculated the change in emissions between 2005, one of the years used to designate the Parkersburg-Marietta area as nonattainment, and 2008, one of the years the Parkersburg-Marietta area monitored attainment. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of regulatory control measures that the Parkersburg-Marietta area and contributing areas have implemented in recent years.

a. Permanent and Enforceable Controls Implemented

The following is a discussion of permanent and enforceable measures that have been implemented in the area:

i. Federal Emission Control Measures

Reductions in fine particle precursor emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following.

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. These emission control requirements result in lower NO_X and SO_2 emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules were phased in between 2004 and 2009. The EPA has estimated that, by the end of the phase-in period, new vehicles will emit less NO_X with the following percentage decreases: passenger cars (light duty vehicles)—77%; light duty trucks, minivans and sports utility vehicles—86%; and, larger sports utility vehicles, vans and heavier trucks—69% to 95%. EPA expects fleet-wide average emissions to decline by similar percentages as new vehicles replace older vehicles. The Tier 2 standards also reduced the sulfur content of gasoline to 30 parts per million (ppm) beginning in January 2006. Most gasoline sold in Ohio prior to January 2006 had a sulfur content of about 500 ppm.

Heavy-Duty Diesel Engine Rule. EPA issued this rule in July 2000. This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007 which reduced fine particle emissions from heavy-duty highway engines and further reduced the highway diesel fuel sulfur content to 15 ppm. The total program is estimated to achieve a 90% reduction in direct $PM_{2.5}$ emissions and a 95% reduction in NO_X emissions for these new engines

using low sulfur diesel, compared to existing engines using higher sulfur content diesel. The reduction in fuel sulfur content also yielded an immediate reduction in sulfate particle emissions from all diesel vehicles.

Nonroad Diesel Rule. In May 2004, EPA promulgated a new rule for large nonroad diesel engines, such as those used in construction, agriculture and mining equipment, to be phased in between 2008 and 2014. The rule also reduces the sulfur content in nonroad diesel fuel by over 99%. Prior to 2006, nonroad diesel fuel averaged approximately 3,400 ppm sulfur. This rule limited nonroad diesel sulfur content to 500 ppm by 2006, with a further reduction to 15 ppm by 2010. The combined engine and fuel rules will reduce NO_X and $PM_{2.5}$ emissions from large nonroad diesel engines by over 90%, compared to current nonroad engines using higher sulfur content diesel. It is estimated that compliance with this rule will cut NO_X emissions from nonroad diesel engines by up to 90%. This rule achieved some emission reductions by 2008, and was fully implemented by 2010. The reduction in fuel sulfur content also yielded an immediate reduction in sulfate particle emissions from all diesel vehicles.

Nonroad Large Spark-Ignition Engine and Recreational Engine Standards. In November 2002, EPA promulgated emission standards for groups of previously unregulated nonroad engines. These engines include large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles using spark-ignition engines such as off-highway motorcycles, all-terrain vehicles and snowmobiles; and recreational marine diesel engines. Emission standards from large spark-ignition engines were implemented in two tiers, with Tier 1 starting in 2004 and Tier 2 in 2007. Recreational vehicle emission standards are being phased in from 2006 through 2012. Marine diesel engine standards were phased in from 2006 through 2009. With full implementation of the entire nonroad spark-ignition engine and recreational engine standards, an 80% reduction in NO_X expected by 2020. Some of these emission reductions occurred by the 2008–2010 period used to demonstrate attainment, and additional emission reductions will occur during the maintenance period.

1. Control Measures in Contributing Areas

Given the significance of sulfates and nitrates in the Parkersburg-Marietta area, the area's air quality is strongly affected by regulation of SO_2 and NO_X emissions from power plants.

NO_X SIP Call. On October 27, 1998 (63 FR 57356), EPA issued a NO_X SIP Call requiring the District of Columbia and 22 states to reduce emissions of NO_X. Affected states were required to comply with Phase I of the SIP Call beginning in 2004, and Phase II beginning in 2007. Emission reductions resulting from regulations developed in response to the NO_X SIP Call are permanent and enforceable.

CAIR and the Transport Rule. On May 12, 2005, EPA published the Clean Air Interstate Rule (CAIR), which requires significant reductions in emissions of SO_2 and NO_X from electric generating units to limit the interstate transport of these pollutants and the ozone and fine particulate matter they form in the atmosphere. *See* 76 FR 70093. The D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). In response to the court's decision, EPA issued the Transport Rule, also known as the Cross-State Air Pollution Rule, to address interstate transport of NO_X and SO_2 in the eastern United States. *See* 76 FR 48208 (August 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate the Transport Rule. In that decision, it also ordered EPA to continue administering CAIR ''pending the promulgation of a valid replacement.'' *EME Homer Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir., August 21, 2012).[2]

In light of these unique circumstances and for the reasons explained below, EPA proposes to approve the redesignation request and the related SIP revision for Washington County in Ohio, including Ohio's plan for maintaining attainment of the $PM_{2.5}$ standard in the Ohio portion of the Parkersburg-Marietta Area. The air quality modeling analysis conducted for the Transport Rule demonstrates that the Parkersburg-Marietta area would be able to attain the $PM_{2.5}$ standard even in the absence of either CAIR or the Transport Rule. *See* ''Air Quality Modeling Final Rule Technical Support Document,'' App. B, B–62 to B–134. This modeling is available in the docket for this proposed redesignation action.

In addition, CAIR remains in place and enforceable until substituted by a valid replacement rule. Ohio's CAIR SIP was approved on September 25, 2009 (74 FR 48857). As a result of CAIR, EPA projected that in 2009 emissions of NO_X would decrease from a baseline of 264,000 tons per year (tpy) to 93,000 tpy while in 2010 emissions of SO_2 would decrease from a baseline of 1,373,000 tpy to 298,000 tpy within Ohio. And by 2015, we projected emissions of NO_X would decrease to 83,000 tpy while emissions of SO_2 would decrease to 208,000 tpy within Ohio (*http://www.epa.gov/CAIR/oh.html*). The monitoring data used to demonstrate the area's attainment of the 1997 Annual $PM_{2.5}$ NAAQS by the April 2010 attainment deadline was also impacted by CAIR. To the extent that Ohio is relying on CAIR in its maintenance plan, the recent directive from the D.C. Circuit in *EME Homer* ensures that the reductions associated with CAIR will be permanent and enforceable for the necessary time period. EPA has been ordered by the court to develop a new rule and the opinion makes clear that after promulgating that new rule EPA must provide states an opportunity to draft and submit SIPs to implement that rule. CAIR thus cannot be replaced until EPA has promulgated a final rule through a notice-and-comment rulemaking process, states have had an opportunity to draft and submit SIPs, EPA has reviewed the SIPs to determine if they can be approved, and EPA has taken action on the SIPs, including promulgating a Federal Implementation Plan (FIP) if appropriate. These steps alone will take many years, even with EPA and the states acting expeditiously. The court's clear instruction to EPA that it must continue to administer CAIR until a ''valid replacement'' exists provides an additional backstop; by definition, any rule that replaces CAIR and meets the court's direction would require upwind states to have SIPs that eliminate significant contributions to downwind nonattainment and prevent interference with maintenance in downwind areas.

Further, in vacating the Transport Rule and requiring EPA to continue administering CAIR, the D.C. Circuit emphasized that the consequences of vacating CAIR ''might be more severe now in light of the reliance interests accumulated over the intervening four years.'' *EME Homer,* slip op. at 60. The accumulated reliance interests include the interests of states who reasonably assumed they could rely on reductions associated with CAIR which brought certain nonattainment areas into attainment with the NAAQS. If EPA were prevented from relying on reductions associated with CAIR in redesignation actions, states would be

[2] The court's judgment is not final, as of October 31, 2012, as the mandate has not yet been issued.

forced to impose additional, redundant reductions on top of those achieved by CAIR. EPA believes this is precisely the type of irrational result the court sought to avoid by ordering EPA to continue administering CAIR. For these reasons also, EPA believes it is appropriate to allow states to rely on CAIR, and the existing emissions reductions achieved by CAIR, as sufficiently permanent and enforceable for purposes such as redesignation. Following promulgation of the replacement rule, EPA will review SIPs as appropriate to identify whether there are any issues that need to be addressed.

b. Emission Reductions

Ohio developed emissions inventories for NO_X, direct $PM_{2.5}$ and SO_2 for 2005, one of the years used to designate the area as nonattainment, and 2008, one of the years the Parkersburg-Marietta area monitored attainment of the standard.

Electric Generating Unit (EGU) SO_2 and NO_X emissions were derived from EPA's Clean Air Market's acid rain database. These emissions reflect Ohio and West Virginia NO_X emission budgets resulting from EPA's NO_X SIP call. The 2008 emissions from EGUs reflect Ohio's emission caps under CAIR. All other point source emissions were obtained from Ohio's source facility emissions reporting.

Area source emissions in the Parkersburg-Marietta area for 2005 were taken from periodic emissions inventories.[3] These 2005 area source emission estimates were extrapolated to 2008. Source growth factors were supplied by the Lake Michigan Air Directors Consortium (LADCO).

Nonroad mobile source emissions were extrapolated from nonroad mobile source emissions reported in EPA's 2005 National Emissions Inventory (NEI). Contractors were employed by LADCO to estimate emissions for commercial marine vessels and railroads.

On-road mobile source emissions were calculated using EPA's mobile source emission factor model, MOVES2010a, in conjunction with transportation model results developed by the local Metropolitan Planning Organization (MPO), the Wood-Washington-Wirt Interstate Planning Commission (WWW).

All emissions estimates discussed below were documented in the submittal and appendices of Ohio's redesignation request submittal from February 29, 2012. For these data and additional emissions inventory data, the reader is referred to EPA's digital docket for this rule, *http://www.regulations.gov,* for docket number EPA–R05–OAR–2012–0212, which includes digital copies of Ohio's submittal.

Emissions data in tpy for the entire Parkersburg-Marietta area are shown in Tables 2 and 3, below.

TABLE 2—SUMMARY OF 2005 EMISSIONS FOR THE ENTIRE PARKERSBURG-MARIETTA AREA BY SOURCE TYPE (TPY)

	SO_2	NO_X	$PM_{2.5}$
Point (EGU)	193,252.79	28,455.23	1,745.04
Non-EGU	16,055.73	3,332.23	847.6
On-road	58.79	5,200.52	173.49
Nonroad	74.64	870.68	80.7
Area	823.36	1,047.18	1,213.27
MAR	141.75	2,547.49	86.64
Total Parkersburg-Marietta	210,407.06	41,453.33	4,146.74

TABLE 3—COMPARISON OF 2005 EMISSIONS FROM THE NON-ATTAINMENT YEAR AND 2008 EMISSIONS FOR AN ATTAINMENT YEAR FOR THE ENTIRE PARKERSBURG-MARIETTA AREA (TPY)

	2005	2008	Net change (2005–2008)
$PM_{2.5}$	4,146.74	3,796.59	−350.15
NO_X	41,453.33	35,756.31	−5,967.02
SO_2	210,407.06	159,593.17	−50,813.89

Table 3 shows that in the entire Parkersburg-Marietta area reduced direct $PM_{2.5}$ emissions by 350.15 tons, NO_X emissions by 5,967.02 tons and SO_2 emissions by 50,813.89 tons between 2005, a nonattainment year, and 2008, an attainment year.

Emissions data in tpy for Washington County, Ohio (the Ohio portion of the Parkersburg-Marietta area) are shown in Tables 4, and 5, below.

TABLE 4—SUMMARY OF 2005 NON-ATTAINMENT YEAR EMISSIONS FOR THE OHIO PORTION OF THE PARKERSBURG-MARIETTA AREA BY SOURCE TYPE (TPY)

	SO_2	NO_X	$PM_{2.5}$
Point (EGU)	140,957.01	16,137.09	384.81
Non-EGU	5,200.90	1,748.86	472.37
On-road	26.97	2,687.09	90.45
Nonroad	41.04	425.97	35.53
Area	9.78	168.44	148.43

[3] Periodic emission inventories are derived by states every three years and reported to the EPA. These periodic emission inventories are required by the Federal Consolidated Emissions Reporting Rule, codified at 40 CFR Subpart A. EPA revised these and other emission reporting requirements in a final rule published on December 17, 2008, at 73 FR 76539.

TABLE 4—SUMMARY OF 2005 NON-ATTAINMENT YEAR EMISSIONS FOR THE OHIO PORTION OF THE PARKERSBURG-MARIETTA AREA BY SOURCE TYPE (TPY)—Continued

	SO_2	NO_X	$PM_{2.5}$
MAR	44.48	500.78	11.76
Total Parkersburg-Marietta	146,280.18	21,668.23	1,143.35

TABLE 5—COMPARISON OF 2005 EMISSIONS FROM THE NON-ATTAINMENT YEAR AND 2008 EMISSIONS FOR AN ATTAINMENT YEAR FOR THE OHIO PORTION OF THE PARKERSBURG-MARIETTA AREA (TPY)

	2005	2008	Net change (2005–2008)
$PM_{2.5}$	1,143.35	1,203.35	+60.00
NO_X	21,668.23	22,365.96	+697.73
SO_2	146,280.18	138,786.24	−7,493.94

Table 5 shows that while NO_X and $PM_{2.5}$ emissions rose by 697.73 tpy and 60 tpy, respectively, the Ohio portion of the Parkersburg-Marietta area reduced SO_2 emissions by 7,493.94 tpy between 2005, a nonattainment year and 2008, an attainment year. Despite NO_X and $PM_{2.5}$ emissions increasing in the Ohio portion of the Parkersburg-Marietta area between 2005 and 2008, the area demonstrated attainment of the NAAQS in 2008, as the combined Parkersburg-Marietta area reduced NO_X emissions by 5,697 tpy and $PM_{2.5}$ by 350.15 tpy between 2005 and 2008. The state submission includes multiple lines of evidence to show that even with the increase in NO_X and $PM_{2.5}$ the area has still reached attainment of the 1997 annual $PM_{2.5}$ NAAQS and will continue to maintain that designation into the future due to multiple actions on the state's behalf. The weight of evidence submitted by the state contains modeling, monitoring and trend analysis. The trend analysis for the area shows a steady trend of declining $PM_{2.5}$ monitored data, with a significant drop in concentrations beginning in 2006. Since meteorology can play a large part in dispersion of $PM_{2.5}$, which can greatly affect monitored concentrations, LADCO and the state have normalized the data to remove meteorological effects using a statistical analysis, the state has shown in their submission that the concentrations observed are due to real reductions in $PM_{2.5}$ and its precursors, and not just meteorological effects. In addition, control of emissions from local power plants through local and national programs have impacted and will continue to impact the area, as we will describe below.

In 2008, American Electric Power's Muskingum River Station in Washington County, Ohio, implemented the continuous operation of an advanced NO_X control device on their largest of five units (unit #5), as part of a federally-enforceable consent decree. The Muskingum River Station is also required to retire, repower or retrofit all remaining units by 2015. Initial plans provided by the Muskingum River Station to Ohio indicate that unit #5 will also install a flue gas desulfurization device in addition to its consent decree-mandated NO_X control device. Another local power plant, American Municipal Power's R.H. Gorsuch Station in Washington County, permanently shut down at the end of 2010, and would require an approvable permit to restart. This facility operated four 53 megawatt (MW) units. The result of federally-mandated consent decree actions and the shutdown of a power plant demonstrate that NO_X reductions from power plants in the Parkersburg-Marietta area have occurred and will continue to occur in the future.

Based on the information summarized above, Ohio has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

4. Ohio Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))

In conjunction with Ohio's request to redesignate the Ohio portion of the Parkersburg-Marietta nonattainment area to attainment status, Ohio has submitted a SIP revision to provide for maintenance of the 1997 annual $PM_{2.5}$ NAAQS in the area through 2022.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for ten years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future annual $PM_{2.5}$ violations.

The September 4, 1992, memorandum from John Calcagni, entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' (Calcagni Memorandum) provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following items: the attainment emissions inventories, a maintenance demonstration showing maintenance for the ten years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS and a contingency plan to prevent or correct future violations of the NAAQS.

b. Attainment Inventory

Ohio developed emissions inventories for NO_X, direct $PM_{2.5}$ and SO_2 for 2008, one of the years in the period during which the Parkersburg-Marietta area monitored attainment of the 1997 annual $PM_{2.5}$ standard, as described previously. The attainment levels of emissions for the entire area, as well as the attainment levels of emissions for the Ohio portion of the area were summarized in Tables 3 and 5, above.

c. Demonstration of Maintenance

Along with the redesignation request, Ohio submitted a revision to its $PM_{2.5}$ SIP to include a maintenance plan for the Parkersburg-Marietta area, as required by section 175A of the CAA. Section 175A requires a State seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Calcagni Memorandum, p. 9. Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni Memorandum, pp. 9–10.

As discussed in detail in the section below, the state's maintenance plan submission expressly documents that the area's emissions inventories will remain below the attainment year inventories through 2022. In addition, for the reasons set forth below, EPA believes that the state's submission, in conjunction with additional supporting information, further demonstrates that the area will continue to maintain the $PM_{2.5}$ standard at least through 2023. Thus, if EPA finalizes its proposed approval of the redesignation request and maintenance plans in 2013, it is based on a showing, in accordance with section 175A, that the state's maintenance plan provides for maintenance for at least ten years after redesignation.

Ohio's plan demonstrates maintenance of the 1997 annual $PM_{2.5}$ standard through 2022 by showing that current and future emissions of NO_X, directly emitted $PM_{2.5}$ and SO_2 for the area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall* v. *EPA,* 265 F. 3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099–53100 (October 19, 2001), and 68 FR 25413, 25430–25432 (May 12, 2003).

Ohio's submission uses emissions inventory projections for the years 2015 and 2022 to demonstrate maintenance for the Ohio portion of the Parkersburg-Marietta area. The projected emissions were estimated by Ohio, with assistance from LADCO and WWW using the MOVES2010a model. Projection of inventory emissions was done for the 2015 interim year emissions using estimates based on the 2009 and 2018 LADCO modeling inventory, using LADCO's growth factors, for all sectors. The 2022 maintenance year emissions are based on emissions estimates from the 2018 LADCO modeling. Table 7 shows the 2008 attainment base year emission estimates and the 2015 and 2022 emission projections for the entire tri-state Parkersburg-Marietta area that Ohio provided in its February 29, 2012, submission.

TABLE 6—COMPARISON OF 2008, 2015 AND 2022 NO_X, DIRECT $PM_{2.5}$ AND SO_2 EMISSION TOTALS (TPY) FOR THE OHIO PORTION OF THE PARKERSBURG-MARIETTA AREA

	SO_2	NO_X	$PM_{2.5}$
2008 (baseline)	138,786.24	22,365.96	1,203.35
2015	67,625.84	11,439.41	1,198.61
2022	37,351.17	6,417.53	1,181.01
Change	−101,435.07	−15,948.43	−22.34
2008–2022	[1] 73	[1] 71	[1] 2

[1] % decrease.

Table 6 shows that the Ohio portion of the Parkersburg-Marietta area will reduce NO_X emissions by 15,948.43 tpy between 2008 and the maintenance projection to 2022, direct $PM_{2.5}$ emissions by 22.34 tpy, and reduced SO_2 emissions by 101,435.07 tpy between 2008 and 2022. The 2022 projected emissions levels are significantly below attainment year inventory levels, and based on the rate of decline, it is highly improbable that any increases in these levels will occur in 2023 and beyond.

EPA has done analysis of the areas emissions, and has concluded that the Parkersburg-Marietta area's emissions can be expected to stay well below the level of emissions from their attainment year emissions inventory. First, EPA has determined that the overall net rate of decline in emissions of $PM_{2.5}$, NO_X and SO_2 projected from the attainment year 2008 through 2022 are approximately 1.59 tpy, 1139.17 tpy and 7246.10 tpy, respectively. EPA has also determined that no control measures taken into account in the projected analysis will end in 2023, nor does EPA expect any change in growth for the Parkersburg-Marietta area for the maintenance year 2023. The net rates of decline, coupled with continued control and growth factors, indicate that emissions inventory levels will not only significantly decline between 2008 and 2022, but that the reductions will continue into 2023 and beyond. Second, EPA notes that the rate of emissions decline is consistent with monitored and projected air quality trends. As Table 1 demonstrates, monitored $PM_{2.5}$ design value concentrations in Parkersburg-Marietta are well below the NAAQS in the years beyond 2008, an attainment year for the area. Further, those values are trending downward as time progresses. Based on the future projections of emissions in 2015 and 2022 showing significant emissions reductions in direct $PM_{2.5}$, NO_X and SO_2, it is very unlikely that monitored $PM_{2.5}$ values in 2023 and beyond will show violations of the NAAQS. Additionally, the 2009–2011 design value of 12.3 $\mu g/m^3$ provides a sufficient margin in the unlikely event emissions rise slightly in the future. We are proposing to find the mobile source contribution to these emissions insignificant (see section V(5) of this action for further discussion), and the mobile source contribution is expected to remain insignificant in 2023 and beyond because of fleet turnover and engine emission standards in upcoming years that will result in cleaner vehicles and cleaner fuels.

As described in section V(3)(b) of this action, the result of federally-mandated consent decree actions and the shutdown of a power plant demonstrate that NO_X reductions from power plants in the Parkersburg-Marietta area have occurred and are mandated to continue to occur in 2023 and beyond. Thus, the emissions inventories set forth in Table 6 show that the area will continue to maintain the annual $PM_{2.5}$ standard during the maintenance period and at least through 2023. These consent decree actions are significant controls of NO_X and SO_2, along with implementation of Ohio's SIP approved CAIR controls for the area.

In light of the unique circumstances surrounding CAIR and the Transport Rule discussed in section V(3)(a)(i)(1) of this action, and for the reasons explained below, EPA proposes to approve the redesignation request and the related SIP revision for Washington County in Ohio, including Ohio's plan for maintaining attainment of the $PM_{2.5}$ standard in the Ohio portion of the Parkersburg-Marietta Area. The air quality modeling analysis conducted for the Transport Rule demonstrates that the Parkersburg-Marietta area would be able to attain the $PM_{2.5}$ standard even in the absence of either CAIR or the Transport Rule. *See* ''Air Quality Modeling Final Rule Technical Support Document,'' App. B, B–62 to B–134. This modeling is available in the docket for this proposed redesignation action.

In addition, CAIR remains in place and enforceable until substituted by a valid replacement rule. Ohio's CAIR SIP was approved on September 25, 2009 (74 FR 48857). As a result of CAIR, EPA projected that in 2009 emissions of NO_X would decrease from a baseline of 264,000 tpy to 93,000 tpy while in 2010 emissions of SO_2 would decrease from a baseline of 1,373,000 tpy to 298,000 tpy within Ohio. And by 2015, we project emissions of NO_X will decrease to 83,000 tpy while emissions of SO_2 will decrease to 208,000 tpy within Ohio (*http://www.epa.gov/CAIR/oh.html*). The monitoring data used to demonstrate the area's attainment of the 1997 Annual $PM_{2.5}$ NAAQS by the April 2010 attainment deadline was also impacted by CAIR. To the extent that Ohio is relying on CAIR in its maintenance plan, the recent directive from the D.C. Circuit in *EME Homer* ensures that the reductions associated with CAIR will be permanent and enforceable for the necessary time period. EPA has been ordered by the court to develop a new rule and the opinion makes clear that after promulgating that new rule EPA must provide states an opportunity to draft and submit SIPs to implement that rule. CAIR thus cannot be replaced until EPA has promulgated a final rule through a notice-and-comment rulemaking process, states have had an opportunity to draft and submit SIPs, EPA has reviewed the SIPs to determine if they can be approved, and EPA has taken action on the SIPs, including promulgating a FIP if appropriate. These steps alone will take many years, even with EPA and the states acting expeditiously. The court's clear instruction to EPA that it must continue to administer CAIR until a ''valid replacement'' exists provides an additional backstop; by definition, any rule that replaces CAIR and meets the court's direction would require upwind states to have SIPs that eliminate significant contributions to downwind nonattainment and prevent interference with maintenance in downwind areas.

Further, in vacating the Transport Rule and requiring EPA to continue administering CAIR, the D.C. Circuit emphasized that the consequences of vacating CAIR ''might be more severe now in light of the reliance interests accumulated over the intervening four years.'' *EME Homer,* slip op. at 60. The accumulated reliance interests include the interests of states who reasonably assumed they could rely on reductions associated with CAIR which brought certain nonattainment areas into attainment with the NAAQS. If EPA were prevented from relying on reductions associated with CAIR in redesignation actions, states would be forced to impose additional, redundant reductions on top of those achieved by CAIR. EPA believes this is precisely the type of irrational result the court sought to avoid by ordering EPA to continue administering CAIR. For these reasons also, EPA believes it is appropriate to allow states to rely on CAIR, and the existing emissions reductions achieved by CAIR, as sufficiently permanent and enforceable for purposes such as redesignation. Following promulgation of the replacement rule, EPA will review SIPs as appropriate to identify whether there are any issues that need to be addressed.

Based on the information summarized above, Ohio has adequately demonstrated maintenance of the $PM_{2.5}$ standard in this area for a period extending in excess of ten years from expected final action on Ohio's redesignation request.

d. Monitoring Network

Ohio's plan includes a commitment to continue working with West Virginia to operate its EPA-approved monitoring network, as necessary to demonstrate ongoing compliance with the NAAQS. Ohio currently does not operate a $PM_{2.5}$ monitor in Washington County to monitor the Ohio portion of the Parkersburg-Marietta area. West Virginia currently operates one monitor in Wood County for the Parkersburg-Marietta area.

e. Verification of Continued Attainment

Ohio remains obligated to continue to quality-assure monitoring data and enter all data into the Air Quality System in accordance with Federal guidelines. Ohio will use these data, supplemented with additional information as necessary, to assure that the area continues to attain the standard. Ohio will also continue to develop and submit periodic emission inventories as required by the Federal Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) to track future levels of emissions. Both of these actions will help to verify continued attainment in accordance with 40 CFR part 58.

f. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all measures with respect to control of the pollutant(s) that were contained in the SIP before redesignation of the area to attainment. *See* section 175A(d) of the CAA. Ohio's contingency measures include a Warning Level Response and an Action Level Response. An initial Warning Level Response is triggered when the average weighted annual mean for one year exceeds 15.5 $\mu g/m^3$. In that case, a study will be conducted to determine if the emissions trends show increases; if action is necessary to reverse emissions increases, Ohio will follow the same procedures for control selection and implementation as for an Action Level Response.

The Action Level Response will be prompted by any one of the following: a Warning Level Response study that shows emissions increases, a weighted annual mean over a two-year average that exceeds the standard or a violation of the standard. If an Action Level Response is triggered, Ohio will adopt and implement appropriate control measures within 18 months from the end of the year in which monitored air quality triggering a response occurs.

Ohio's candidate contingency measures include the following:

i. ICI Boilers—SO_2 and NO_X controls;

ii. Process heaters;

iii. EGUS;

iv. Internal combustion engines;
v. Combustion turbines;
vi. Other sources > 100 TPY;
vii. Fleet vehicles;
viii. Concrete manufacturers and;
ix. Aggregate processing plants.

Ohio further commits to conduct ongoing review of its data, and if monitored concentrations or emissions are trending upward, Ohio commits to take appropriate steps to avoid a violation if possible. Ohio commits to continue implementing SIP requirements upon and after redesignation.

EPA believes that Ohio's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of section 175A(d).

As required by section 175A(b) of the CAA, Ohio commits to submit to the EPA an updated $PM_{2.5}$ maintenance plan eight years after redesignation of the Parkersburg-Marietta area to cover an additional ten-year period beyond the initial ten-year maintenance period. As required by section 175A of the CAA, Ohio has also committed to retain the $PM_{2.5}$ control measures contained in the SIP prior to redesignation.

For all of the reasons set forth above, EPA is proposing to approve Ohio's 1997 annual $PM_{2.5}$ maintenance plan for the Parkersburg-Marietta area as meeting the requirements of CAA section 175A.

5. Insignificance Determination for the Mobile Source Contribution to $PM_{2.5}$ and NO_X

Under section 176(c) of the CAA, transportation plans and transportation improvement programs (TIPs) must conform to applicable SIP goals. This means that such actions will not: (1) Cause or contribute to violations of a NAAQS; (2) worsen the severity of an existing violation; or (3) delay timely attainment of a NAAQS or any interim milestone. Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the Transportation Conformity Rule (40 CFR part 93 subpart A). Under this rule, MPOs in nonattainment and maintenance areas coordinate with state air quality agencies and federal air and transportation agencies (EPA, FHWA and FTA) to demonstrate that their metropolitan transportation plans (''plans'') and TIPs conform to applicable SIPs. This is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets contained in a SIP.

For budgets to be approvable, they must meet, at a minimum, EPA's adequacy criteria (40 CFR 93.118(e)(4)). However, the Transportation Conformity Rule at 40 CFR 93.109(m) allows areas to forgo establishment of a budget(s) where it is demonstrated that regional motor vehicle emissions for a particular pollutant or precursor pollutant are an insignificant contributor to the air quality problem in the area. The general criteria for insignificance determinations per 40 CFR 93.109(m) are based on a number of factors, including (1) the percentage of motor vehicle emissions in context of the total SIP inventory; (2) the current state of air quality as determined by monitoring data for that NAAQS; (3) the absence of SIP motor vehicle control measures; and (4) historical trends and future projections of the growth of motor vehicle emissions in the area.

The redesignation request that Ohio submitted for its portion of the Parkersburg-Marietta area includes a request for EPA to make an insignificance finding for NO_X and directly emitted $PM_{2.5}$ for the Ohio portion of the Parkersburg-Marietta $PM_{2.5}$ nonattainment area. Pursuant to Section 93.118(e)(4) and 93.109(k) of the Transportation Conformity Rule, as part of the review of Ohio's redesignation request and maintenance plan submittal, we have reviewed Ohio's justification for the finding of insignificance for direct $PM_{2.5}$ and also for NO_X as a precursor of $PM_{2.5}$ in the Ohio portion of the Parkersburg-Marietta area. EPA agrees with Ohio's conclusion that on-road emissions of $PM_{2.5}$ and NO_X are insignificant for transportation conformity purposes. We base our finding on several factors:

—The fact that on December 7, 2009 (74 FR 64075), EPA found these budgets to be insignificant as part of our review of the state's July 16, 2008, $PM_{2.5}$ attainment demonstration;
—The fact that the area has been determined to attain the annual $PM_{2.5}$ standard, and continues to attain the standard with the most recent three years of complete, quality assured monitoring data;
—The absence of local on-road control measures; and
—The continued downward trend of on-road NO_X and $PM_{2.5}$ emissions from 2005–2022.

Consistent with EPA's adequacy review of Ohio's redesignation request and maintenance plan and the Agency's thorough review of the entire SIP submission, EPA is proposing to approve Ohio's insignificance determination for the on-road motor vehicle contribution of NO_X and $PM_{2.5}$ emissions to the overall $PM_{2.5}$ emissions in the Ohio portion of the Parkersburg-Marietta $PM_{2.5}$ area.

Because EPA finds that Ohio's submitted maintenance plan and redesignation request meets the criteria in the conformity rule for an insignificance finding for motor vehicle emissions of NO_X and $PM_{2.5}$ in the Ohio portion of the Parkersburg-Marietta $PM_{2.5}$ area, it is not necessary to establish $PM_{2.5}$ and NO_X budgets for the Ohio portion of the Parkersburg-Marietta $PM_{2.5}$ area. That is, EPA finds that the submittal demonstrates that, for NO_X and $PM_{2.5}$, regional motor vehicle emissions are an insignificant contributor to the annual $PM_{2.5}$ air quality problem in the Ohio portion of the area. Motor vehicle emissions in general, for the maintenance period of 2015 and 2022, are low and declining in the Ohio portion of the area. In 2015 the percentage contribution to emissions from the Ohio portion of the area from motor vehicles is 10.49% and 3.48% for NO_X and $PM_{2.5}$, respectively. In 2022, motor vehicles in the Ohio portion of the area are projected to contribute only 8.92% and 2.14% of emissions for NO_X, and $PM_{2.5}$, respectively, with the decrease due to Federal regulations on motor vehicle rules such as Heavy-duty Highway Vehicle standards and Tier 2 vehicle and fuel standards. Also, there have been no SIP requirements for motor vehicle control measures for the Ohio portion of the area and it is unlikely that motor vehicle control measures will be implemented for $PM_{2.5}$ in this area in the future.

Finally, as described above, the area has attained the 1997 annual $PM_{2.5}$ NAAQS and we are proposing to approve the maintenance plan and redesignation request for the Ohio portion of the area. Therefore motor vehicle emissions budgets for $PM_{2.5}$ and NO_X are not required for the Parkersburg-Marietta area to maintain the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to approve the inventory and the findings of insignificant contribution by motor vehicles, resulting in no proposed motor vehicle emissions budgets for the Ohio portion of the Parkersburg-Marietta area for 2015 and 2022 projected maintenance years. On-road emissions were calculated using the EPA required MOVES2010a model.

With regard to on-road emissions of SO_2, volatile organic compounds and ammonia, Ohio did not provide emission budgets (or an insignificance demonstration) because it concluded, consistent with EPA's presumptions regarding these $PM_{2.5}$ precursors, that

emissions of these precursors from motor vehicles are not significant contributors to the area's $PM_{2.5}$ air quality problem.

As discussed in section V(4)(c) of this action, EPA is proposing that if this approval is finalized in 2013 the area will continue to maintain the $PM_{2.5}$ standard through at least 2023. Consistent with this proposal, EPA is proposing to determine the insignificance of motor vehicle emissions of NO_X and $PM_{2.5}$ as submitted by the State in its February 29, 2012, maintenance plan for the Ohio portion of the Parkersburg-Marietta area. EPA is proposing that the proposed finding insignificance of these emissions is consistent with maintenance of the Ohio portion of the Parkersburg-Marietta area through 2023.

6. 2005 Comprehensive Emissions Inventory

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive emissions inventory. Ohio submitted a 2005 base year emissions inventory that meets this requirement. Emissions contained in the submittals cover the general source categories of point sources, area sources, on-road mobile sources, and nonroad mobile sources.

For the point source sector, EGU SO_2 and NO_X emissions were derived from EPA's Clean Air Market's database. All other point source emissions were obtained from Ohio's source facility emissions reporting.

Area source emissions were extrapolated from Ohio's 2005 periodic emissions inventories. Source growth factors were supplied by LADCO.

Nonroad mobile source emissions were extrapolated from nonroad mobile source emissions reported in EPA's 2005 NEI. LADCO estimated emissions for commercial marine vessels and railroads.

On-road mobile source emissions were calculated using EPA's mobile source emission factor model, MOVES2010a, in conjunction with roadway network traffic information prepared by WWW.

All emissions discussed in Table 4 were documented in the submittal and the Appendices of Ohio's redesignation request submittal. EPA has reviewed Ohio's documentation of the emissions inventory techniques and data sources used for the derivation of the 2005 emissions estimates and has found that Ohio has thoroughly documented the derivation of these emissions inventories. The submittal from the state shows that the 2005 emissions inventory is currently the most complete emissions inventories for $PM_{2.5}$ and $PM_{2.5}$ precursors in the Parkersburg-Marietta area. Based upon EPA's review, we propose to find that the 2005 emissions inventories are as complete and accurate as possible given the input data available to the Ohio, and we are proposing to approve them under CAA section 172(c)(3).

7. Summary of Proposed Actions

EPA has previously determined that the Parkersburg-Marietta area has attained the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to determine that the entire Parkersburg-Marietta area continues to attain the 1997 annual $PM_{2.5}$ standard using the latest three years of certified, quality-assured data, and that the Ohio portion of the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is proposing to approve the request from Ohio to change the legal designation of the Ohio portion of the Parkersburg-Marietta area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to approve Ohio's $PM_{2.5}$ maintenance plan for the Parkersburg-Marietta area as a revision to the Ohio SIP because the plan meets the requirements of section 175A of the CAA. EPA is proposing to approve the 2005 emissions inventories for primary $PM_{2.5}$, NO_X, and SO_2, documented in Ohio's February 29, 2012, submittal as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. Finally, for transportation conformity purposes EPA is also proposing to approve Ohio's determination that on-road emissions of $PM_{2.5}$ and NO_X are insignificant contributors to $PM_{2.5}$ concentrations in the area.

VI. What are the effects of EPA's proposed actions?

If finalized, approval of the redesignation request would change the official designation of the Ohio portion of the Parkersburg-Marietta area for the 1997 annual $PM_{2.5}$ NAAQS, found at 40 CFR part 81, from nonattainment to attainment. If finalized, EPA's proposal would approve as a revision to the Ohio SIP for the Parkersburg-Marietta area, the maintenance plan for the 1997 annual $PM_{2.5}$ standard as well as the 2005 emissions inventories included with the redesignation request.

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these actions:

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

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

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

40 CFR Part 81

Air pollution control, Environmental protection, National Parks, Wilderness.

Dated: November 15, 2012.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2012–29012 Filed 11–29–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R06–RCRA–2012–0473; FRL–9744–9]

Texas: Final Authorization of State-initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: During a review of Texas' regulations, the EPA identified a variety of State-initiated changes to Texas' hazardous waste program under the Resource Conservation and Recovery Act, as amended (RCRA), for which the State had not previously sought authorization. The EPA proposes to authorize the State for the program changes. In addition, the EPA proposes to codify in the regulations entitled ''Approved State Hazardous Waste Management Programs'', Texas' authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that the EPA will enforce under RCRA.

DATES: Send written comments by December 31, 2012.

ADDRESSES: Send written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, or Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Phone number: (214) 665–8533 or (214) 665–8178. You may also submit comments electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the direct final rule which is located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, (214) 665–8533.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, the EPA is authorizing the changes to the Texas program, and codifying and incorporating by reference the State's hazardous waste program as a direct final rule. The EPA did not make a proposal prior to the direct final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this authorization and incorporation by reference in the preamble to the direct final rule. Unless we get written comments which oppose this authorization and incorporation by reference during the comment period, the direct final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose these actions, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: October 11, 2012.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2012–28322 Filed 11–29–12; 8:45 am]

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Notices

Federal Register
Vol. 77, No. 231
Friday, November 30, 2012

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

DEPARTMENT OF AGRICULTURE

Office of Tribal Relations

Council for Native American Farming and Ranching

AGENCY: Office of Tribal Relations, USDA.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a forthcoming meeting of The Council for Native American Farming and Ranching (CNAFR) a public advisory committee of the Office of Tribal Relations (OTR). Notice of the meetings are provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act, as amended, (5 U.S.C. Appendix 2). This will be the second meeting of the CNAFR and will consist of, but not limited to: Hearing public comments; update of the U.S. Department of Agriculture's (USDA) programs and activities; discussion of committee priorities; and the creation of Sub-committees. This meeting will be open to the public.

DATES: The meeting will be held on December 13, 2012 from 8 a.m. to 5 p.m. The meeting will be open to the public. Note that a period for public comment will be held on December 12, 2012, from 1:30 p.m. to 4:30 p.m. and December 13, 2012 from 8:30 a.m.–9:30 a.m.

ADDRESSES: The meeting will be held at the Flamingo Las Vegas, 3555 Las Vegas Blvd. South, Las Vegas, Nevada 89109. The public comment period and CNAFR meeting will take place within the Flamingo's Reno II room.

Written Comments: Written comments may be submitted to: Joanna Mounce Stancil, Designated Federal Officer, Director, Office of Tribal Relations (OTR), 1400 Independence Ave. SW., Whitten Bldg., 500–A, Washington, DC 20250; by Fax: (202) 720–1058; or by email: *John.Lowery@osec.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Questions should be directed to John Lowery, Tribal Relations Manager, OTR, 1400 Independence Ave. SW., Whitten Bldg., 500A, Washington, DC 20250; by Fax: (202) 720–1058 or email: *John.Lowery@osec.usda.gov*.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act (FACA) as amended (5 U.S.C. App. 2), USDA established an advisory council for Native American farmers and ranchers. The CNAFR is a discretionary advisory committee established under the authority of the Secretary of Agriculture, in furtherance of the settlement agreement in *Keepseagle* v. *Vilsack* that was granted final approval by the District Court for the District of Columbia on April 28, 2011.

The CNAFR will operate under the provisions of the FACA and report to the Secretary of Agriculture. The purpose of the CNAFR is (1) to advise the Secretary of Agriculture on issues related to the participation of Native American farmers and ranchers in USDA farm loan programs; (2) to transmit recommendations concerning any changes to FSA regulations or internal guidance or other measures that would eliminate barriers to program participation for Native American farmers and ranchers; (3) to examine methods of maximizing the number of new farming and ranching opportunities created through the farm loan program through enhanced extension and financial literacy services; (4) to examine methods of encouraging intergovernmental cooperation to mitigate the effects of land tenure and probate issues on the delivery of USDA farm loan programs; (5) to evaluate other methods of creating new farming or ranching opportunities for Native American producers; and (6) to address other related issues as deemed appropriate.

The Secretary of Agriculture selected a diverse group of members representing a broad spectrum of persons interested in providing solutions to the challenges of the aforementioned purposes. Equal opportunity practices were considered in all appointments to the CNAFR in accordance with USDA policies. The Secretary selected the members in May 2012. Interested persons may present views, orally or in writing, on issues relating to agenda topics before the CNAFR.

Written submissions may be submitted to the contact person on or before December 5, 2012. Oral presentations from the public will be scheduled between approximately 1:30 p.m. to 4:30 p.m. on December 12, 2012 and 8:30 a.m. to 9:30 a.m. on December 13, 2012. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the issue they wish to present and the names and addresses of proposed participants by December 5, 2012. All oral presentations will be given 3 to 5 minutes depending on the number of participants.

OTR will also make all agenda topics available to the public via the OTR Web site: *http://www.usda.gov/wps/portal/usda/usdahome?navid=OTR* no later than 10 business days before the meeting and at the meeting. In addition, the minutes from the meeting will be posted on the OTR Web site. OTR welcomes the attendance of the public at the CNAFR meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact John Lowery, at least 10 business days in advance of the meeting.

Dated: November 16, 2012.

Joanna Mounce Stancil,

Director, Office of Tribal Relations, U.S. Department of Agriculture.

[FR Doc. 2012–28938 Filed 11–29–12; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Humboldt-Toiyabe National Forest; Nevada and California Greater Sage Grouse Bi-State Distinct Population Segment Forest Plan Amendment Environmental Impact Statement (EIS)

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), the Federal Land Policy and Management Act of 1976, as amended (FLPMA), and the Resources Planning Act of 1974, as amended by the National Forest

Management Act 1976 (NFMA), the Forest Service (FS) intends to prepare an Environmental Impact Statement (EIS) to amend the Toiyabe National Forest Land and Resource Management Plan and the Carson City and Battle Mountain Resource Management Plans. This notice is announcing the beginning of the scoping process to solicit public comments and identify issues. The FS is the lead agency on the EIS. The Bureau of Land Management (BLM) is participating as a cooperating agency to insure the NEPA can be used to adequately cover their RMP amendment. This analysis will be the basis of three records of decision.

The development of this EIS will be coordinated across management units of the Humboldt-Toiyabe National Forest, BLM Carson City District, and BLM Battle Mountain District and include areas in western Nevada and eastern California.

These management units include the Bridgeport Ranger District and Carson Ranger Districts of the Humboldt-Toiyabe National Forest, BLM Carson City and Battle Mountain Districts. These management units include areas identified as habitat for the Greater Sage Grouse Bi-State Distinct Population Segment.

DATES: Comments concerning the scope of the analysis must be received by January 30, 2013. The EIS is expected June, 2013 and the final EIS is expected September, 2013.

ADDRESSES: Send written comments to: James Winfrey, Humboldt-Toiyabe National Forest 1200 Franklin Way, Sparks, NV 89523.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact James Winfrey, Humboldt-Toiyabe National Forest, Project Manager, telephone (775) 355–5300; address 1200 Franklin Way, Sparks, Nevada 88431; email *jwinfrey@fs.fed.us.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

In all correspondence, please include your name, address, and organization name if you are commenting as a representative of an organization.

SUPPLEMENTARY INFORMATION: In March of 2010 the U.S. Fish and Wildlife Service (FWS) published a ''warranted, but precluded'' Endangered Species Act (ESA) listing petition decision for the Greater Sage grouse Bi-State Distinct Population Segment (BS DPS). Inadequacy of regulatory mechanisms was identified as a significant factor in the FWS finding on the petition to list the BS DPS. The FWS concluded that existing regulatory mechanism to protect sage grouse in the Bi-State area ''* * * afford sufficient discretion to the decision makers as to render them inadequate to ameliorate the threats to the Bi-State DPS''. The major threat in regards to actions authorized on National Forest System and Public Lands is habitat modification (Factor A). Habitat modification on Federal lands includes threats from infrastructure (fences, power lines, and roads), recreation, mining, energy development, grazing, fire, invasive species, noxious weeds, pinyon-juniper encroachment, and climate change.

Purpose and Need for Action

The purpose of the project is to conserve, enhance and/or restore sagebrush and associated habitats to provide for the long-term viability of the BS DPS.

The need for action is to address the recent ''warranted, but precluded'' ESA decision from the FWS by addressing needed changes in the management and conservation of BS DPS habitats within the Humboldt-Toiyabe National Forest, BLM Carson City District, and BLM Battle Mountain District to support sage grouse population management objectives within the States of Nevada and California.

Proposed Action

The FS is proposing to amend the Toiyabe National Forest Land and Resource Management Plan (TNF LRMP) and the BLM is proposing to amend the Tonopah RMP and the Carson City Field Office Consolidated RMP by adding to or changing some of the regulatory mechanisms that would reduce, eliminate, or minimize threats to the BS DPS habitat on Federal lands administered by the FS and the BLM under those plans. A planning area map is provided in the scoping document (see Scoping Process).

The purpose of the public scoping process is to determine relevant issues relating to the conservation of the BS DPS and its habitat that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EIS. Based on issues identified in the FWS decision on the petition listing for the BS DPS, the proposed regulatory mechanisms would address the following resource areas and resource uses on lands administered by the FS and the BLM:

- Recreation Management
- Fire and Fuels Management
- Rangeland Management
- Wild Free Roaming Horses and Burros Management
- Rights of Way Management
- Specials Uses
- Transportation System and Facilities Management
- Minerals Management
  - Locatable
  - Fluid
  - Saleable
- Habitat Restoration/Vegetation Management; and
- Renewable Energy Development

The proposed regulatory mechanisms for these resource areas and resource uses are identified in the scoping package (see Scoping Process) and are listed and organized as in the current TNF LRMP with the exception of Habitat Restoration/Vegetation Management and Renewable Energy Developments which would be new resource areas.

The LRMP and RMP amendments will recognize valid existing rights. Lands addressed in the LRMP and RMP amendments will be National Forest System lands and Public Lands (including surface-estate split estate lands) managed by the FS and BLM, respectively, in habitats of the BS DPS. Any decisions in the LRMP and RMP amendments will apply only to Federal lands administered by either the FS or the BLM. The LRMP and RMP amendments will be limited to making land use planning decisions specific to the conservation of habitats of the BS DPS.

As allowed at 36 CFR 219.17(b)(2), ''* * * with respect to plans approved or revised under a prior planning regulation, including the transition provisions of the reinstated 2000 rule (36 CFR part 219, published at 36 CFR parts 200 to 299, revised as of July 1, 2010), plan amendments may be initiated under the provisions of the prior planning regulation for 3 years after May 9, 2012, and may be completed and approved under those provisions * * *.''

As allowed at 36 CFR 219.17(b)(2), the responsible official has opted to initiate and complete this proposed plan amendment consistent with transition provisions of the reinstated 2000 rule. Determination as to whether the amendment is significant or not significant will be based on Forest Service direction at the time of the decision. Based on current direction found in Forest Service Manual 1926.52,

the amendment is expected to be not significant.

Possible Alternatives

Under the No Action Alternative the TNF LRMP and BLM RMPs would not be amended to incorporate new or change existing regulatory mechanisms. There are no other alternatives to the proposed action identified at this time.

Lead and Cooperating Agencies

The FS is the lead agency and the BLM is a cooperating agency. The Forest has also invited the Walker River Paiute and Yerington Paiute Tribes and the Bridgeport Indian Colony, Nevada BLM, the U.S. Fish and Wildlife Service, Nevada Department of Wildlife, and Mono, Lyon, Douglas, Alpine, Esmeralda, and Mineral Counties to be cooperating Agencies. Federal, State, and local agencies, along with other stakeholders that may be interested or affected by the FS's or BLM's decision on this proposal are invited to participate in the scoping process and, if eligible, may request or be requested by the FS to participate as a cooperating agency.

Responsible Official

For the FS the responsible official is the Forest Supervisor, Humboldt-Toiyabe National Forest 1200 Franklin Way, Spark Nevada 89431.

For the Department of Interior, BLM the responsible officials are: The District Manager, Carson City District, 5665 Morgan Mill Road, Carson City, NV 8970, and the District Manager, Battle Mountain District, 50 Bastian Road, Battle Mountain, NV 89820.

Nature of Decision To Be Made

Based on the analysis conducted and represented in the EIS and project record the FS responsible official will decide whether to amend the TNF LRMP as described in the proposed action, as in one of the alternatives to the proposed action, or by combining elements of the proposed action and alternatives to create a decision that best meets the purpose of conserving, enhancing and/or restoring sagebrush and associated habitats to provide for the long-term viability of the BS DPS and the need to improve the FS regulatory mechanisms. The FS decision does not include a decision about the BLM RMPs. The BLM will make its own decisions based on the EIS.

Scoping Process

Scoping begins upon publication of this notice in the **Federal Register** and ends January 30, 2013. The scoping document is posted on the Humboldt-Toiyabe National Forest public Web site at *http://www.fs.usda.gov/projects/htnf/landmanagement/projects.* During the scoping period the Forest will solicit comments from interested parties and the public. It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the FS with the ability to provide the respondent with subsequent environmental documents. This proposal has been listed on the Humboldt-Toiyabe National Forest Schedule of Proposed Actions since November 2012.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

As required under 36 CFR 219.17(b)(2), this proposed plan amendment is subject to the pre-decisional administrative review process (''objection procedure'') set forth in 36 CFR 219 Subpart B. Only those individuals and entities who have submitted substantive formal comments related to the proposed plan amendment during opportunities for public comment may file an objection. Objections must be based on previously submitted substantive formal comments attributed to the objector, unless the objection concerns an issue that arises after the opportunities for formal comment (36 CFR 219.53). Comments are considered substantive when they are within the scope of the proposal, are specific to the proposal, have a direct relationship to the proposal, and include supporting reasons for the responsible official to consider (36 CFR 219.62). Formal comments received from an authorized representative(s) of an entity are considered those of the entity only. A member of an individual must submit substantive formal comments independently to be eligible to file an objection in an individual capacity (36 CFR 219.53(b)).

Substantive formal comments must be written comments submitted to, or oral comments recorded by, the reponsible official or his designee during an opportunity for public participation and attributed to the individual or entity providing them (36 CFR 219.62). For this proposal, the opportunities for public participation are the 45 day scoping comment period announced by this Notice of Intent and the 90 day comment period that begins when the Environmental Protection Agency publishes the Notice of Availability of the draft EIS in the **Federal Register**.

Dated: November 20, 2012.

William A. Dunkelberger,

Forest Supervisor, Humboldt-Toiyabe National Forest.

[FR Doc. 2012–28936 Filed 11–29–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Input from Hawaii's Boat-based Anglers.

OMB Control Number: None.

Form Number(s): NA.

Type of Request: Regular submission (request for a new information collection).

Number of Respondents: 1,500.

Average Hours per Response: 20 minutes.

Burden Hours: 500.

Needs and Uses: This request is for a new information collection. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires anglers who (1) engage in angling or spearfishing for fish in the Exclusive Economic Zone (EEZ); anadromous species in any tidal waters; or continental Shelf fishery resources beyond the EEZ, (2) operate a for-hire fishing vessel in the EEZ, (3) operate a for-hire fishing vessel that engages in angling or spearfishing for: Anadromous species in any tidal waters; or continental shelf fishery resources beyond the EEZ, (4) possess equipment used for angling or spearfishing and also possesses: Fish in the EEZ; anadromous species in any tidal waters; or continental shelf fishery resources beyond the EEZ to register annually with the National Angler Register, other than states which have received exempted status per regulations at 50 CFR 600.1415–1417 need not register

with National Marine Fisheries Service (NMFS). Under 50 CFR 600.1417, MSA allows NMFS to exempt a State that has developed a qualifying regional survey that meets the Marine Recreational Information Program's National Data Standards.

The State of Hawaii is developing a comprehensive data collection program that will meet the requirements set forth at 50 CFR 600.1417 and exempt the State's anglers from the national registry requirement. The information gathered from the proposed voluntary survey of a sample of the State's registered boaters will be used to develop an ongoing (monitoring) survey of fishing catch and effort derived from Hawaii's private boaters—a required component of any qualifying regional survey. The survey instrument will also collect information to inform engagement of and projects aimed at local boat-based anglers under NOAA's National Recreational Saltwater Fishing Initiative.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: November 26, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–28953 Filed 11–29–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Public Workshop: Blueprint for Action: Workshop on the Design of the National Network for Manufacturing Innovation (NNMI)

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The Advanced Manufacturing National Program Office (AMNPO), housed at the National Institute of Standards and Technology (NIST), announces the first workshop in a new series of public workshops entitled ''*Blueprint for Action:* Workshop on the Design of the National Network for Manufacturing Innovation (NNMI).'' This workshop series provides a forum for the AMNPO to present the proposed design of the National Network for Manufacturing Innovation and its regional components, Institutes for Manufacturing Innovation (IMIs), for public discussion of the proposed NNMI and IMI design, and for public discussion of this initiative, announced by President Obama on March 9, 2012.[1] The first workshop will focus on an update on the NNMI program proposed by the President; a review of the public comments received by the AMNPO in response to the May 4, 2012 Request for Information (RFI) on the proposed NNMI; a review of the proposed NNMI design and discussion of that design; and anticipated next steps.

The ''*Blueprint for Action''* workshop series is organized by the federal interagency AMNPO, in cooperation with stakeholders and local organizations. AMNPO partner agencies include Department of Commerce, NIST, Department of Defense, Department of Education, Department of Energy's Advanced Manufacturing Office, Department of Labor, National Aeronautics and Space Administration (NASA), and National Science Foundation.

DATES: The first public workshop in this series will be held on Wednesday, January 16, 2013 from 8:30 a.m. until approximately 5:00 p.m. Eastern time. Event check-in will begin at approximately 7:30 a.m. Eastern time. Please see registration information in the **SUPPLEMENTARY INFORMATION** section below.

ADDRESSES: This public workshop will be held at the U.S. Space and Rocket Center, Davidson Center for Space Exploration, One Tranquility Base, Huntsville, Alabama 35805 (1–800–637–7223).

FOR FURTHER INFORMATION CONTACT: Michael Schen, (301) 975–6741, *michael.schen@nist.gov;* Steven Schmid, (301) 975–8652, *steven.schmid@nist.gov;* or Adele Ratcliff, (571) 372–6240, *adele.ratcliff@osd.mil.* Additional information may also be found at: *http://manufacturing.gov/event_011613.html.*

SUPPLEMENTARY INFORMATION:

Legal Authority: 15 U.S.C. 272(b)(1).

Members of the public wishing to attend this public workshop are encouraged to register in advance and may do so online through the event Web site: *http://www.manufacturing.gov/event_011613.html.* Space is limited. Registration will be on a first-come, first-served basis, with no more than four representatives from the same organization accepted. Advance online registration will close at 11:59 p.m. Eastern time, Monday, January 7, 2013 or when all spaces have been filled, whichever occurs first. After advance online registration closes, registration will be permitted only on a first-come, first-served basis on the day of the event, on site, should space become available. Please check the event Web site, *http://www.manufacturing.gov/event_011613.html,* for space availability information. Early registration is encouraged.

The proposed NNMI initiative focuses on strengthening and ensuring the long-term competitiveness and job-creating power of U.S. manufacturing. The constituent IMIs will bring together industry, universities and community colleges, federal agencies, and U.S. states to accelerate innovation by investing in industrially-relevant manufacturing technologies with broad applications to bridge the gap between basic research and product development, provide shared assets to help companies—particularly small manufacturers—access cutting-edge capabilities and equipment, and create an unparalleled environment to educate and train students and workers in advanced manufacturing skills. The President's proposed FY 2013 budget includes $1 billion for this proposed initiative.

Each IMI will serve as a regional hub of manufacturing excellence, providing the innovation infrastructure to support regional manufacturing and ensuring that our manufacturing sector is a key pillar in an economy that is built to last. Each IMI also will have a well-defined technology focus to address industrially relevant manufacturing challenges on a large scale and to provide the capabilities and facilities required to reduce the cost and risk of commercializing new technologies.

On December 15, 2011, Commerce Secretary John Bryson announced the establishment of a national program office within the Department of Commerce to coordinate and help implement the President's advanced

[1] *http://www.whitehouse.gov/the-press-office/2012/03/09/remarks-president-manufacturing-and-economy.*

manufacturing partnership.[2] The AMNPO, hosted by NIST, is charged with convening and enabling industry-led, private-public partnerships focused on manufacturing innovation and engaging U.S. universities and designing and implementing an integrated national advanced manufacturing initiative to facilitate collaboration and information-sharing across federal agencies.

On May 4, 2012 the AMNPO issued a Request for Information (RFI), seeking public comment on specific questions related to the structure and operations of the NNMI and IMIs. The RFI was published in the **Federal Register** (77 FR 26509) and may be found at: *http://www.gpo.gov/fdsys/pkg/FR-2012-05-04/pdf/2012-10809.pdf.* Comments in response to the RFI were due on or before 11:59 p.m. Eastern time on October 25, 2012. All comments received in response to the RFI are available online at *http://www.manufacturing.gov/rfi_responses.html.*

The AMNPO has previously held four NNMI workshops as part of its strategy for soliciting nation-wide input on building the NNMI in alignment with the published RFI. The first workshop was held on April 25, 2012, at Rensselaer Polytechnic Institute in Troy, New York, the second on July 9, 2012 at Cuyahoga Community College in Cleveland, Ohio, the third on September 27, 2012 at the Arnold and Mabel Beckman Center of the National Academies of Sciences and Engineering in Irvine, California, and the fourth on October 18, 2012 at the Millennium Harvest House in Boulder, Colorado.

Announcements of additional workshops may be found at: *http://www.manufacturing.gov/events.html.* Future workshops will also be announced in the **Federal Register**.

Dated: November 26, 2012.

Phillip Singerman,

Associate Director for Innovation and Industry Services.

[FR Doc. 2012–29042 Filed 11–29–12; 8:45 am]

BILLING CODE 3510–13–P

[2] *http://www.commerce.gov/news/press-releases/2011/12/16/commerce-secretary-john-bryson-lays-out-vision-department-commerce.*

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 and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 12/31/2012.

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: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 8/24/2012 (77 FR 51522–51523) and 10/5/2012 (77 FR 60969), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services 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 organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 USC 8501–8506) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

NSN: 4240–00–NIB–0042—Military Safety Belt, ARMY, Adjustable 31″ to 55″, Gold/Black

NSN: 4240–00–NIB–0043—Military Safety Belt, NAVY, Adjustable 31″ to 55″, Silver/Black

NSN: 4240–00–NIB–0044—Military Safety Belt, AIR FORCE, Adjustable 31″ to 55″, Silver/Blue

NSN: 4240–00–NIB–0045—Military Safety Belt, USMC, Adjustable 31″ to 55″, Amber/Scarlet

NSN: 4240–00–NIB–0046—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, White

NSN: 4240–00–NIB–0047—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Fluorescent Lime/Yellow

NSN: 4240–00–NIB–0048—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Blue

NSN: 4240–00–NIB–0049—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Fluorescent Red/Orange

NSN: 4240–00–NIB–0050—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Red

NSN: 4240–00–NIB–0051—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Fluorescent Green

NSN: 4240–00–NIB–0052—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Dark Green

NPA: Envision, Inc., Wichita, KS.

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.

Services

Service Type/Location: Administrative Service, U.S. Army MEDCOM Northern Region Contracting Office, 6021 5th Street, Building 1467, Fort Belvoir, VA.

NPA: Able Force, Inc., Tampa, FL.

Contracting Activity: DEPT OF THE ARMY, W40M NATL REGION CONTRACT OFC, FORT BELVOIR, VA.

Service Type/Location: Custodial Service, Corps of Engineers (COE), Whiteman Resident Office, 930 Arnold Avenue, Building, Whiteman AFB, MO.

NPA: Portco, Inc., Portsmouth, VA.

Contracting Activity: DEPT OF THE ARMY, W071 ENDIST KANSAS CITY, KANSAS CITY, MO.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–28978 Filed 11–29–12; 8:45 am]

BILLING CODE 6353–01–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 services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received on Or Before: 12/31/2012.

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: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 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 provide the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: E911 Dispatch Service, Directorate of Emergency Services (DES) Emergency Call Center, & Military Police Station, 6940 Marchant Street, Building 216, Fort Benning, GA.

NPA: Bobby Dodd Institute, Inc., Atlanta, GA

Contracting Activity: DEPT OF THE ARMY, W6QM MICC–FT BENNING, FT BENNING, GA.

Service Type/Locations: Hospital Housekeeping Service; McDonald Army Health Center, Fort Eustis, VA; Health/Dental Clinic, Fort Story, VA; Veterinary Clinic, Fort Story, VA.

NPA: Enterprise Professional Services, Inc., Austin, TX.

Contracting Activity: W40M USA MEDCOM Health Care Acquisition Agency, Center for Health Care Contracting, Fort Sam Houston, TX.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–28979 Filed 11–29–12; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–61]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–61 with attached transmittal, and policy justification.

Dated: November 26, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

NOV 2 1 2012

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-61, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Saudi Arabia for defense articles and services estimated to cost $300 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 12–61

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment*	$ 0 million
Other	$300 million
Total	$ 300 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* a Foreign Military Sales Order (FMSO) II to provide funds for blanket order requisitions under the Cooperative Logistics Supply Support Arrangement (CLSSA), for spare parts in support of M1A2 Abrams Tanks, M2 Bradley Fighting Vehicles, High Mobility Multipurpose Wheeled Vehicles (HMMWVs), equipment, support vehicles and other related logistics support.

(iv) Military Department: Army (KYM)

(v) *Prior Related Cases, if any:*

SR–B–KYL—$254million—17Nov06
SR–B–KSB—$95million—2Nov04
SR–B–KRK—$314million—19Apr91
SR–B–KRI—$40million—18Dec90
SR–B–KRE—$47million—9Nov87
SR–B–KRB—$36million—26Mar85
SR–B–KRA—$22million—23Mar84
SR–B–KLF—$28million—1Dec82
SR–B–KEZ—$26million—22Nov80
SR–B–UBW—$64million—13Oct66

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* 21 Nov 2012

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kingdom of Saudi Arabia—Cooperative Logistics Supply Support Arrangement

The Government of the Kingdom of Saudi Arabia (KSA) has requested a possible sale of a Foreign Military Sales Order (FMSO) II to provide funds for blanket order requisitions under the Cooperative Logistics Supply Support Arrangement (CLSSA), for spare parts in support of M1A2 Abrams Tanks, M2 Bradley Fighting Vehicles, High Mobility Multipurpose Wheeled Vehicles (HMMWVs), equipment, support vehicles and other related logistics support. The estimated cost is $300 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country that has been, and continues to be, an important force for political stability and economic progress in the Middle East.

This proposed sale will allow the Royal Saudi Land Forces Ordnance Corps to continue to purchase needed repair parts to maintain their fleet of M1A2S Abrams Tanks, M2 Bradley Fighting Vehicles, and High Mobility Multipurpose Wheeled Vehicles (HMMWVs), construction equipment, and support vehicles and equipment.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

There are no prime contractors involved with this sale. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Saudi Arabia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2012–28937 Filed 11–29–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Termination of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Termination of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix), 41 CFR § 102–3.55, and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), effective October 5, 2012, the Department of Defense gives notice that it is terminating the Naval Research Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

Dated: November 26, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–28915 Filed 11–29–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2012–0030]

Proposed Collection; Comment Request

AGENCY: Air Force Office of Scientific Research (DoD/USAF/AFOSR), Department of the Air Force, Department of Defense.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces a reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (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.

DATES: Consideration will be given to all comments received by January 29, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed extension of information collection or to obtain a copy of the proposal and associated collection instruments, please write to Air Force Office of Scientific Research, ATTN: AFOSR/RSPE, 875 North Randolph Street, Suite 325, Room 3112, Arlington, VA 22203–1768, or AFOSR/IO, at 703–696–7316.

Title; Associated Form; and OMB Number: Summer Faculty Fellowship Program (SFFP) and the USAF/NRC Resident Research Associateships Program on-line applications, and associated acceptance forms; OMB Control Number 0701–0155.

Needs and Uses: The Air Force Office of Scientific Research (AFOSR) manages the entire basic research investment for the U.S. Air Force. As part of the Air Force Research Laboratory (AFRL), AFOSR's technical experts support and fund research programs within the AFRL and other Air Force research activities. Applications for fellowships and associateships at AFRL research sites and the research activities at the U.S. Air Force Academy, and Air Force Institute of Technology (AFIT) and the associated award forms provide information used to identify some of the nation's most talented scientific personnel for award of fellowships and associateships at Air Force research activities. Summer fellowships provide research opportunities for 8–14 weeks at

an Air Force research site. Research Associates generally spend 1 to 3 years at an Air Force research site. SFFP and NRC/RRA provide postdoctoral and senior scientists and engineers of unusual promise and ability, opportunities for conducting research on problems that are defense requirements. Application information will be used for evaluation and selection of scientists and engineers to be awarded fellowships and associateships. Failure to respond renders the applicant ineligible for a fellowship.

Affected Public: Individuals or households.

Annual Burden Hours: 5,760 hours.

Number of Respondents: 360.

Responses per Respondent: 1.

Average Burden per Response: 16 hours.

Frequency: Annually (SFFP) and quarterly (NRC/RRA).

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are postdoctoral, senior, and university scientists and engineers desiring to conduct stimulating research projects and activities at Air Force research sites. The on-line, electronic application process provides information necessary for evaluation and selection of researchers. Associated award forms provide required information for direct deposit of stipends and reporting to the IRS.

Dated: November 26, 2012.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2012–28924 Filed 11–29–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent to License Government-Owned Inventions; Intent to License on a Partially-Exclusive Basis

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Army. The US Army Edgewood Chemical Biological Center intends to license these inventions on a partially-exclusive basis to Lighthouse Worldwide Solutions, Inc, a California Corporation with principal offices at, *47300 Landing Parkway, Fremont, CA 94538.* The inventions to be licensed collectively enable a Tactical Biological Detector (TAC–BIO), and are disclosed in U.S. Patent 6,967,338 Application Serial No10/720877 filed 11/24/2003, issued 11/22/2005 and entitled ''Micro UV particle detector,'' U.S. Patent 7,375,348 Application Serial No 11/268758 filed 11/03/2005, issued 05/20/2008 and entitled ''Micro UV detector,'' U.S. Patent 7,567,391 Application Serial No 11/748817 filed 05/15/2007, issued 07/28/2009 and entitled ''Radiation source with self-aligning optics,'' U.S. Patent 7,852,469 Application Serial No 11/867190 filed 10/04/2007, issued 12/14/2010 and entitled ''Particle detector,'' DAM 689–08 Application Serial No.12/380,366 filed 02/26/2009 and entitled ''Photon counting based particle detection method and apparatus.''

ADDRESSES: Requests for more information and/or objections should be directed to Eric McGill, telephone: 410–436–8467, *eric.s.mcgill.ctr@mail.mil,* US Army Edgewood Chemical Biological Center (ECBC), AMSRD–ECB–PI–BP–TT, Bldg E3330/Rm 241 5183 Blackhawk Road, APG, MD 21010–5424. Any requests or objections should be made within 15 days of the publication of this notice.

FOR FURTHER INFORMATION CONTACT: Dhirajlal Parekh, Office of Research and Technology Applications, US Army Edgewood Chemical Biological Center, AMSRD–ECB–PI–BP–TT, Bldg E3330/Rm 241 5183 Blackhawk Road, APG, MD 21010–5424, telephone: 410–436–8400, email: *dhirajlal.parekh,civ@mail.mil.*

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2012–28883 Filed 11–29–12; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Proposed Flood Risk Management Study for the Blanchard River Watershed Including Communities of Findlay and Ottawa, OH

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and Public Law 102–484 Section 2834, as amended by Public Law 104–106 Section 2867, the Department of the Army hereby gives notice of intent to prepare an Environmental Impact Statement (EIS) for the subject Flood Risk Management Study. The Buffalo District of the U.S. Army Corps of Engineers (USACE) will be the lead agency in preparing the EIS.

The EIS will consider Federal actions associated with the proposed Flood Risk Management Study in the Blanchard River Watershed including the communities of the City of Findlay in Hancock County and the Village of Ottawa in Putnam County, OH. More specifically, this document will discuss measures to improve flood risk management, navigation, water quality, recreation, and fish and wildlife habitat in a comprehensive manner in the Blanchard River Watershed, Ohio. The overall goal of the study is to reduce flood risk by saving lives and minimizing property damage in the event of floods in Findlay and Ottawa, Ohio. The plan will consider a range of structural and nonstructural measures that may be used for flood risk management in the Blanchard River Watershed.

ADDRESSES: U.S. Army Corps of Engineers, Buffalo District, CELRB–PM–PB, 1776 Niagara Street, Buffalo, NY 14207–3199.

FOR FURTHER INFORMATION CONTACT: The Project Team, telephone (419) 726–9121, email *Blanchard@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The Blanchard River Watershed is located in northwestern Ohio, with its headwaters originating in central Hardin County. The 771-square mile Blanchard River Watershed drains into the Auglaize River in Putnam County, Ohio. The Blanchard River Watershed is characterized by alluvial flatlands prone to flooding, with significant flood damages occurring frequently at Findlay and Ottawa over the last ten years. The Blanchard River has reached or exceeded major flood stage 23 times since 1913. Nine of these flood events have occurred since 1990. For events between 1990 and 2011, five are among the top ten stages ever recorded; three have peaked at more than three feet over major flood stage; and one (an event occurring in August 2007) reached a peak that was only 0.04 feet less than the maximum peak stage ever recorded in 1913. Damages during the August 2007 event alone were estimated by the Northwest Ohio Flood Mitigation Partnership to be roughly $60 million in the Findlay area and $20 million in the Ottawa area. The Corps of Engineers

plans to address flooding issues in Findlay and Ottawa by evaluating a series of flood risk management measures within the vicinity of these two affected areas.

Proposed Action: In accordance with 40 CFR parts 1500–1508 and Engineer Regulation 200–2–2, an EIS is being prepared for the Federal Flood Risk Management Study within the Blanchard River watershed including the communities of Findlay and Ottawa to ensure full and fair consideration of significant environmental impacts. This EIS will inform decision-makers and the public of reasonable alternatives to reduce the risk of loss of life and property damage from flooding in these areas and that would also avoid or minimize adverse impacts and/or enhance the quality of the human environment. The proposed EIS will focus on the implementation of flood risk management measures associated with the Blanchard River in and within the vicinity of Findlay and Ottawa. The EIS will be consistent with sound engineering practices and will be drafted concurrently with actions to achieve compliance with other applicable Federal environmental compliance requirements, including those established by Section 404 of the Clean Water Act. In addition, the EIS will be consistent with State and local plans.

Reasonable Alternatives: It is Corps of Engineers planning policy to consider practicable and relevant alternative management measures, including a no action alternative. While the preferred alternative has not yet been established, the alternative plans considered in the EIS will consist of an array of structural and nonstructural measures for both Findlay and Ottawa. Structural measures may include, but are not limited to, channel realignment/diversion, levees and floodwall creation, culvert modification, and the creation of flood storage areas, including wetlands, bermed containment areas, and water detention areas/reservoirs. Nonstructural measures may include, but not be limited to, elevating existing buildings, relocation or acquisition of flood-prone structures, wet and dry floodproofing, as well as the development and implementation of a flood warning system or flood emergency preparedness plan.

Scoping Process: The Corps of Engineers invites affected Federal, State and local agencies, interested Indian Nations, and other concerned organizations and individuals to participate in development of the EIS. An initial Scoping Document was distributed in June 2008 and the Corps of Engineers will be conducting a second round of scoping, and four public scoping meetings in December, 2012, which include: (1) 6:30 p.m. on December 10, 2012 at the Ottawa-Glandorf High School Auditorium, 630 Glendale Ave. Ottawa, OH; (2) 9:00 a.m. on December 11, 2012 at the Putnam County Educational Service Center, 124 Putnam Parkway, Ottawa, OH; (3) 7:00 a.m. on December 11, 2012 at the Findlay High School Auditorium, 1200 Broad Avenue, Findlay, OH; and, (4) 9:00 a.m. December 12, 2012 at the Hancock County Agricultural Service Center, 7868 County Road 140, Findlay, OH. All written comments received by the Corps of Engineers during the scoping period and throughout the EIS process will be considered in the preparation of the EIS.

The Draft EIS is tentatively scheduled to be available for public review in December 2013. The Final EIS is tentatively scheduled to be available for public review in September 2014.

Dated: November 20, 2012.

Owen J. Beaudoin,

Lieutenant Colonel, U.S. Army Corps of Engineers, District Commander.

[FR Doc. 2012–28887 Filed 11–29–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Correction to the Notice of Intent To Prepare a Joint Environmental Impact Statement (EIS) for the Gateway Pacific Terminals Bulk Dry Goods Shipping Facility and the Custer Spur Rail Expansion Projects

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Correction.

SUMMARY: This notice corrects the location and date of one of the public scoping meetings listed in the Notice of Intent published in the **Federal Register** (77 FR 58531) on Friday, September 21, 2012. The venue for the Seattle public scoping meeting previously scheduled for November 13, 2012 is no longer available. The Seattle public scoping meeting will be held at the Washington State Convention Center, Rooms 6A, 6B, 6C, and 6D, 800 Convention Place, Seattle, WA 98101 on Monday, December 17, 2012, from 4:00 p.m. to 7:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Randel Perry via email at: *randel.j.perry@usace.army.mil,* by phone at (360) 734–3156, or by regular mail at Mr. Randel Perry, U.S. Army Corps of Engineers, Seattle District, Care of: GPT/BNSF Custer Spur EIS Co-Lead Agencies, 1100 112th Avenue Northeast, Suite 400, Bellevue, WA 98004. Additional information on scoping meetings can be found at *www.eisgatewaypacificwa.gov.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2012–28885 Filed 11–29–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2012–ICCD–0064]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Early Reading First: Grant Performance Report

AGENCY: Department of Education (ED), Office of Elementary and Secondary Education (OESE).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before December 31, 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–0064 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: Early Reading First: Grant Performance Report.

OMB Control Number: 1810–0696.

Type of Review: Extension of an existing information collection.

Respondents/Affected Public: State, Local or Tribal Governments.

Total Estimated Number of Annual Responses: 60.

Total Estimated Number of Annual Burden Hours: 1,020.

Abstract: In accordance with the Elementary and Secondary Education Act of 1965, as amended, Title I, Part B, Subpart 2, Early Reading First (ERF), section 1225 states that each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart. Each report shall include, at a minimum, a description of: (1) The research-based instruction, materials, and activities being used in the programs funded under the grant; and (2) the type of ongoing professional development to staff. This information will be collected from approximately 60 grantees in calendar year 2012 and approximately 30 grantees in calendar year 2013 the ERF statute requires all funded projects to report annually to the Department documenting project's progress towards accomplishing its goals and objectives. The Department has used this information to monitor grantees and examine outcomes across funded projects. See Appendix D for a copy of the data collection instrument we propose to renew.

Dated: November 27, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–29101 Filed 11–29–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2172–011; ER11–2016–006; ER10–2184–011; ER10–2183–008; ER10–1048–008; ER10–2176–012; ER10–2192–011; ER11–2056–005; ER10–2178–011; ER10–2174–011; ER11–2014–008; ER11–2013–008; ER10–3308–010; ER10–1017–007; ER10–1020–007; ER10–1145–007; ER10–1144–006; ER10–1078–007; ER10–1079–007; ER10–1080–007; ER11–2010–008; ER10–1081–007; ER10–2180–011; ER11–2011–007; ER11–2009–007; ER11–3989–006; ER10–1143–007; ER11–2780–004; ER11–2007–006; ER12–1223–005; ER11–2005–008.

Applicants: Constellation Energy Commodities Group, Inc., Commonwealth Edison Company, PECO Energy Company, Wind Capital Holdings, LLC, Constellation Power Source Generation LLC, Safe Harbor Water Power Corporation, Handsome Lake Energy, LLC, Constellation Energy Commodities Group Maine, LLC, Exelon Framingham LLC, Exelon New England Power Marketing, LP, Exelon New Boston, LLC, Exelon West Medway, LLC, Exelon Wyman, LLC, Constellation NewEnergy, Inc., Exelon Generation Company, LLC, Exelon Energy Company, CER Generation, LLC, CER Generation II, LLC, Constellation Mystic Power, LLC, Cassia Gulch Wind Park LLC, Michigan Wind 1, LLC, Tuana Springs Energy, LLC, Harvest Windfarm, LLC, CR Clearing, LLC, Exelon Wind 4, LLC, Cow Branch Wind Power, L.L.C., Michigan Wind 2, LLC, Criterion Power Partners, LLC, Wildcat Wind, LLC, Baltimore Gas and Electric Company.

Description: Supplemental Information to July 6, 2012 Notice of Change in Status of Baltimore Gas and Electric Company, *et al.*

Filed Date: 11/20/12.

Accession Number: 20121120–5137.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–214–002.

Applicants: Middletown Cogeneration Company LLC.

Description: Middletown Cogeneration Company LLC submits tariff filing per 35.17(b): Middletown Deficiency Filing to be effective 12/1/2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5085.

Comments Due: 5 p.m. ET 11/30/12.

Docket Numbers: ER13–215–002.

Applicants: Haverhill Cogeneration Company LLC.

Description: Haverhill Cogeneration Company LLC submits tariff filing per 35.17(b): Haverhill Deficiency Filing to be effective 12/1/2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5084.

Comments Due: 5 p.m. ET 11/30/12.

Docket Numbers: ER13–422–000.

Applicants: Golden Spread Electric Cooperative, Inc.

Description: Revised Wholesale Power Contracts Filing to be effective 1/20/2013.

Filed Date: 11/20/12.

Accession Number: 20121120–5039.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–423–000.

Applicants: Central Maine Power Company, ISO New England Inc.

Description: Notice of Termination of Sisk Wind Power LGIA to be effective 2/5/2013.

Filed Date: 11/20/12.

Accession Number: 20121120–5051.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–424–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.15: Notices of Cancellation of GIA and DSA SunEdison 6631 Westminster Blvd. Roof Top to be effective 6/27/2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5067.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–425–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.15: Notices of Cancellation of GIA and DSA SunEdison 4200 Chino Hills Roof Top Solar to be effective 6/27/2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5069.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–426–000.

Applicants: Smoky Mountain Transmission LLC.

Description: Smoky Mountain Transmission LLC submits tariff filing

per 35.13(a)(2)(iii: Tariff filing to be effective 11–20–2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5078.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–427–000.

Applicants: Kincaid Generation, L.L.C.

Description: Kincaid Generation, L.L.C. submits tariff filing per 35.1: New Baseline Refile to be effective 11/21/2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5087.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–428–000.

Applicants: Pennsylvania Electric Company, PJM Interconnection, L.L.C.

Description: Pennsylvania Electric Company submits tariff filing per 35.13(a)(2)(iii): FirstEnergy submits PJM Service Agreement No. 3440 to be effective 12/31/1998.

Filed Date: 11/20/12.

Accession Number: 20121120–5102.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–429–000.

Applicants: New York State Electric & Gas Corporation.

Description: New York State Electric & Gas Corporation submits tariff filing per 35.13(a)(2)(iii): Normal adding rate schedule 193 to be effective 12/31/9998.

Filed Date: 11/20/12.

Accession Number: 20121120–5103.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–430–000.

Applicants: South Carolina Electric & Gas Company.

Description: South Carolina Electric & Gas Company submits tariff filing per 35.13(a)(2)(iii: Attachment C Edited for Losses to be effective 11/20/2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5104.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–431–000.

Applicants: Elwood Energy, LLC.

Description: Elwood Energy, LLC submits tariff filing per 35.1: New Baseline Refile to be effective 11/21/2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5125.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–432–000.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc. submits Pro Forma amendments to the System Agreement for Midwest Independent System Transmission Operator, Inc. Integration.

Filed Date: 11/20/12.

Accession Number: 20121120–5126.

Comments Due: 5 p.m. ET 1/22/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28956 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2877–001.

Applicants: Cobb Electric Membership Corp.

Description: COBB Electric Membership Corp. submits Second Amendment to the December 20, 2011 Updated Market Power Analysis.

Filed Date: 11/20/12.

Accession Number: 20121120–5205.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER12–919–002.

Applicants: Rockland Wind Farm LLC.

Description: Rockland Wind Farm LLC submits Notice of Non-Material Change in Status.

Filed Date: 11/21/12.

Accession Number: 20121121–5030.

Comments Due: 5 p.m. ET 12/12/12.

Docket Numbers: ER13–433–000.

Applicants: Grant Energy, Inc.

Description: Cancellation to be effective 11/21/2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5141.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–434–000.

Applicants: Dominion Energy Marketing, Inc.

Description: New Baseline Refile to be effective 11/21/2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5144.

Comments Due: 5 p.m. ET 12/11/12

Docket Numbers: ER13–435–000.

Applicants: New York Independent System Operator, Inc.

Description: NYISO OATT Revisions Re: Blind Trust Mechanism to be effective 1/1/2013.

Filed Date: 11/20/12.

Accession Number: 20121120–5176.

Comments Due: 5 p.m. ET 12/4/12.

Docket Numbers: ER13–436–000.

Applicants: PacifiCorp.

Description: BPA Cooperative Communications Agreement 4th Revised to be effective 11/21/2012.

Filed Date: 11/20/12.

Accession Number: 20121120–5177

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–437–000.

Applicants: New York Independent System Operator, Inc.

Description: NYISO Agreement Revisions Re: Blind Trust Mechanism to be effective 1/1/2013.

Filed Date: 11/20/12.

Accession Number: 20121120–5180.

Comments Due: 5 p.m. ET 12/4/12.

Docket Numbers: ER13–438–000

Applicants: PSEG Fossil LLC.

Description: Capacity Interconnection Rights Agreement to be effective 11/21/2012.

Filed Date: 11/21/12.

Accession Number: 20121121–5000.

Comments Due: 5 p.m. ET 12/12/12.

Docket Numbers: ER13–439–000.

Applicants: California Independent System Operator Corporation.

Description: Petition for Approval of Disposition of Proceeds of Penalty Assessments of the California Independent System Operator Corporation.

Filed Date: 11/20/12.

Accession Number: 20121120–5215.

Comments Due: 5 p.m. ET 12/11/12.

Docket Numbers: ER13–440–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3418; Queue No. X3–071 to be effective 10/24/2012.

Filed Date: 11/21/12.

Accession Number: 20121121–5043.

Comments Due: 5 p.m. ET 12/12/12.

Docket Numbers: ER13–441–000

Applicants: PJM Interconnection, L.L.C.

Description: Revised Essex ISA—First Revised Service Agreement No. 2382 to be effective 11/20/2012.

Filed Date: 11/21/12.

Accession Number: 20121121–5050.

Comments Due: 5 p.m. ET 12/12/12.

Docket Numbers: ER13–442–000

Applicants: AES Beaver Valley, LLC.
Description: AES Beaver Valley MBR Tariff Filing to be effective 1/1/2013.
Filed Date: 11/21/12.
Accession Number: 20121121–5052.
Comments Due: 5 p.m. ET 12/12/12.

Take notice that the Commission received the following PURPA 210(m)(3) filings:
Docket Numbers: QM13–1–000
Applicants: Wisconsin Public Service Corporation, Upper Peninsula Power Company
Description: Application of Wisconsin Public Service Corporation and Upper Peninsula Power Company to Terminate QF Mandatory Purchase Obligation.
Filed Date: 11/21/12
Accession Number: 20121121–5029
Comments Due: 5 p.m. ET 12/19/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 21, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28957 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:
Docket Numbers: EC13–46–000.
Applicants: Spearville 3, LLC, BlackRock NTR Renewable Power Fund (Master), L.P., Eurus Energy America Corporation.
Description: Application for Approval under Section 203 of the Federal Power Act and Requests for Expedited Consideration and Confidential Treatment of Spearville 3, LLC, et al.
Filed Date: 11/21/12.
Accession Number: 20121121–5225.
Comments Due: 5 p.m. ET 12/12/12.
Docket Numbers: EC13–47–000.
Applicants: Algonquin Power Fund (America) Inc., Goldwind International SO Limited, GSG 6, LLC, Shady Oaks Holdings, LLC, TianRun Shady Oaks, LLC.
Description: Joint Application for Authorization for Disposition of Jurisdictional Facilities and Request for Confidential Treatment of Algonquin Power Fund (America) Inc., et al.
Filed Date: 11/23/12.
Accession Number: 20121123–5030.
Comments Due: 5 p.m. ET 12/14/12.

Take notice that the Commission received the following electric rate filings:
Docket Numbers: ER12–2611–001.
Applicants: NorthWestern Corporation.
Description: SA 646–SGIA with NPS re Mammoth Project to be effective 9/12/2012.
Filed Date: 11/23/12.
Accession Number: 20121123–5000.
Comments Due: 5 p.m. ET 12/14/12.
Docket Numbers: ER13–445–000.
Applicants: Badger Creek Limited.
Description: MBR Tariff to be effective 11/22/2012.
Filed Date: 11/21/12.
Accession Number: 20121121–5152.
Comments Due: 5 p.m. ET 12/12/12.
Docket Numbers: ER13–446–000.
Applicants: Fitchburg Gas and Electric Light Company.
Description: Amended Interconnection Agreement to be effective 10/31/2012.
Filed Date: 11/21/12.
Accession Number: 20121121–5163.
Comments Due: 5 p.m. ET 12/12/12.
Docket Numbers: ER13–447–000.
Applicants: Arizona Public Service Company.
Description: Revisions to Open Access Transmission Tariff, FERC Electric Tariff, Volume No. 2 to be effective 1/22/2013.
Filed Date: 11/21/12.
Accession Number: 20121121–5186.
Comments Due: 5 p.m. ET 12/12/12.
Docket Numbers: ER13–448–000.
Applicants: Arizona Public Service Company.
Description: Modifications to Joint Agreements, Rate Schedule Nos. 242 and 244 to be effective 1/22/2013.
Filed Date: 11/21/12.
Accession Number: 20121121–5191.
Comments Due: 5 p.m. ET 12/12/12.
Docket Numbers: ER13–449–000.
Applicants: California Independent System Operator Corporation.
Description: 2012–11–21 CAISO Tariff Amendment Regarding Circular Scheduling to be effective 2/1/2013.
Filed Date: 11/21/12.
Accession Number: 20121121–5202.
Comments Due: 5 p.m. ET 12/12/12.

Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES13–2–000.
Applicants: Maine Public Service Company.
Description: Maine Public Service Company submits Supplement to the Application filed on 10/19/12.
Filed Date: 11/21/12.
Accession Number: 20121121–5221.
Comments Due: 5 p.m. ET 12/3/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 23, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28959 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–297–000.
Applicants: KPC Pipeline, LLC.
Description: KPC Name Change to be effective 11/1/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5102.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–298–000.
Applicants: National Fuel Gas Supply Corporation.

Description: Market Pooling to be effective 12/19/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5132.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–299–000.
Applicants: National Fuel Gas Supply Corporation.
Description: Storage Service Enhancements to be effective 12/19/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5139.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–300–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: Non-Conforming Agreements to be effective 12/31/2012.
Filed Date: 11/20/12.
Accession Number: 20121120–5000.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–301–000.
Applicants: Venice Gathering System, LLC.
Description: Petition for Temporary Exemption from Certain Tariff Provisions of Venice Gathering System, L.L.C.
Filed Date: 11/19/12.
Accession Number: 20121119–5186.
Comments Due: 5 p.m. ET 12/3/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–107–001.
Applicants: Bison Pipeline LLC.
Description: RP13–107–000 NAESB Compliance to be effective 12/1/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5163.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–109–001.
Applicants: ANR Pipeline Company.
Description: RP13–109–000 NAESB Compliance to be effective 12/1/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5167.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–111–001.
Applicants: North Baja Pipeline, LLC.
Description: RP13–111 NAESB Compliance to be effective 12/1/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5166.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–114–001.
Applicants: Gas Transmission Northwest LLC.
Description: RP13–114 NAESB Compliance to be effective 12/1/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5170.
Comments Due: 5 p.m. ET 12/3/12.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated November 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28969 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–148–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: Southern Natural Gas Company, L.L.C. submits Annual Report on Operational Transactions Compliance Filing.
Filed Date: 11/20/12.
Accession Number: 20121120–5034.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–302–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Devon 34694–12 Amendment to Neg Rate Agmt to be effective 11/27/2012.
Filed Date: 11/20/12.
Accession Number: 20121120–5050.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–303–000.
Applicants: Questar Overthrust Pipeline Company.
Description: Request for Waiver of Questar Overthrust Pipeline Company.
Filed Date: 11/20/12.
Accession Number: 20121120–5220.
Comments Due: 5 p.m. ET 12/3/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP12–1064–001.
Applicants: Venice Gathering System, L.L.C.
Description: Order Number 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 11/20/12.
Accession Number: 20121120–5175.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–108–001.
Applicants: TransColorado Gas Transmission Company L.
Description: Compliance with Order in Compliance with Order No. 587–V to be effective 12/1/2012.
Filed Date: 11/20/12.
Accession Number: 20121120–5186.
Comments Due: 5 p.m. ET 12/3/12.
Docket Numbers: RP13–21–001.
Applicants: CenterPoint Energy Gas Transmission Comp.
Description: CEGT LLC—NAESB Version 2.0 Compliance Filing to be effective 12/1/2012.
Filed Date: 11/20/12.
Accession Number: 20121120–5066.
Comments Due: 5 p.m. ET 11/26/12.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 21, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28964 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–45–000.

Applicants: Long Island Solar Farm, LLC.

Description: Application of Long Island Solar Farm, LLC for FPA Section 203 approval.

Filed Date: 11/19/12.

Accession Number: 20121119–5185.

Comments Due: 5 p.m. ET 12/10/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1835–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: SA 2079 ITC Midwest-Oak Glen Compliance to be effective 5/24/2012.

Filed Date: 11/19/12.

Accession Number: 20121119–5105.

Comments Due: 5 p.m. ET 12/10/12.

Docket Numbers: ER12–2518–001.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing per 10/22/2012 Order in ER12–2518 to be effective 7/25/2012.

Filed Date: 11/19/12.

Accession Number: 20121119–5119.

Comments Due: 5 p.m. ET 12/10/12.

Docket Numbers: ER12–2702–001.

Applicants: Southwest Power Pool, Inc.

Description: 2198R3 Substitute Kansas Power Pool NITSA NOA to be effective 9/1/2012.

Filed Date: 11/19/12.

Accession Number: 20121119–5176.

Comments Due: 5 p.m. ET 12/10/12.

Docket Numbers: ER13–353–001.

Applicants: Alcoa Power Generating Inc.

Description: Executed APGI–SMT Interconnection Agreement (ER13–353) to be effective 11/15/2012.

Filed Date: 11/19/12.

Accession Number: 20121119–5157.

Comments Due: 5 p.m. ET 12/10/12.

Docket Numbers: ER13–355–001.

Applicants: Alcoa Power Generating Inc.

Description: Executed APGI–TVA Interconnection Agreement (ER13–355) to be effective 11/15/2012.

Filed Date: 11/19/12.

Accession Number: 20121119–5180.

Comments Due: 5 p.m. ET 12/10/12.

Docket Numbers: ER13–419–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3420; Queue No. X3–054 to be effective 10/25/2012.

Filed Date: 11/19/12.

Accession Number: 20121119–5160.

Comments Due: 5 p.m. ET 12/10/12.

Docket Numbers: ER13–420–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: 11–19–12 Monthly Regulation Ratio Filing to be effective 2/1/2013.

Filed Date: 11/19/12.

Accession Number: 20121119–5164.

Comments Due: 5 p.m. ET 12/10/12.

Docket Numbers: ER13–421–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3439; Queue No. Y1–027 to be effective 10/30/2012.

Filed Date: 11/19/12.

Accession Number: 20121119–5165.

Comments Due: 5 p.m. ET 12/10/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28963 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–42–000.

Applicants: Broad River Energy LLC, Broad River OL–1, LLC, Broad River OL–2, LLC, Broad River OL–3, LLC, Broad River OL–4, LLC.

Description: Section 203 Application of Broad River Energy LLC, et al.

Filed Date: 11/16/12.

Accession Number: 20121116–5202.

Comments Due: 5 p.m. ET 12/7/12.

Docket Numbers: EC13–43–000.

Applicants: FirstEnergy Service Company, Allegheny Energy Supply Company, LLC, Monongahela Power Company.

Description: Application of FirstEnergy Service Company, et al. for Authorization Pursuant to Section 203(a)(1) of the Federal Power Act for Transfer of Jurisdictional Facilities and Requests for Waivers of Filing Requirements.

Filed Date: 11/16/12.

Accession Number: 20121116–5223.

Comments Due: 5 p.m. ET 12/7/12.

Docket Numbers: EC13–44–000.

Applicants: Wolverine Creek Goshen Interconnection L, Meadow Creek Project Company LLC, Goshen Phase II LLC, Rockland Wind Farm LLC.

Description: Application for Approval under Section 203 of the Federal Power Act and Requests for Expedited Consideration and Confidential Treatment of Meadow Creek Project Company LLC, et al.

Filed Date: 11/19/12.

Accession Number: 20121119–5081.

Comments Due: 5 p.m. ET 12/10/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1708–001.

Applicants: ITC Midwest LLC, Midwest Independent Transmission System.

Description: ITC Midwest LLC submits tariff filing per 35: SA 65 ITCM-Northern Iowa Compliance to be effective 7/3/2012.

Filed Date: 11/19/12.

Accession Number: 20121119–5029.

Comments Due: 5 p.m. ET 12/10/12.

Docket Numbers: ER12–2206–001.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35: Compliance Filing SGIA with Western Antelope Dry Ranch, LLC to be effective 7/6/2012.

Filed Date: 11/19/12.

Accession Number: 20121119–5084.

Comments Due: 5 p.m. ET 12/10/12.

Docket Numbers: ER12–2208–001.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35: Compliance Filing SGIA with

Western Antelope Blue Sky Ranch A, LLC to be effective 7/6/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5078.
Comments Due: 5 p.m. ET 12/10/12.
Docket Numbers: ER12–2663–001.
Applicants: PJM Interconnection, L.L.C.
Description: Amendment to Service Agreement No. to be effective 8/20/2012.
Filed Date: 11/16/12.
Accession Number: 20121116–5194.
Comments Due: 5 p.m. ET 12/7/12.
Docket Numbers: ER12–2664–001.
Applicants: PJM Interconnection, L.L.C.
Description: Amendment to Notice of Cancellation of SA 3197 to be effective 8/20/2012.
Filed Date: 11/16/12.
Accession Number: 20121116–5193.
Comments Due: 5 p.m. ET 12/7/12.
Docket Numbers: ER13–217–001.
Applicants: Beacom Energy, Inc.
Description: Amendment to Filing 1 to be effective 11/26/2012.
Filed Date: 11/16/12.
Accession Number: 20121116–5195.
Comments Due: 5 p.m. ET 12/7/12.
Docket Numbers: ER13–404–000.
Applicants: California Independent System Operator Corporation.
Description: 2012–11–16 CAISO Tariff Amendment Regarding CFTC Regulations to be effective 1/30/2013.
Filed Date: 11/16/12.
Accession Number: 20121116–5185.
Comments Due: 5 p.m. ET 12/7/12.
Docket Numbers: ER13–405–000.
Applicants: Cayuga Operating Company, LLC.
Description: Cayuga RMR Filing to be effective 12/31/9998.
Filed Date: 11/16/12.
Accession Number: 20121116–5186.
Comments Due: 5 p.m. ET 12/7/12.
Docket Numbers: ER13–406–000.
Applicants: Southwest Power Pool, Inc.
Description: Revisions to SPP's OATT Reflecting Change of SPP's Official Address to be effective 1/13/2013.
Filed Date: 11/16/12.
Accession Number: 20121116–5188.
Comments Due: 5 p.m. ET 12/7/12.
Docket Numbers: ER13–407–000.
Applicants: Entergy Arkansas, Inc.
Description: Chisholm View Wind Transfer Agreement to be effective 12/1/2012.
Filed Date: 11/16/12.
Accession Number: 20121116–5190.
Comments Due: 5 p.m. ET 12/7/12.
Docket Numbers: ER13–408–000.
Applicants: Entergy Arkansas, Inc.
Description: LaGen-EGSL LGIA to be effective 11/17/2011.
Filed Date: 11/16/12.
Accession Number: 20121116–5191.
Comments Due: 5 p.m. ET 12/7/12.
Docket Numbers: ER13–409–000.
Applicants: Entergy Arkansas, Inc.
Description: KGen-EAI LGIA to be effective 3/15/2012.
Filed Date: 11/16/12.
Accession Number: 20121116–5192.
Comments Due: 5 p.m. ET 12/7/12.
Docket Numbers: ER13–410–000.
Applicants: Entergy Gulf States Louisiana, L.L.C.
Description: LUS System-to-System Interconnection Agreement to be effective 6/22/2012.
Filed Date: 11/16/12.
Accession Number: 20121116–5196.
Comments Due: 5 p.m. ET 12/7/12.
Docket Numbers: ER13–411–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits a Notice of Termination of a Generator Special Facilities and Interconnection Agreement for the South San Joaquin and Oakdale Irrigation Districts—Tulloch Powerhouse.
Filed Date: 11/19/12.
Accession Number: 20121119–5048.
Comments Due: 5 p.m. ET 12/10/12.
Docket Numbers: ER13–412–000.
Applicants: Dominion Nuclear Connecticut, Inc.
Description: New Baseline Refile to be effective 11/20/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5059.
Comments Due: 5 p.m. ET 12/10/12.
Docket Numbers: ER13–413–000.
Applicants: USG Oregon LLC.
Description: USG Oregon LLC MBR Tariff Filing to be effective 1/17/2013.
Filed Date: 11/19/12.
Accession Number: 20121119–5064.
Comments Due: 5 p.m. ET 12/10/12.
Docket Numbers: ER13–414–000.
Applicants: East Kentucky Power Cooperative, Inc.
Description: East Kentucky Power Cooperative, Inc. submits Request for Waiver to Participate in PJM Reliability Pricing Model Auctions.
Filed Date: 11/15/12.
Accession Number: 20121115–5174.
Comments Due: 5 p.m. ET 12/6/12.
Docket Numbers: ER13–415–000.
Applicants: Anahau Energy, LLC.
Description: Anahau Energy, LLC submits tariff filing per 35.12: Baseline new to be effective 1/1/2013.
Filed Date: 11/19/12.
Accession Number: 20121119–5085.
Comments Due: 5 p.m. ET 12/10/12.
Docket Numbers: ER13–416–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: SA 2491 Hazelton-Mitchell G540 G548 MPFCA to be effective 11/20/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5107.
Comments Due: 5 p.m. ET 12/10/12.
Docket Numbers: ER13–417–000.
Applicants: Northeast Utilities Service Company, Western Massachusetts Electric Company.
Description: Western Massachusetts Electric Company submits Notice of Cancellation of Transmission Service Rate Schedule with Pittsfield Generating Company, L.P.
Filed Date: 11/19/12.
Accession Number: 20121119–5130.
Comments Due: 5 p.m. ET 12/10/12.
Docket Numbers: ER13–418–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Original Service Agreement No. 3417; Queue No. W3–159 to be effective 10/24/2012.
Filed Date: 11/19/12.
Accession Number: 20121119–5145.
Comments Due: 5 p.m. ET 12/10/12.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–7–000.
Applicants: PJM Settlement, Inc., PJM Interconnection, L.L.C.
Description: Amendment to November 2, 2012 Application of PJM Settlement, Inc. and PJM Interconnection, L.L.C.
Filed Date: 11/19/12.
Accession Number: 20121119–5092.
Comments Due: 5 p.m. ET 11/29/12.
Docket Numbers: ES13–8–000.
Applicants: Northern Pass Transmission LLC.
Description: Northern Pass Transmission LLC submits Amendment to Application for Authorization to Issue Debt Securities.
Filed Date: 11/16/12.
Accession Number: 20121116–5146.
Comments Due: 5 p.m. ET 11/26/12.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF13–94–000.
Applicants: Independence Visitors Center.
Description: Form 556 of Independence Visitors Center.
Filed Date: 11/19/12.
Accession Number: 20121119–5060.
Comments Due: None Applicable.

The filings are accessible in the Commission's eLibrary system by

clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 19, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28962 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–94–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: Trailblazer Pipeline Company LLC submits Information Requested in Compliance with the October 31, 2012 Commission Order.

Filed Date: 11/15/12.

Accession Number: 20121115–5175.

Comments Due: 5 p.m. ET 11/27/12.

Docket Numbers: RP13–304–000.

Applicants: Northern Natural Gas Company.

Description: 20121130 CenterPoint and MUD Non-conforming to be effective 1/1/2013.

Filed Date: 11/21/12.

Accession Number: 20121121–5049.

Comments Due: 5 p.m. ET 12/3/12.

Docket Numbers: RP13–305–000.

Applicants: Golden Triangle Storage, Inc.

Description: Order No. 587–V Revised Compliance Filing to be effective 12/1/2012.

Filed Date: 11/21/12.

Accession Number: 20121121–5073.

Comments Due: 5 p.m. ET 12/3/12.

Docket Numbers: RP13–306–000.

Applicants: Ryckman Creek Resources, LLC.

Description: Compliance Filing Response to 110812 Comm Ltr Order to be effective 12/1/2012.

Filed Date: 11/21/12.

Accession Number: 20121121–5112.

Comments Due: 5 p.m. ET 12/3/12.

Docket Numbers: RP13–307–000.

Applicants: Atmos Energy Corporation.

Description: Petition for Temporary Waivers of Atmos Energy Corporation.

Filed Date: 11/21/12.

Accession Number: 20121121–5224.

Comments Due: 5 p.m. ET 12/3/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–62–001.

Applicants: Dominion Cove Point LNG, LP.

Description: DCP—Compliance Filing—NAESB Version 2.0 to be effective 12/1/2012.

Filed Date: 11/21/12.

Accession Number: 20121121–5109.

Comments Due: 5 p.m. ET 12/3/12.

Docket Numbers: RP13–81–001.

Applicants: Caledonia Energy Partners, L.L.C.

Description: Caledonia Change to FERC Gas Tariff to Comply with FERC Order No. 587–V to be effective 12/1/2012.

Filed Date: 11/21/12.

Accession Number: 20121121–5187.

Comments Due: 5 p.m. ET 12/3/12.

Docket Numbers: RP13–98–001.

Applicants: East Cheyenne Gas Storage, LLC.

Description: East Cheyenne November 21 Compliance Filing to be effective 12/1/2012.

Filed Date: 11/21/12.

Accession Number: 20121121–5100.

Comments Due: 5 p.m. ET 12/3/12.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 23, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28961 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–301–000.

Applicants: Venice Gathering System, LLC.

Description: Petition for Temporary Exemption from Certain Tariff Provisions of Venice Gathering System, L.L.C.

Filed Date: 11/19/12.

Accession Number: 20121119–5186.

Comments Due: 5 p.m. ET 11/26/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 21, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28960 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–162–006; ER11–3876–008; ER11–2044–009; ER10–2611–006.

Applicants: Bishop Hill Energy II LLC, Cordova Energy Company LLC MidAmerican Energy Company, Saranac Power Partners, L.P.

Description: Notice of Change in Status under Market-Based Rate Authority of MidAmerican Energy Company.

Filed Date: 11/21/12.

Accession Number: 20121121–5080.

Comments Due: 5 p.m. ET 12/12/12.

Docket Numbers: ER13–443–000

Applicants: PJM Interconnection, L.L.C.

Description: Queue Position #T107, X3–004 & Y2–019—First Revised SA Nos. 3388 & 3409 to be effective 11/20/2012.

Filed Date: 11/21/12.

Accession Number: 20121121–5062.

Comments Due: 5 p.m. ET 12/12/12.

Docket Numbers: ER13–444–000.

Applicants: Southern California Edison Company.

Description: Amended SGIA & DSA to RE Victor Phelan Solar One Project to be effective 1/21/2013.

Filed Date: 11/21/12.

Accession Number: 20121121–5102.

Comments Due: 5 p.m. ET 12/12/12.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–10–000.

Applicants: FirstEnergy Service Company, Jersey Central Power & Light Co.

Description: First Energy Service Company on behalf of Jersey Central Power & Light Company submits Emergency Application for Authorization to Issue Short-Term Debt Securities on a Temporary Basis, and Requests for Expedited Treatment and Partial Waiver of Filing Requirements.

Filed Date: 11/21/12.

Accession Number: 20121121–5110.

Comments Due: 5 p.m. ET 12/10/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 21, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28958 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–415–000]

Anahau Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Anahau Energy, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is December 10, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28955 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–413–000]

USG Oregon LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of USG Oregon LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is December 10, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28966 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–392–000]

M&R Energy Resources Corp.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of M&R Energy Resources Corp.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is December 10, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 20, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–28965 Filed 11–29–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Notice of Intent To Prepare an Environmental Assessment for the Transfer of the Kansas City Plant, Kansas City, MO

AGENCY: National Nuclear Security Administration (NNSA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an environmental assessment.

SUMMARY: Pursuant to the *National Environmental Policy Act of 1969* (NEPA), and the Council on Environmental Quality and U.S. Department of Energy (DOE) regulations implementing NEPA, the National Nuclear Security Administration (NNSA), a semi-autonomous agency within DOE, announces its intention to prepare an Environmental Assessment (EA) for the transfer of the Kansas City Plant (KCP) (DOE/EA–1947), which is an NNSA-owned property at the Bannister Federal Complex (BFC). Concurrently, NNSA is canceling the Notice of Intent issued on January 23, 2012 (77 FR 3259) for the preparation of an Environmental Impact Statement for the Disposition of the Bannister Federal Complex, Kansas City, Missouri, and Notice of Wetlands Involvement (DOE/EIS–0475).

FOR FURTHER INFORMATION CONTACT: To ask questions about the KCP Transfer EA, or to be notified when the draft EA is available for public review, please contact: Mr. Nathan Gorn, NNSA Kansas City Field Office, 2000 E. 95th Street, Kansas City, Missouri, 64131; telephone: (816) 997–4197; or email: *Nathan.Gorn@nnsa.doe.gov.* For general information about GSA activities at the BFC, please contact: Jeremiah Nelson, Asset Manager, U.S. General Services Administration, 1500 East Bannister Road, Room 2135, Kansas City, Missouri 64131–3088; email: *jeremiah.nelson@gsa.gov*; telephone: (816) 823–5803; fax: (816) 926–1140.

DOE's NEPA Compliance Program: Additional information regarding DOE NEPA activities and access to many of DOE's NEPA documents are available on the Internet through the DOE NEPA Web site at *http://energy.gov/nepa.* For general information about the DOE NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, Office of the General Counsel (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; email: *askNEPA@hq.doe.gov*; telephone: (202) 586–4600; fax: (202) 586–7031; or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background. The KCP is within the corporate city limits of Kansas City, Missouri, approximately 8 miles south of the city center. It can be accessed via major highways (Interstate 435 and U.S. Highway 71), as well as auxiliary and smaller secondary streets. The approximately 300-acre BFC is owned by NNSA and the General Services

Administration (GSA). NNSA owns the portion of the BFC known as the KCP, consisting of approximately 122 acres and 38 buildings. GSA owns the remainder of the BFC, consisting of approximately 175 acres and 13 buildings. The KCP shares individual buildings and utilities with GSA operations at the BFC. The property is currently zoned M3–5, manufacturing.

No wetlands are present on the KCP. There are no residences and no agricultural activities or farmlands on the KCP. The adjoining properties are mostly residential with isolated commercial tracts, except along the eastern and northern sides, which have been designated for public and recreational uses.

The KCP has been extensively characterized for the presence of legacy contamination that might impact soils and groundwater at the site. Active remediation has taken place at previously identified solid waste management units, and NNSA continues to implement environmental remedies. On August 24, 2012, NNSA received final permit modifications for the existing Missouri Hazardous Waste Management Facility Part I Permit and the existing Hazardous and Solid Waste Amendments of 1984 Part II Permit from the Missouri Department of Natural Resources and the U.S. Environmental Protection Agency (EPA). Those permit modifications require NNSA and GSA to conduct further environmental investigation, monitoring, and risk assessment, and will allow better coordination of environmental investigations.

Beginning in 2013, NNSA will relocate its operations from the KCP to a newly constructed industrial campus 8 miles south of the BFC. NNSA's relocation of operations to the new facility was analyzed in an EA that GSA completed in 2008 and DOE adopted (DOE/EA–1592). When the move is completed, the KCP property at the BFC will be excess to the needs of NNSA's mission and will be available for transfer.

GSA is continuing to evaluate its options to potentially relocate its operations to a new location away from the BFC. If GSA decides to relocate its operations, its real property at the BFC also could be available for transfer.

Purpose and Need for Agency Action. The purpose and need for agency action is to transfer the KCP as excess Federal property in an environmentally safe and fiscally responsible manner. This would enable NNSA to reduce its operational footprint and reduce operational and maintenance costs.

Proposed Action and No Action Alternative. The proposed action is to transfer the NNSA's KCP property either in whole or in part. In October 2011, NNSA issued a notice of availability via the Federal Business Opportunities Web site soliciting proposals of interest for the transfer, sale, or lease of the KCP. Through this ongoing notice of availability process, NNSA identified a preferred planning partner and determined that only land uses consistent with current zoning are feasible. Based on preliminary discussions with the preferred planning partner, and input received during the scoping process for the now-cancelled EIS, NNSA's *Environmental Assessment for the Transfer of the Kansas City Plant, Kansas City, Missouri* (the KCP Transfer EA) will consider the No Action Alternative, where NNSA relocates operations from the KCP and maintains ownership of its property; and the Proposed Action Alternative, where NNSA transfers the KCP property for mixed use (industrial, warehouse, commercial, office). Under the proposed action, the EA will address the potential direct, indirect, and cumulative impacts of using the KCP property for uses consistent with current zoning. NNSA will also analyze the potential environmental impacts of partial and/or complete demolition of some KCP structures.

Issued in Kansas City, MO, this 16th day of November 2012.

Mark L. Holecek,

Manager, Kansas City Field Office, NNSA Kansas City Plant.

[FR Doc. 2012–28713 Filed 11–29–12; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2012–0674; FRL–9366–5]

Agency Information Collection Activities; Proposed Collection; Comment Request; Notification of Substantial Risk of Injury to Health and the Environment Under TSCA Section 8(e) (Renewal); EPA ICR No. 0794.13

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: ''Notification of Substantial Risk of Injury to Health and the Environment under TSCA Section 8(e)'' and identified by EPA ICR No. 0794.13 and OMB Control No. 2070–0046, is scheduled to expire on June 30, 2013. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before January 29, 2013.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0674, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. ATTN: Docket ID Number EPA–HQ–OPPT–2012–0674. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2012–0674. EPA's policy is that all comments received will be included in the docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your

comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Amuel Kennedy, Risk Assessment Division (7403M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–7609; fax number: (202) 564–1626; email address: *kennedy.amuel@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates 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.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline identified under **DATES**.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What information collection activity or ICR does this action apply to?

Affected entities: Entities potentially affected by this ICR are companies that manufacture, process, import, or distribute in commerce a chemical substance or mixture and that obtain information that reasonably supports the conclusion that such chemical substance or mixture presents a substantial risk of injury to health or the environment.

Title: Notification of Substantial Risk of Injury to Health and the Environment under TSCA Section 8(e).

ICR number: EPA ICR No. 0794.13.

OMB control number: OMB Control No. 2070–0046.

ICR status: This ICR is currently scheduled to expire on June 30, 2013. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 8(e) of the Toxic Substances Control Act (TSCA) requires that any person who manufactures, imports, processes, or distributes in commerce a chemical substance or mixture and which obtains information that reasonably supports the conclusion that such chemical substance or mixture presents a substantial risk of injury to health or the environment must immediately inform EPA of such information. This information collection refers to that reporting requirement. EPA routinely disseminates TSCA section 8(e) data it receives to other Federal agencies to provide information about newly discovered chemical hazards and risks.

Responses to the collection of information are mandatory (see 15 U.S.C. 2607(e)). Respondents may claim all or part of a notice CBI. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 5 and 51 hours per response, depending on whether the response is an initial or follow-up submission. 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.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 546.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.3.

Estimated total annual burden hours: 28,741 hours.

Estimated total annual costs: $1,936,264. This includes an estimated burden cost of $1,936,264 and an estimated cost of $0 for capital investment or maintenance and operational costs.

IV. Are there changes in the estimates from the last approval?

There is a decrease of 1,774 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects EPA's updated projection of the number of TSCA section 8(e) submissions that the Agency expects to receive in the next 3 years. This change is an adjustment.

V. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: November 21, 2012.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2012–29011 Filed 11–29–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2012–0675; FRL–9368–3]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: ''EPA's Design for the Environment (DfE) Formulator Product Recognition Program'' and identified by EPA ICR No. 2302.02 and OMB Control No. 2070–0178, is scheduled to expire on June 30, 2013. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before January 29, 2013.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0675, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. ATTN: Docket ID Number EPA–HQ–OPPT–2012–0675. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ- OPPT–2012–0675. EPA's policy is that all comments received will be included in the docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* David Difiori, Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number:

(202) 564–8796; fax number: (202) 564–8892; email address: *difiori.david@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates 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.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline identified under **DATES**.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What information collection activity or ICR does this action apply to?

Affected entities: Entities potentially affected by this ICR are companies engaged in the formulation of end-use, for-sale products, that have furthered the goals of DfE through active and exemplary participation in and promotion of the program, and that wish to receive recognition for their achievements.

Title: EPA's Design for the Environment (DfE) Formulator Product Recognition Program.

ICR number: EPA ICR No. 2302.02.

OMB control number: OMB Control No. 2070–0178.

ICR status: This ICR is currently scheduled to expire on June 30, 2013. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA's DfE Formulator Product Recognition Program formally recognizes safer products where all ingredients have an environmental and human health profile showing that they are the safest in their functional use class. Under the encouragement of this program, leading companies have made great progress in developing safer, highly effective chemical products. Since the program's inception in 1997, formulators have used the program as a portal to OPPT's unique chemical expertise, information resources, and guidance on greener chemistry. DfE Formulator partners enjoy Agency recognition, including the use of the DfE logo on products with the safest possible formulations. In the future, EPA expects much greater program participation due to rising demand for safer products. This information collection enables EPA to accommodate participation by more than nine formulators each year and to enhance program transparency.

Information collection activities associated with this program will assist the Agency in meeting the goals of the Pollution Prevention Act (PPA) by providing resources and recognition for businesses committed to promoting and using safer chemical products. In turn, the program will help businesses meet corporate sustainability goals by providing the means to, and an objective measure of, environmental stewardship. Investment analysts and advisers seek these types of measures in evaluating a corporation's sustainability profile and investment worthiness. Formulator program partnership is an important impetus for prioritizing and completing the transition to safer chemical products. The formulator program is also needed to promote greater use of safer chemical products by companies unaware of the benefits of such a change.

EPA has tailored its request for information, and especially the DfE Formulator Product Recognition Program application forms, to ensure that the Agency requests only that information essential to verify applicants' eligibility for recognition.

Responses to the collection of information are voluntary. Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to be 25.5 hours per response for formulators of cleaning and non-cleaning products and 9.5 hours per response for cleaning product formulators wishing to add third-party partners and products. 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.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 66.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 1,111 hours.

Estimated total annual costs: $488,570. This includes an estimated burden cost of $488,570 and an estimated cost of $0 for capital investment or maintenance and operational costs.

IV. Are there changes in the estimates from the last approval?

There is an increase of 420 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's estimate of the number of applications the Agency will receive annually to add third-party partners and products. This estimate is based on the historical number of respondents that submitted third-party partners and products applications in the last year; this number is expected to remain constant over the next three years. The supporting statement provides additional details on the burden change. This change is an adjustment.

V. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: November 21, 2012.

James Jones,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2012–29037 Filed 11–29–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9006–3]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 11/19/2012 Through 11/23/2012 Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

SUPPLEMENTARY INFORMATION: As of October 1, 2012, EPA will not accept paper copies or CDs of EISs for filing purposes; all submissions on or after October 1, 2012 must be made through e-NEPA. While this system eliminates the need to submit paper or CD copies to EPA to meet filing requirements, electronic submission does not change requirements for distribution of EISs for public review and comment. To begin using e-NEPA, you must first register with EPA's electronic reporting site—*https://cdx.epa.gov/epa_home.asp.*

EIS No. 20120371, Final Supplement, USFS, MT, Beaverhead-Deerlodge National Forest Land and Resource Management Plan, To Comply with the District of Montana Court Order, Beaverhead and Jefferson Counties, MT, Contact: Peri Suenram 406–683–3900 Due to an oversight, the above document should have appeared in the 11/23/2012 FR Notice.

EIS No. 20120372, Final EIS, FAA, 00, Adoption—Programmatic-Constellation Program, Development of Flight Systems and Earth-based Ground Infrastructure for Future Missions, Brevard and Volusia Counties, FL; Hancock County, MS; Orlean Parish, LA; Harris County, TX; Madison County, AL; Cuyahoga and Erie Counties, OH; Hampton, VA; Santa Clara County, CA; Dona Ana and Otero Counties, NM; and Box Elder and Davis Counties, UT, Review Period Ends: 12/31/2012, Contact: Daniel Czelusniak 703–624–7115.

The U.S. Department of Transportation's Federal Aviation Administration has adopted the National Aeronautics and Space Administration's (NASA) final EIS filed 01/09/2008.

The NASA was not a cooperating agency for the above final EIS. Recirculation of the document is necessary under Section 1506.3(b) of the Council on Environmental Quality Regulations.

EIS No. 20120373, Draft EIS, BLM, WY, Continental Divide-Creston Natural Gas Development Project, Carbon and Sweetwater Counties, WY, Comment Period Ends: 01/14/2013, Contact: Dennis Carpenter 307–328–4200.

Amended Notices

EIS No. 20120365, Final EIS, USACE, CA, Withdrawn—Pier S Marine Terminal Development and Back Channel Improvements, Los Angeles County, CA, Review Period Ends: 12/17/2012, Contact: John W. Markham 805–585–2150 Revision to FR Published 11/16/2012; Officially Withdrawn by the preparing agency.

Dated: November 27, 2012.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–29006 Filed 11–29–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Appointment of New FASAB Member and Release of the Exposure Draft Regarding Deferral of the Transition of Long-Term Projections to Basic Information

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 2010, notice is hereby given that Mr. Graylin E. Smith has been appointed to a five-year term as a member of the Federal Accounting Standards Advisory Board (FASAB) beginning July 16, 2012.

The Federal Accounting Standards Advisory Board (FASAB) also announces the release of the *Exposure Draft Regarding Deferral of the Transition of Long-Term Projections to Basic Information.*

The Exposure Draft is available on the FASAB home page *http://www.fasab.gov/board-activities/documents-for-comment/exposure-drafts-and-documents-for-comment/.* Copies can be obtained by contacting FASAB at (202) 512–7350.

Respondents are encouraged to comment on any part of the exposure draft. Written comments on the Exposure Draft are requested by January 31, 2013. Comments on the Exposure Drafts should be sent to: *fasab@fasab.gov* or Wendy M. Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW., Suite 6814, Mail Stop 6H19, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Wendy Payne, Executive Director, at (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: November 26, 2012.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. 2012–28934 Filed 11–29–12; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 20, 2012.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Hope Bancshares, Inc.,* Hope, Kansas, to acquire 100 percent of the voting shares of ABM Holding Company, and thereby indirectly acquire The Citizens State Bank, both in Miltonvale, Kansas.

Board of Governors of the Federal Reserve System, November 26, 2012.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2012–28922 Filed 11–29–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children's Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2013 Through September 30, 2014

AGENCY: Office of the Secretary, DHHS.

ACTION: Notice.

SUMMARY: The Federal Medical Assistance Percentages (FMAP), Enhanced Federal Medical Assistance Percentages (eFMAP), and disaster-recovery FMAP adjustments for Fiscal Year 2014 have been calculated pursuant to the Social Security Act (the Act). These percentages will be effective from October 1, 2013 through September 30, 2014. This notice announces the calculated FMAP and eFMAP rates that the U.S. Department of Health and Human Services (HHS) will use in determining the amount of federal matching for state medical assistance (Medicaid) and Children's Health Insurance Program (CHIP) expenditures, Temporary Assistance for Needy Families (TANF) Contingency Funds, Child Support Enforcement collections, Child Care Mandatory and Matching Funds of the Child Care and Development Fund, Foster Care Title IV–E Maintenance payments, and Adoption Assistance payments. Table 1 gives figures for each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. This notice also announces the disaster-recovery FMAP adjustments for qualifying states for FY 2014 that the U.S. Department of Health and Human Services (HHS) will use in determining the amount of federal matching for state medical assistance (Medicaid) and title IV–E Foster Care, Adoption Assistance and Guardianship Assistance programs.

Programs under title XIX of the Act exist in each jurisdiction. Programs under titles I, X, and XIV operate only in Guam and the Virgin Islands, while a program under title XVI (Aid to the Aged, Blind, or Disabled) operates only in Puerto Rico. The percentages in this notice apply to state expenditures for most medical assistance and child health assistance, and assistance payments for certain social services. The Act provides separately for federal matching of administrative costs.

Sections 1905(b) and 1101(a)(8)(B) of the Social Security Act (the Act) require the Secretary of HHS to publish the FMAP rates each year. The Secretary calculates the percentages, using formulas in sections 1905(b) and 1101(a)(8), and calculations by the Department of Commerce of average income per person in each state and for the Nation as a whole. The percentages must fall within the upper and lower limits given in section 1905(b) of the Act. The percentages for the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands are specified in statute, and thus are not based on the statutory formula that determines the percentages for the 50 States.

Section 1905(b) of the Act specifies the formula for calculating FMAPs as follows:

'' ''Federal medical assistance percentage'' for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 55 percent * * *''.

Section 4725(b) of the Balanced Budget Act of 1997 amended section 1905(b) to provide that the FMAP for the District of Columbia for purposes of titles XIX and XXI shall be 70 percent. For the District of Columbia, we note under Table 1 that other rates may apply in certain other programs. In addition, we note the rate that applies for Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands in certain other programs pursuant to section 1118 of the Act.

Section 1905(y) of the Act, as added by section 2001 of the Patient Protection and Affordable Care Act of 2010

(''Affordable Care Act''), provides for a significant increase in the Federal Medical Assistance Percentage (FMAP) for medical expenditures for individuals determined eligible under the new adult group in the State and who will be considered to be ''newly eligible'' in 2014, as defined in section 1905(y)(2)(A) of the Act. The FMAP for these newly eligible individuals will be 100 percent for Calendar Year (CY) 2014–2016, gradually declining to 90 percent in 2020 where it remains indefinitely. In addition, section 1905(z) of the Act, as added by section 10201 of the Affordable Care Act, provides that States that had expanded substantial coverage to low-income parents and nonpregnant adults without children prior to the enactment of the Affordable Care Act, referred to as ''expansion States,'' shall receive an enhanced FMAP that begins in 2014 for nonpregnant childless adults who may be required to enroll in benchmark coverage. These provisions are discussed in more detail in the Medicaid Eligibility proposed rule published on August 17, 2011 (76 FR 51172) and the final rule published on March 23, 2012 (77 FR 17143).

Section 2006 of the Affordable Care Act amended section 1905 of the Social Security Act by adding section (aa) to provide for an increase in the FMAP rate for qualifying States for Medicaid and title IV–E Foster Care, Adoption Assistance and Guardianship Assistance programs. The purpose of the increase to the FMAP rate is to provide increased federal financial participation for qualifying States that have experienced a major, statewide disaster.

The methodology for calculating and publishing disaster-recovery adjustments to fiscal year FMAP rates was published on December 22, 2010 (75 FR 80501).

Section 1905(aa) of the Act defines a ''disaster-recovery FMAP adjustment state'' as one of the 50 states or District of Columbia for which, at any time during the preceding 7 fiscal years, the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act under which every county or parish in the state is eligible for individual and public assistance or public assistance from the federal government, and for which the FMAP as determined for the fiscal year is less than the FMAP (for the first year of assistance) or the disaster-adjusted recovery FMAP (for each subsequent year of assistance) for the preceding fiscal year by at least three percentage points.

Qualifying states receive an adjustment to their annual FMAP rate based on a formula specified in statute. In the first year a State qualifies, this increase is applied to the FMAP as determined for the fiscal year. Section 2006 of the Affordable Care Act specified that the disaster-recovery adjustment in the second or any succeeding fiscal year a State qualifies be applied to the prior year's disaster-recovery adjusted FMAP. This resulted in increased, rather than phased down, financial assistance to qualifying states each year, and allowed states to continue to qualify for assistance after their underlying FMAP has stabilized. Section 3204 of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96) revised the formula in section 1905(aa) to apply the adjustment for the second or any succeeding fiscal year that a state qualifies to the FMAP as determined for the fiscal year, effective October 1, 2013. Further, section 100123 of the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141) revised the formula again, this time for FY13 only, and changed the effective date in Public Law 112–96 to October 1, 2012. As a result, HHS has revised the FY13 disaster-recovery FMAP adjustment published on November 30, 2011. Thus, the revised disaster-recovery FMAP rate for Louisiana for FY13 (the only qualifying state, as published in 76 FR 74061) is included in Table 2 taking into account the revised formula set forth in section 3204 of the Middle Class Tax Relief and Job Creation Act of 2012.

Based on the criteria for a qualifying state, only one State, Louisiana, meets the requirement for a disaster-recovery FMAP adjustment in FY14. Hurricane Gustav caused Louisiana to be declared a state-wide disaster area on September 2, 2008. In addition, Louisiana's FMAP as determined for FY 2014 is less than the previous year disaster-recovery adjusted FMAP by at least three percentage points. Therefore, Louisiana is the only state that qualifies for a disaster-recovery adjustment to their FY2014 FMAP rate. The disaster-recovery adjusted FMAP rate for Louisiana for FY2014 is included in Table 2.

Section 2105(b) of the Act specifies the formula for calculating the eFMAP rates as follows:

> The ''enhanced FMAP'', for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the State, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a state exceed 85 percent.

The eFMAP rates are used in the Children's Health Insurance Program under Title XXI, and in the Medicaid program for certain children for expenditures for medical assistance described in sections 1905(u)(2) and 1905(u)(3) of the Act. There is no specific requirement to publish the eFMAP rates. We include them in this notice for the convenience of the States.

DATES: *Effective Dates:* The percentages listed in Table 1 will be effective for each of the four quarter-year periods beginning October 1, 2013 and ending September 30, 2014. The FY14 disaster-recovery adjusted FMAP rate in Table 2 will also be effective for each of the four quarter-year periods beginning October 1, 2013 and ending September 30, 2014. The FY13 revised disaster-recovery adjusted FMAP rate in Table 2 will be effective for each of the four quarter-year periods beginning October 1, 2012 and ending September 30, 2013.

FOR FURTHER INFORMATION CONTACT: Carrie Shelton or Tom Musco, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D—Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, (202) 690–6870.

(Catalog of Federal Domestic Assistance Program Nos. 93.558: TANF Contingency Funds; 93.563: Child Support Enforcement; 93.596: Child Care Mandatory and Matching Funds of the Child Care and Development Fund; 93.658: Foster Care Title IV–E; 93.659: Adoption Assistance; 93.769: Ticket-to-Work and Work Incentives Improvement Act (TWWIIA) Demonstrations to Maintain Independence and Employment; 93.778: Medical Assistance Program; 93.767: Children's Health Insurance Program)

Dated: November 23, 2012.

Kathleen Sebelius,

Secretary.

TABLE 1—FEDERAL MEDICAL ASSISTANCE PERCENTAGES AND ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 2013–SEPTEMBER 30, 2014

[Fiscal year 2014]

State	Federal medical assistance percentages	Enhanced federal medical assistance percentages
Alabama	68.12	77.68
Alaska	50.00	65.00
American Samoa*	55.00	68.50
Arizona	67.23	77.06
Arkansas	70.10	79.07
California	50.00	65.00
Colorado	50.00	65.00
Connecticut	50.00	65.00
Delaware	55.31	68.72
District of Columbia**	70.00	79.00
Florida	58.79	71.15
Georgia	65.93	76.15
Guam*	55.00	68.50
Hawaii	51.85	66.30
Idaho	71.64	80.15
Illinois	50.00	65.00
Indiana	66.92	76.84
Iowa	57.93	70.55
Kansas	56.91	69.84
Kentucky	69.83	78.88
Louisiana	60.98	72.69
Maine	61.55	73.09
Maryland	50.00	65.00
Massachusetts	50.00	65.00
Michigan	66.32	76.42
Minnesota	50.00	65.00
Mississippi	73.05	81.14
Missouri	62.03	73.42
Montana	66.33	76.43
Nebraska	54.74	68.32
Nevada	63.10	74.17
New Hampshire	50.00	65.00
New Jersey	50.00	65.00
New Mexico	69.20	78.44
New York	50.00	65.00
North Carolina	65.78	76.05
North Dakota	50.00	65.00
Northern Mariana Islands*	55.00	68.50
Ohio	63.02	74.11
Oklahoma	64.02	74.81
Oregon	63.14	74.20
Pennsylvania	53.52	67.46
Puerto Rico*	55.00	68.50
Rhode Island	50.11	65.08
South Carolina	70.57	79.40
South Dakota	53.54	67.48
Tennessee	65.29	75.70
Texas	58.69	71.08
Utah	70.34	79.24
Vermont	55.11	68.58
Virgin Islands*	55.00	68.50
Virginia	50.00	65.00
Washington	50.00	65.00
West Virginia	71.09	79.76
Wisconsin	59.06	71.34
Wyoming	50.00	65.00

* For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI will be 75 per centum.

** The values for the District of Columbia in the table were set for the state plan under titles XIX and XXI and for capitation payments and DSH allotments under those titles. For other purposes, the percentage for DC is 50.00, unless otherwise specified by law.

TABLE 2—DISASTER-RECOVERY ADJUSTED FMAP RATES
FISCAL YEAR 2013 REVISED DISASTER-RECOVERY ADJUSTED FMAP RATES

A	B	C	D	E	F
State	FY13 FMAP	FY12 disaster recovery adjusted FMAP	Decrease in FMAP	Disaster recovery adjustment increase	Disaster recovery adjusted FMAP FY13
			Col C − B	50% × Col D*	Col B + E
Louisiana	61.24	69.78	8.54	4.27	65.51

* Percentage determined in accordance with section 1905(aa)(1)(A) of the Social Security Act.

FISCAL YEAR 2014 DISASTER-RECOVERY ADJUSTED FMAP RATES

A	B	C	D	E	F
State	FY14 FMAP	FY13 disaster recovery adjusted FMAP	Decrease in FMAP	Disaster recovery adjustment increase	Disaster recovery adjusted FMAP FY14
			Col C − B	25% × Col D*	Col B + E
Louisiana	60.98	65.51	4.53	1.13	62.11

* Percentage determined in accordance with section 1905(aa)(1)(B) of the Social Security Act.

[FR Doc. 2012–29035 Filed 11–29–12; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Intent To Establish the 2015 Dietary Guidelines Advisory Committee and Solicitation of Nominations for Appointment to the Committee Membership; Amendment

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice; amendment.

SUMMARY: A notice was published in the **Federal Register** of Friday, October 26, 2012, Vol. 77, No. 208, to announce the intent to establish the 2015 Dietary Guidelines Advisory Committee and solicit nominations of individuals who are interested in being appointed to the Committee membership. This notice is being amended to extend the solicitation period to allow additional time for nominations to be received. The new due date for all nominations to be received is no later than close of business on December 11, 2012.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, 2015 DGAC: Richard D. Olson and/or Alternate Designated Federal Officer, 2015 DGAC: Kellie (O'Connell) Casavale, Ph.D., R.D.; Office of Disease Prevention and Health Promotion, OASH/DHHS; 1101 Wootton Parkway, Suite LL 100 Tower Building; Rockville, MD 20852; Telephone: (240) 453–8280; Fax: (240) 453–8281. Lead USDA Co-Executive Secretary: Colette I. Rihane, M.S., R.D., Director, Nutrition Guidance and Analysis Division; Center for Nutrition Policy and Promotion; U.S. Department of Agriculture; 3101 Park Center Drive, Room 1034; Alexandria, VA 22302; Telephone: (703) 305–7600; Fax: (703) 305–3300. USDA Co-Executive Secretary, Shanthy A. Bowman, Ph.D., Nutritionist, Food Surveys Research Group; Beltsville Human Nutrition Research Center, Agricultural Research Service, USDA; 10300 Baltimore Avenue, BARC-West Building 005, Room 125; Beltsville, MD 20705–2350; Telephone: (301) 504–0619. Additional information about the 2015 DGAC is available on the Internet at *www.dietary guidelines.gov.*

Dated: November 26, 2012.

Howard K. Koh,

Assistant Secretary for Health.

[FR Doc. 2012–28928 Filed 11–29–12; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–6044–N]

Medicare, Medicaid, and Children's Health Insurance Programs; Provider Enrollment Application Fee Amount for Calendar Year 2013

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

ACTION: Notice.

SUMMARY: This notice announces a $532.00 calendar year (CY) 2013 application fee for institutional providers that are initially enrolling in the Medicare or Medicaid program or the Children's Health Insurance Program (CHIP); revalidating their Medicare, Medicaid or CHIP enrollment; or adding a new Medicare practice location. This fee is required with any enrollment application submitted on or after January 1, 2013 and on or before December 31, 2013.

DATES: *Effective Date:* This notice is effective on January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Frank Whelan, (410) 786–1302 for Medicare enrollment issues. Claudia Simonson, (312) 353–2115 for Medicaid and CHIP enrollment issues.

SUPPLEMENTARY INFORMATION:

I. Background

In the February 2, 2011 **Federal Register** (76 FR 5862), we published a final rule with comment period entitled: ''Medicare, Medicaid, and Children's Health Insurance Programs; Additional Screening Requirements, Application Fees, Temporary Enrollment Moratoria, Payment Suspensions and Compliance Plans for Providers and Suppliers.'' This rule finalized, among other things, provisions related to the submission of application fees as part of the Medicare, Medicaid, and CHIP provider enrollment processes. As stated in 42 CFR 424.514, ''institutional providers'' that are initially enrolling in the Medicare, Medicaid or CHIP program, revalidating their enrollment, or adding a new Medicare practice location are required to submit a fee with their enrollment application. An ''institutional provider'' is defined at 42 CFR 424.502 as ''(a)ny provider or supplier that submits a paper Medicare enrollment application using the CMS–855A, CMS–855B (not including physician and non-physician practitioner organizations), CMS–855S or associated Internet-based PECOS enrollment application.''

As indicated in 42 CFR 424.514 and 455.460, the application fee is not required for either of the following:

- A Medicare physician or non-physician practitioner submitting a CMS–855I.
- A prospective or re-enrolling Medicaid or CHIP provider—

++ Who is an individual physician or non-physician practitioner; or

++ That is enrolled in Title XVIII of the Act or another state's title XIX or XXI plan and has paid the application fee to a Medicare contractor or another state.

In the March 23, 2011 **Federal Register** (76 FR 16422), we published a notice entitled ''Medicare, Medicaid, and Children's Health Insurance Programs; Provider Enrollment Application Fee Amount for Calendar Year 2012''. This notice announced the following:

- A CY 2011 application fee of $505 for institutional providers that were initially enrolling in the Medicare, Medicaid, or CHIP program; revalidating their enrollment; or adding a new Medicare practice location.
- That institutional providers were required to submit the $505 fee with enrollment applications submitted on or after March 25, 2011 and on or before December 31, 2011.
- That prospective or re-enrolling Medicaid or CHIP providers must submit the application fee unless: (1) The provider is an individual physician or non-physician practitioner; or (2) the provider is enrolled in Title XVIII of the Act or another state's title XIX or XXI plan and has paid the application fee to a Medicare contractor or another state.

II. Provisions of the Notice

A. CY 2012 Fee Amount

In the November 2, 2011 **Federal Register** (76 FR 67743), we published a notice announcing a fee amount for the period of January 1, 2012 through December 31, 2012 of $523.00. This figure was calculated as follows:

- Section 1866(j)(2)(C)(i)(I) of the Social Security Act (the Act) established a $500 application fee for institutional providers in CY 2010.
- Consistent with section 1866(j)(2)(C)(i)(II) of the Act, 42 CFR § 424.514(d)(2) states that for CY 2011 and subsequent years, the fee will be adjusted by the percentage change in the consumer price index (CPI) for all urban consumers (all items; United States city average) for the 12-month period ending in June of the previous year.
- The CPI increase for CY 2011, which was calculated to be 1.0 percent, was based on data obtained from the Bureau of Labor Statistics. This resulted in an application fee for CY 2011 of $505 (or $500 × 1.01). (For more detailed information on the CPI and how the $505 application fee was calculated, see the February 2, 2011 final rule with comment period (76 FR 5955) and the March 23, 2011 notice (76 FR 16423)).
- The CPI increase for the period of July 2010 through June 2011 was 3.54 percent, based on data obtained from the Bureau of Labor Statistics. This resulted in an application fee amount for the period of January 1, 2012 through December 31, 2012 of $522.87 ($505 × 1.0354). In the February 2, 2011 final rule with comment period (76 FR 5907), we stated that if the adjustment sets the fee at an uneven dollar amount, we would round the fee to the nearest whole dollar amount. Accordingly, the application fee amount for CY 2012 was rounded to the nearest whole dollar amount, which was $523.00.

B. CY 2013 Fee Amount

Using data obtained from the Bureau of Labor Statistics, the CPI increase for the 12-month period ending on June 30, 2012 was 1.664 percent, a figure lower than the 2.0 percent CPI increase we estimated for CY 2013 in the February 2, 2011 final rule with comment period (76 FR 5953). This results in an application fee amount for the period of January 1, 2013 through December 31, 2013 of $531.70 ($523 × 1.01664). As prescribed in the February 2, 2011 final rule with comment period (76 FR 5909), we must round this figure to the nearest whole dollar amount. The application fee amount for CY 2013 is therefore $532.00. This represents a $7.00 difference from the $525 fee that we had originally projected for CY 2013 in the February 2, 2011 final rule with comment period (76 FR 5958).

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping 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. Chapter 35). However, it does reference previously approved information collections. The forms CMS–855A, CMS–855B, and CMS–855I are approved under OMB control number 0938–0685; the CMS–855S is approved under OMB control number 0938–1056.

IV. Regulatory Impact Statement

A. Introduction

We have examined the impact of this notice as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). As explained in section of the notice (section IV.), we estimate that the total cost of the increase in the application fee will not exceed $100 million. This notice therefore does not reach the $100 million economic threshold and is not considered a major notice.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $7.0 million to $34.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. As we stated in the RIA for the February 2, 2011 final rule with comment period (76 FR 5952), the regulatory impact statement of the March 23, 2011 notice (76 FR 16423), and the regulatory impact statement of the November 2, 2011 notice (76 FR 67744), we do not believe that the application fee will have a significant impact on small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this notice would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2012, that threshold is approximately $139 million. The Agency has determined that there will be minimal impact from the costs of this notice, as the threshold is not met under the UMRA.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. Since this notice does not impose substantial direct costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

B. Estimated Costs

The costs associated with this notice involve the increase in the application fee that certain providers and suppliers must pay in CY 2013. As alluded to earlier, in the RIA for the February 2, 2011 final rule with comment period (76 FR 5955 through 5958), we estimated the total amount of application fees for CYs 2011 through 2015. For CY 2013, and based on a $525 application fee, we projected in tables 11 and 12 (76 FR 5955 and 5956) a total cost in fees of $60,913,125 ($16,380,000 + $44,533,125) for Medicare institutional providers (or 116,025 providers × $525). We also projected in tables 13 and 14 (76 FR 5957 and 5958) the total cost in CY 2013 for Medicaid providers to be $13,195,350 ($4,429,950 + $8,765,400 or 25,134 (8,438 newly enrolling + 16,696 re-enrolling) providers × $525).

Based on CY 2009 and CY 2010 data furnished by State Medicaid agencies through the annual State Program Integrity Assessment, we are increasing the estimated number of affected Medicaid providers from 25,134 to 27,859. We are also changing the Medicare provider estimate based on our ongoing program of revalidating all Medicare providers and suppliers by the end of 2015—even if the revalidation is considered ''off-cycle'' per 42 CFR 424.515(e).

1. Medicare

For purposes of this notice only, we estimate that approximately 400,000 Medicare providers and suppliers will be subject to revalidation in CY 2013. Of this total, and based on our experience, we believe that roughly 80 percent will be exempt from the application fee requirement because the provider or supplier: (1) Is of a type (for example, a physician) that is exempt from the requirement; or (2) qualifies for a hardship exception under 42 CFR 424.514(c). This leaves 80,000 revalidating providers and suppliers that will have to pay the fee.

In the February 2, 2011 final rule with comment period (76 FR 5955), we estimated that 31,200 newly-enrolling institutional providers would be subject to the application fee in CY 2013. In the first quarter of CY 2012, there were 1,030 initial enrollments that required a fee. Based on this, we must dramatically reduce our earlier estimate of 31,200 Medicare institutional providers to 4,120 (1,030 × 4) for purposes of this notice. Using a figure of 84,120 (80,000 + 4,120) institutional providers, we estimate an increase in the cost of the Medicare application fee requirement in CY 2013 of $588,840 (84,120 × $7.00) from CY 2012 estimates.

2. Medicaid and CHIP

We estimate that 27,859 (8,438 newly enrolling + 19,421 re-enrolling) Medicaid and CHIP providers would be subject to an application fee in CY 2013. Using this figure, we estimate an increase in the cost of the Medicaid and CHIP application fee requirements in CY 2013 of $195,013 (27,859 × $7.00) from CY 2012 estimates.

3. Total

Based on the foregoing, we estimate the total increase in the cost of the application fee requirement for Medicare, Medicaid, and CHIP providers and suppliers in CY 2013 to be $783,853 ($588,840 + $195,013) from CY 2012.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 9, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–29003 Filed 11–29–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration; HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Health Resources and Services Administration (HRSA) will submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. To request a copy of the clearance requests submitted to OMB for review,

email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office at (301) 443–1984.

Information Collection Request Title: Workforce Recruitment in Health Resources and Services Administration (HRSA)—Funded Health Centers (OMB No. 0915–0353)—[Extension]

This semi-annual survey is designed to collect information from HRSA-funded health centers regarding their current workforce and recent hiring efforts. The purpose of this data collection instrument is to provide data on health center workforce recruitment and identify areas for additional training or technical assistance that might be needed to support health centers in their hiring efforts. As authorized by statute, HRSA provides technical assistance to health centers to assist them in meeting the Health Center Program requirements and in providing required primary health services, the provisions of which are dependent on maintaining a high quality and effective workforce.

Ensuring that the primary care workforce is able to meet the demands of increasing patient volume is critical to the future success of health centers in serving the nation's underserved and vulnerable populations. As health centers seek to fill open positions, one growing pool of qualified candidates increasingly being recruited is returning veterans, many of whom have trained as health care providers and/or administrators during their time in the service. The information collected in this survey will help assess how health centers have filled vacancies, whether the availability of veterans to join the health center workforce is impacting their hiring efforts, and what additional efforts might improve health center recruitment.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information; processing and maintaining information; and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

The annual estimate of burden is as follows:

Instrument	Number of respondents	Responses per respondent	Total responses	Hours per response*	Total burden hours
Health Center Work Force Survey	1,200	2	2,400	1.0	2,400
Total	1,200	2	2,400	1.0	2,400

* **Note:** This estimate includes the time for the grantee to read the survey instructions, collect the data and information requested, and to complete the online survey.

ADDRESSES: Submit your comments to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Deadline: Comments on this ICR should be received within 30 days of this notice.

Dated: November 26, 2012.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2012–29009 Filed 11–29–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines; Notice of Meeting

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Correction.

SUMMARY: The Health Resources and Services Administration published a notice in the **Federal Register**, FR 2012–28377 (77 FR 70169, November 23, 2012), announcing the meeting of the Advisory Commission on Childhood Vaccines, December 6, 2012, in the Parklawn Building (and via audio conference call), Conference Rooms 10–65, 5600 Fishers Lane, Rockville, MD 20857.

Correction

In the **Federal Register**, FR 2012–28377 (77 FR 70169, November 23, 2012), please make the following corrections:

In the Date and Time section, correct to read December 6, 2012, 1:00 p.m. to 5:00 p.m., EDT.

In the Place section, correct to read via audio conference only.

The ACCV will meet on Thursday, December 6, from 1:00 p.m. to 5:00 p.m. (EDT). The public can join the meeting via audio conference call by dialing 1–800–369–3104 on December 6 and providing the following information: Leader's Name: Dr. Vito Caserta. Password: ACCV.

Dated: November 26, 2012.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2012–29008 Filed 11–29–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request: Healthy Communities Study: How Communities Shape Children's Health (HCS)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Healthy Communities Study: How Communities Shape Children's Health (HCS). *Type of Information Collection Request:* Revision—OMB# 0925–0649. *Need and Use of Information Collection:* The HCS will address the need for a cross-cutting national study of community programs and policies and their relationship to childhood obesity. The HCS is an observational study of communities that aims to (1) determine the associations

between community programs/policies and Body Mass Index (BMI), diet, and physical activity in children; and (2) identify the community, family, and child factors that modify or mediate the associations between community programs/policies and BMI, diet, and physical activity in children. A total of 264 communities and over 21,000 elementary and middle school children and their parents will be part of the HCS. A HCS community is defined as a high school catchment area. The study examines quantitative and qualitative information obtained from community-based initiatives; community characteristics (e.g., school environment); measurements of children's physical activity levels and dietary practices; and children's and parents' BMIs. Results from the Healthy Communities Study may influence the future development and funding of policies and programs to reduce childhood obesity. Furthermore, HCS results will be published in scientific journals and will be used for the development of future research initiatives targeting childhood obesity. *Frequency of Response:* One time. *Affected Public:* Families or households; businesses, other for-profit, and non-profit. *Type of Respondents:* Parents, children, community key informants (who have knowledge about community programs/policies related to healthy nutrition, physical activity, and healthy weight of children), food service personnel, physical education instructors, school liaisons, and physicians or medical secretaries. The annual reporting burden is as follows: *Estimated number of respondents:* 207,029; *Estimated Number of Responses per Respondent:* 1; and *Estimated Total Burden Hours Requested:* 35,588. The annualized cost to respondents is estimated at $458,189. There are no capital, operating, or maintenance costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden per response (in hours)	Estimated total annual burden hours requested
Parents (screening)	118,800	1	0.17	8,078
Parents/Caregivers	21,384	1	1.56	13,344
Second Parents	10,692	1	0.12	513
Parents who refuse to participate	2,640	1	0.17	180
Children	21,384	1	1.04	8,896
Key Informants (screening)	10,560	1	0.08	338
Key Informants	3,168	1	2.25	2,851
Food Service Personnel	1,056	1	0.08	34
District Food Service Administrator/Manager	264	1	0.50	53
Physical Education Instructors	1,056	1	0.25	106
School Liaisons	1,056	1	0.42	177
Physicians/medical secretaries	14,969	1	0.17	1,018
Total	.....	.....	.....	35,588

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments contact: Dr. Sonia Arteaga, NIH, NHLBI, 6701 Rockledge Drive, MSC 7936, Bethesda, MD 20892–7936, or call non-toll free number (301) 435–0377 or Email your request, including your address to: *hcs@nhlbi.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: November 20, 2012.

Lynn Susulske,

NHLBI Project Clearance Liaison, National Institutes of Health.

Michael S. Lauer,

Director, DCVS, National Institutes of Health.

[FR Doc. 2012–28998 Filed 11–29–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a conference call meeting of the Interagency Autism Coordinating Committee (IACC).

The purpose of the IACC conference call meeting is to discuss and vote on the final IACC Strategic Plan for Autism Spectrum Disorder Research 2012 Update. These updates will describe recent progress that has been made in the autism field as well as any new gap areas in research that have emerged since the previously released 2011 Strategic Plan. The committee will be meeting via conference call, but oral public comments may be made in person at the location specified below and will be webcast live so that the committee members and members of the public can view the session. The other portions of the meeting will be conducted via conference call only.

Name of Committee: Interagency Autism Coordinating Committee (IACC).

Type of meeting: Open Meeting.

Date: December 18, 2012.

Time: 10:00 a.m. to 5:00 p.m. Eastern Time.

Agenda: The IACC will review and approve the final 2012 update of the IACC Strategic Plan for Autism Spectrum Disorder Research.

Place: The National Institute of Mental Health, The Neuroscience Center, 6001

Executive Boulevard, Conference Rooms B1/B2, Rockville, MD 20852.

Conference Call: Dial: 800–369–1881. Access code: 9976437.

Cost: The meeting is free and open to the public via a conference call. The oral public comment session is also free and will take place in person at the location listed above and will be webcast live.

Webcast Live: http://videocast.nih.gov/.

Deadlines: Notification of intent to present oral comments: Monday, December 10th by 5:00 p.m. ET. Submission of written/electronic statement for oral comments: Tuesday, December 11th by 5:00 p.m. ET. Submission of written comments: Friday, December 14th by 5:00 p.m. ET.

Access: White Flint Metro (Red Line).

Contact Person: Ms. Lina Perez, Office of Autism Research Coordination, National Institute of Mental Health, NIH, 6001 Executive Boulevard, NSC, Room 6182A, Rockville, MD 20852, Phone: 301–443–6040, Email: *IACCPublicInquiries@mail.nih.gov.*

Please Note

Any member of the public interested in presenting oral comments to the Committee must notify the Contact Person listed on this notice by 5:00 p.m. ET on Monday, December 10, 2012 with their request to present oral comments at the meeting. Interested individuals and representatives of organizations must submit a written/electronic copy of the oral statement/comments including a brief description of the organization represented by 5:00 p.m. ET on Tuesday, December 11, 2012. Statements submitted will become a part of the public record. Only one representative of an organization will be allowed to present oral comments, and presentations will be limited to three to five minutes per speaker, depending on the number of speakers to be accommodated within the allotted time. Speakers will be assigned a time to speak in the order of the date and time when their request to speak is received, along with the required submission of the written/electronic statement by the specified deadline.

In addition, any interested person may submit written comments to the IACC prior to the meeting by sending the comments to the Contact Person listed on this notice by 5:00 p.m. ET, Friday, December 14, 2012. The comments should include the name and, when applicable, the business or professional affiliation of the interested person. All written comments received by the deadlines for both oral and written public comments will be provided to the IACC for their consideration and will become part of the public record.

The conference call and in-person oral public comment session will be open to the public. Members of the public who participate using the conference call phone number will be able to listen to the meeting but will not be heard. If you experience any technical problems with the conference call, please email *iacchelpdesk2012@gmail.com.*

If you experience any technical problems with the web presentation tool, please contact GoToWebinar at (800) 263–6317. To access the web presentation tool on the Internet the following computer capabilities are required:

For PC-based participants:

- Internet Explorer 7.0 or newer, Mozilla Firefox 4.0 or newer or Google Chrome 5.0 or newer (JavaScript and Java enabled)
- Windows 7, Vista, XP or 2003 Server
- Cable modem, DSL, or better Internet connection
- Dual-core 2.4GHz CPU or faster with 2GB of RAM (recommended)

For Mac-based participants:

- Safari 3.0 or newer, Firefox 4.0 or newer or Google Chrome 5.0 or newer (JavaScript and Java enabled)
- Mac OS X 10.5—Leopard or newer
- Intel processor (1GB of RAM or better recommended)
- Cable modem, DSL, or better Internet connection

Individuals who participate by using these electronic services and who need special assistance, such as captioning of the conference call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least 5 days prior to the meeting.

As a part of security procedures, those attending or presenting at the oral comment session should be prepared to show a photo ID and to state the purpose of their visit at the front desk and at the meeting registration desk when checking-in. Seating will be limited to the room capacity and seats will be on a first come, first served basis.

Schedule is subject to change.

Information about the IACC and a registration link for this meeting are available on the Web site: *http://www.iacc.hhs.gov.*

Dated: November 23, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28970 Filed 11–29–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed 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 Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI T32 Training Review.

Date: December 18, 2012.

Time: 12:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Suite 7189, Bethesda, MD 20892.

Contact Person: Stephanie L Constant, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, 301–443–8784, *constantsl@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 21, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28973 Filed 11–29–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; 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 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 Eye Institute Special Emphasis Panel; NEI Clinical Applications—Retinal and Pediatric Ophthalmology.

Date: December 4, 2012.

Time: 08:30 a.m. to 03:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anne E Schaffner, Ph.D., Chief, Scientific Review Officer, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers

Lane, Suite 1300, MSC 9300, 301–451–2020, *aes@nei.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: November 26, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28975 Filed 11–29–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Cancer Therapy.

Date: December 11, 2012.

Time: 12:00 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lilia Topol, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–451–0131, *ltopol@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Neuropharmacology Mechanisms and Discovery.

Date: December 11, 2012.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Deborah L Lewis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, 301–408–9129, *lewisdeb@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 20, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28977 Filed 11–29–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology.

Date: December 18, 2012.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Janet M. Larkin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7840, Bethesda, MD 20892, 301–806–2765, *larkinja@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 21, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28976 Filed 11–29–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Jackson Heart Study Renewal.

Date: December 17, 2012.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Suite 7196, Bethesda, MD 20892.

Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Research Dissemination and Implementation.

Date: December 20, 2012.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Suite 7186, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Keith A. Mintzer, Ph.D., Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, 301–594–7947, *mintzerk@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 21, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28974 Filed 11–29–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel NIDDK Central Repositories Non-Renewable Sample Access (X01)–PAR11–306.

Date: January 10, 2013.

Time: 2:00 p.m. to 5:00 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: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@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 21, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28972 Filed 11–29–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed 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 General Medical Sciences Special Emphasis Panel; Review of P01 Grant Applications-Vitamin D.

Date: December 10, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.18, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lisa Dunbar, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12, Bethesda, MD 20892, 301–594–2849, *dunbarl@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 General Medical Sciences Special Emphasis Panel; Review of SCORE Grant Applications.

Date: December 13, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Lisa Dunbar, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12, Bethesda, MD 20892, 301–594–2849, *dunbarl@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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: November 26, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–28971 Filed 11–29–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

New Agency Information Collection Activity Under OMB Review: Public Transportation Baseline Assessment for Security Enhancement (BASE) Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the new Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on May 30, 2012, 77 FR 31866. TSA received two comments unrelated to the ICR in response to this notice. This voluntary information collection allows TSA to conduct transportation security-related assessments during site visits with security and operating officials of transit agencies.

DATES: Send your comments by December 31, 2012. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Susan L. Perkins, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3398; email *TSAPRA@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is

available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Public Transportation Systems Baseline Assessment for Security Enhancement (BASE) Program.

Type of Request: New collection.

OMB Control Number: Not yet assigned.

Form(s): BASE electronic checklist.

Affected Public: Public Transportation Agencies, including buses, rail transit, long-distance rail, and other, less common types of service (cable cars, inclined planes, funiculars, and automated guide way systems).

Abstract: TSA's Public Transportation Systems BASE program was developed to evaluate a transit system/assets security posture through voluntary site visits with security and operating officials of public transportation systems. This program will allow TSA to expand its awareness and understanding of transportation modes and asset security postures in order to enable more effective targeting of security programs and technical assistance to evaluate security, and facilitate sharing of best security practices.

Number of Respondents: 140.

Estimated Annual Burden Hours: An estimated 6,440 hours annually.

Issued in Arlington, Virginia, on November 21, 2012.

Susan L. Perkins,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2012–28996 Filed 11–29–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

New Agency Information Collection Activity Under OMB Review: Highway Baseline Assessment for Security Enhancement (BASE) Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the new Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on May 29, 2012 77 FR 31632. TSA received four comments in response to this notice. Two comments were unrelated to the ICR. The remaining two comments were requests for program information. This voluntary information collection allows TSA to conduct transportation security-related assessments during site visits with security and operating officials of surface transportation entities.

DATES: Send your comments by December 31, 2012. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Susan L. Perkins, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3398; email *TSAPRA@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Highway Baseline Assessment for Security Enhancement (BASE) Program.

Type of Request: New collection.

OMB Control Number: Not yet assigned.

Form(s): Highway Baseline Assessment for Security Enhancement (BASE).

Affected Public: Highway transportation asset owners and operators.

Abstract: TSA's Highway BASE program seeks to establish the current state of security gaps and implemented countermeasures throughout the highway mode of transportation by posing questions to major transportation asset owners and operators. Data and results collected through the Highway BASE program will inform TSA's policy and program initiatives and allow TSA to provide focused resources and tools to enhance the overall security posture within the surface transportation community.

Number of Respondents: 750.

Estimated Annual Burden Hours: An estimated 3,000 hours annually.

Issued in Arlington, Virginia, on November 21, 2012. .

Susan L. Perkins,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2012–28997 Filed 11–29–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0026]

Agency Information Collection Activities: Immigrant Petition by Alien Entrepreneur, Form I–526, Revision of a Currently Approved Collection

ACTION: 60-Day Notice.

The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until January 29, 2013.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security, USCIS, Office of Policy and Strategy, Laura Dawkins, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140. Comments may also be submitted via the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–2007–0021.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or that is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved information collection.

(2) *Title of the Form/Collection:* Immigrant Petition by Alien Entrepreneur.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–526, U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This form is used by the USCIS to determine if an alien can enter the U.S. to engage in commercial enterprise.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 8,070 responses at 1 hour and 20 minutes (1.33 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 10,733 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: November 25, 2012.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–29020 Filed 11–29–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0013]

Agency Information Collection Activities: Application for Travel Document, Form Number I–131; Revision of a Currently Approved Collection

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

USCIS has previously published two notices in the **Federal Register** in connection with this information collection: a notice on December 28, 2011 published at 76 FR 81517, allowing for a 60-day public comment period; and, a notice on March 16, 2012 published at 77 FR 15787, allowing for a 30-day public comment period. USCIS did not receive any comments in connection with these notices. OMB, however, has recommended changes that are reflected in the instructions to the form.

In addition to these recommendations, USCIS is revising the form's instructions to include clear guidance regarding recipients' of Deferred Action under Childhood Arrivals (DACA) ability to request advance parole documents under certain circumstances as provided under the memorandum issued by the Secretary of the Department of Homeland Security on June 15, 2012, and the implementation guidance that derives from it. USCIS is also reporting an increase in the number of respondents associated with this information collection as DACA recipients that can establish a need to travel outside of the United States based on humanitarian, employment or education reasons will be able to request advance parole documents.

DATES: The purpose of this notice is to amend the 30-day notice USCIS published on March 6, 2012, to allow for an additional 30 days for public comments regarding these additional changes USCIS is proposing. Comments are encouraged and will be accepted until December 31, 2012. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer and to DHS. Comments should be submitted to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* All submissions received must include the agency name, OMB Control Number [1615–0013].

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *www.Regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *www.Regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Travel Document.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–131; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Certain aliens, principally permanent or conditional residents, refugees or asylees, applicants for adjustment of status, aliens in Temporary Protected Status (TPS) and aliens abroad seeking humanitarian parole, in need to apply for a travel document to lawfully enter or reenter the United States. Eligible recipients of deferred action under childhood arrivals (DACA) may now request an advance parole documents based on humanitarian, educational and employment reasons.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 495,090 respondents submitting form I–131 at 1.9 hours; 71,665 respondents providing biometrics at 1.17 hours; and 293,733 providing passport-style photographs at .50 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* Estimated 1,171,385 burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *www.Regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140; Telephone 202–272–8377.

Dated: November 27, 2012.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–29024 Filed 11–29–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5606–N–02]

Notice of Proposed Information Collection: Comment Request; Ginnie Mae Multiclass Securities Program Documents (Forms and Electronic Data Submissions); Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the President of Government National Mortgage Association (Ginnie Mae), HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due:* January 29, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Q, Administrator Support Specialist, Department of Housing and Urban Development, 451 7th Street SW., Room 4160, Washington, DC 20410; email: *Colette.Pollard@hud.gov*; telephone (202) 708–0306, ext. 3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

FOR FURTHER INFORMATION CONTACT: Debra Murphy or Victoria Vargas, Ginnie Mae, 451 7th Street SW., Room B–133, Washington, DC 20410; emails—*Debra.L.Murphy@hud.gov*; telephone (202) 475–4923 or *Victoria_Vargas@hud.gov*; telephone—(202) 475–6752. These are not toll-free numbers); the Ginnie Mae Web site at *www.ginniemae.gov* for other available information.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Ginnie Mae Multiclass Securities Program Documents. (Forms and Electronic Data Submissions).

OMB Control Number, if applicable: 2503–0030.

Description of the need for the information and proposed use: This information collection is required in connection with the operation of the Ginnie Mae Multiclass Securities Program. Ginnie Mae's authority to guarantee multiclass instruments is contained in 306(g)(1) of the National Housing Act (''NHA'') (12 U.S.C. 1721(g)(1)), which authorizes Ginnie Mae to guarantee ''securities * * * based on or backed by a trust or pool composed of mortgages. * * *'' Multiclass securities are backed by Ginnie Mae securities, which are backed by government insured or guaranteed mortgages. Ginnie Mae's authority to operate a Multiclass Securities Program is recognized in Section 3004 of the Omnibus Budget Reconciliation Act of 1993 (''OBRA''), which amended 306(g)(3) of the NHA (12 U.S.C. 1271(g)(3)) to provide Ginnie Mae with greater flexibility for the Multiclass Securities Program regarding fee structure, contracting, industry consultation, and program implementation. Congress annually sets Ginnie Mae's commitment authority to guarantee mortgage-backed securities (''MBS'') pursuant to 306(G)(2) of the NHA (12 U.S.C. 1271(g)(2)). Since the multiclass are backed by Ginnie Mae Single Class MBS, Ginnie Mae has already guaranteed the collateral for the multiclass instruments.

The Ginnie Mae Multiclass Securities Program consists of Ginnie Mae Real Estate Mortgage Investment Conduit (''REMIC'') securities, Stripped Mortgage-Backed Securities (''SMBS''), and Platinum securities. The Multiclass Securities program provides an important adjunct to Ginnie Mae's secondary mortgage market activities, allowing the private sector to combine and restructure cash flows from Ginnie Mae Single Class MBS into securities that meet unique investor requirements in connection with yield, maturity, and call-option protection. The intent of the Multiclass Securities Program is to increase liquidity in the secondary mortgage market and to attract new sources of capital for federally insured or guaranteed loans. Under this program, Ginnie Mae guarantees, with the full faith and credit of the United States, the timely payment of principal and interest on Ginnie Mae REMIC, SMBS and Platinum securities.

Agency form numbers, if applicable: Not applicable.

Members of affected public: For-profit business (mortgage companies, thrifts, savings & loans, etc.).

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Type of information collection	(Prepared by)	Number of potential sponsors	Estimated annual frequency per respond	Total annual responses	Estimated average hrly burden	Estimated annual burden hrs
REMIC Securities						
OID/Prices Letter	Sponsor	15	8	120	0.5	60
Final Structure Sheet	Sponsor	15	8	120	3	360
Trust (REMIC) Agreement.	Attorney for Sponsor	15	8	120	1	120
Trust Opinion	Attorney for Sponsor	15	8	120	4	480
MX Trust Agreement	Attorney for Sponsor	15	8	120	0.16	19.2
MX Trust Opinion	Attorney for Sponsor	15	8	120	4	480
RR Certificate	Attorney for Sponsor	15	8	120	0.08	9.6
Sponsor Agreement	Attorney for Sponsor	15	8	120	0.05	6
Table of Contents	Attorney for Sponsor	15	8	120	0.33	39.6
Issuance Statement	Attorney for Sponsor	15	8	120	0.5	60
Tax Opinion	Attorney for Sponsor	15	8	120	4	480
Transfer Affidavit	Attorney for Sponsor	15	8	120	0.08	9.6
Supplemental Statement	Attorney for Sponsor	15	0.25	3.75	1	3.75
Final Data Statements (attached to closing letter).	Accountant for Sponsor	15	8	120	32	3840
Accountants' Closing Letter.	Accountant	15	8	120	8	960
Accountants' OCS Letter	Accountant	15	8	120	8	960
Structuring Data	Accountant	15	8	120	8	960
Financial Statements	Accountant	15	8	120	1	120
Principal and Interest Factor File Specifications.	Trustee	15	8	120	16	1920
Distribution Dates and Statement.	Trustee	15	8	120	0.42	50.4
Term Sheet	Accountant for Sponsor	15	8	120	2	240
New Issue File Layout	Trustee	15	8	120	4	480
Flow of Funds	Attorney for Sponsor	15	8	120	0.16	19.2
Trustee Receipt	Attorney for Sponsor	15	8	120	2	240
Total				2763.75		11917.35

Type of information collection	(Prepared by)	Number of potential sponsors	Estimated annual frequency per respond	Total annual responses	Estimated average hrly burden	Estimated annual burden hrs
SMBS Securities						
OID/Prices Letter	Sponsor	10	1	10	0.5	5
Final Structure Sheet	Sponsor	10	1	10	3	30
Trust (REMIC) Agreement.	Attorney for Sponsor	10	1	10	1	10
Trust Opinion	Attorney for Sponsor	10	1	10	4	40
MX Trust Agreement	Attorney for Sponsor	10	1	10	0.16	1.6
MX Trust Opinion	Attorney for Sponsor	10	1	10	4	40
RR Certificate	Attorney for Sponsor	10	1	10	0.08	0.8
Sponsor Agreement	Attorney for Sponsor	10	1	10	0.05	0.5
Table of Contents	Attorney for Sponsor	10	1	10	0.33	3.3
Issuance Statement	Attorney for Sponsor	10	1	10	0.5	5
Tax Opinion	Attorney for Sponsor	10	1	10	4	40
Transfer Affidavit	Attorney for Sponsor	10	1	10	0.08	0.8
Supplemental Statement	Attorney for Sponsor	10	0.25	2.5	1	2.5
Final Data Statements (attached to closing letter).	Accountant for Sponsor	10	1	10	32	320
Accountants' Closing Letter.	Accountant	10	1	10	8	80
Accountants' OCS Letter	Accountant	10	1	10	8	80
Structuring Data	Accountant	10	1	10	8	80
Financial Statements	Accountant	10	1	10	1	10
Principal and Interest Factor File Specifications.	Trustee	10	1	10	16	160
Distribution Dates and Statement.	Trustee	10	1	10	0.42	4.2
Term Sheet	Sponsor	10	1	10	2	20
New Issue File Layout	Trustee	10	1	10	4	40
Flow of Funds	Attorney for Sponsor	10	1	10	0.16	1.6
Trustee Receipt	Attorney for Sponsor	10	1	10	2	20
Total				232.5		995.3
Platinum Securities						
Deposit Agreement	Depositor	19	10	190	1	190
MBS Schedule	Depositor	19	10	190	0.16	30.4
New Issue File Layout	Depositor	19	10	190	4	760
Principal and Interest Factor File Specifications.	Trustee	19	10	190	16	3040
Total				760		4020.4
Total burden hours.						16933.05

Calculation of Burden Hours:

Sponsors × Frequency per Year = Estimated Annual Frequency.

Estimated Annual Frequency × Estimated Average Completion Time = Estimated Annual Burden Hours.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35 as amended.

Dated: November 20, 2012.

Thomas R. Weakland,

Senior Vice President, Office of Securities Operations, Government National Mortgage Association.

[FR Doc. 2012–29039 Filed 11–29–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5601–N–47]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following address: *GSA:* Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040, Washington, DC 20405, (202) 501–0084; (This is not a toll-free number).

Dated: November 21, 2012.

Ann Marie Oliva,

Deputy Assistant Secretary for Special Needs (Acting).

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 11/30/2012

Suitable/Available Properties

Building

Arkansas

Winnesburg Radio Station
SW Side of State Hwy 18 & County Rd.
Cash AR 72421
Landholding Agency: GSA
Property Number: 54201230013
Status: Excess
GSA Number: 7–B–AR–0577
Comments: 9′8″ x 15′5″; storage/office; air conditioned; need repairs

Minnesota

Noyes Land Port of Entry
SW Side of US Rte. 75
Noyes MN 56740
Landholding Agency: GSA
Property Number: 54201230007
Status: Excess
GSA Number: 1–G–MN–0593
Directions: one main bldg.; one storage; approx. 16,000 and 900 sf. respectively
Comments: sits on 2.29 acres; approx. 17,000 sf. total of bldg. space; office/governmental

Utah

2 Buildings
9160 N. Hwy 83
Corinne UT 84307
Landholding Agency: GSA
Property Number: 54201230003
Status: Excess
GSA Number: 7–Z–UT–0533
Directions: T077 & T078; NASA Shuttle Storage Warehouses
Comments: off-site removal only; approx. 3,200 sf. each; storage

Suitable/Available Properties

Land

Kansas

1.64 Acres
Wichita Automated Flight Service
Anthony KS 67003
Landholding Agency: GSA
Property Number: 54201230002
Status: Excess
GSA Number: 7–U–KS–0526
Comments: Agricultural surroundings; remedial action has been taken for asbestos removal

Michigan

FAA Outer Marker
Ash Rd. East of Clark Rd.
New Boston MI 48164
Landholding Agency: GSA
Property Number: 54201230009
Status: Excess
GSA Number: 1–U–MI–0840
Comments: .24 acres; located in a rural area; neighboring farm fields

Land

Michigan

FAA Outer Marker
N. Side of Avondale St., W. of Tobin Dr.
Inkster MI 48141
Landholding Agency: GSA
Property Number: 7
Status: Excess
GSA Number: 1–U–MI–0841
Comments: .55 acres; located in a residential area; flat & glassy; public park located north of property

Missouri

SWPA—Jenkins Antenna Site
Barry County
Jenkins MO
Landholding Agency: GSA
Property Number: 54201230011
Status: Surplus
GSA Number: 7–B–MO–0696

Comments: 0.06 acres; surrounded by 5.18 acre easement that will be lifted when property is conveyed out of Fed. inventory; access to property by appt. only

Utah

BLM Kanab Field Office
318 N. 100 East
Kanab UT 84741
Landholding Agency: GSA
Property Number: 54201230012
Status: Surplus
GSA Number: 7–I–UT–0528
Directions: includes 6,192 sf. office bldg.; 4,800 sf. warehouse; 1,120 sf. storage/shed on property
Comments: 2.8 acre w/three bldgs.; access to property by appt. only; friable asbestos; remediation needed

Suitable/Unavailable Properties

Building

Arkansas

Sulphur Rock Radio Station
N. Main Street
Sulphur Rock AR 72579
Landholding Agency: GSA
Property Number: 54201220008
Status: Excess
GSA Number: 7–B–AR–576–AA
Comments: building #1: 152 sf.; building #2: 59 sf; radio tower

Suitable/Unavailable Properties

Building

District Of Columbia

West Heating Plant
1051 29th St. NW.,
Washington DC 20007
Landholding Agency: GSA
Property Number: 54201140006
Status: Surplus
GSA Number: DC–497–1
Comments: REDETERMINATION: 1.97 acres; current use: industry; transferee is required to remediate significant contaminants which includes arsenic, PCBs, and benzo(a)pyrene

Florida

4 Structures
142 Keeper's Cottage Way
Cape San Blas FL 32456
Landholding Agency: GSA
Property Number: 54201230008
Status: Surplus
GSA Number: 4–D–FL–1265AA
Directions: Cape San Blas Lighthouse, Keeper's Quarters A, Keeper's Quarter B, & an Oil/Storage Shed
Comments: UPDATE: Originally published on 8/24/2012. Availability extended to 11/06/2012 due to subsequent posting of outreach notice on 9/07/12.

Suitable/Unavailable Properties

Building

Georgia

5 Acres
Former CB7 Radio Communication
Townsend GA 31331
Landholding Agency: GSA
Property Number: 54201210008
Status: Excess
GSA Number: 4–U–GA–885AA
Comments: 5.0 acres; current use: unknown; property located in 100 yr. floodplain-not in floodway and no impact in using property; contact GSA for more details

Idaho

Moscow Federal Bldg.
220 East 5th Street
Moscow ID 83843
Landholding Agency: GSA
Property Number: 54201140003
Status: Surplus
GSA Number: 9–G–ID–573
Comments: 11,000 sq. ft.; current use: office

Illinois

1LT A.J. Ellison
Army Reserve
Wood River IL 62095
Landholding Agency: GSA
Property Number: 54201110012
Status: Excess
GSA Number: 1–D–II–738
Comments: 17,199 sq. ft. for the Admin. Bldg., 3,713 sq. ft. for the garage, public space (roads and hwy) and utilities easements, asbestos and lead base paint identified, most current use: unknown.

Iowa

U.S. Army Reserve
620 West 5th St.
Garner IA 50438
Landholding Agency: GSA
Property Number: 54200920017
Status: Excess
GSA Number: 7–D–IA–0510
Comments: 5743 sq. ft., presence of lead paint, most recent use—offices/classrooms/storage, subject to existing easements

Maine

Columbia falls Radar Site
Tibbetstown Road
Columbia Falls ME 04623
Landholding Agency: GSA
Property Number: 54201140001
Status: Excess
GSA Number: 1–D–ME–0687
Directions: Buildings 1,2,3, and 4
Comments: Four bldgs. totaling 20,375 sq.ft.; each one-story; current use: varies among properties

Maryland

Appraisers Store
Baltimore MD 21202
Landholding Agency: GSA
Property Number: 54201030016
Status: Excess
GSA Number: 4–G–MD–0623
Comments: Redetermination: 169,801 sq. ft., most recent use—federal offices, listed in the Natl Register of Historic Places, use restrictions

Suitable/Unavailable Properties

Building

Maryland

Consumer Products Safety Commi
10901 Darenestown Rd.
Gaithersburg MD 20878
Landholding Agency: GSA
Property Number: 54201220004
Status: Surplus
GSA Number: NCR–G–MR–1107–01
Directions: property includes building and land
Comments: 37,543 sf.; office/warehouse space; secured area; however, will not interfere w/conveyance; contact GSA for further details

Michigan

Nat'l Weather Svc Ofc
214 West 14th Ave.
Sault Ste. Marie MI
Landholding Agency: GSA
Property Number: 54200120010
Status: Excess
GSA Number: 1–C–MI–802
Comments: previously unavailable; however, the property is 'available' as a facility to assist the homess; 2230 sq. ft., presence of asbestos, most recent use—office

CPT George S. Crabbe USARC
2901 Webber Street
Saginaw MI
Landholding Agency: GSA
Property Number: 54201030018
Status: Excess
GSA Number: 1–D–MI–835
Comments: 3891 sq. ft., 3-bay garage maintenance building

Beaver Island High Level Site
South End Road
Beaver Island MI 49782
Landholding Agency: GSA
Property Number: 54201140002
Status: Excess
GSA Number: 1–X–MI–664B
Comments: 89 sq. ft; current use: storage; non-friable asbestos and lead base paint present; currently under license to the CCE Central Dispatch Authority

Missouri

Nat'l Personnel Records Center
111 Winnebago
St. Louis MO 63118
Landholding Agency: GSA
Property Number: 54201220009
Status: Excess
GSA Number: 7–G–MO–0684
Comments: 440,000 +/− sf.; two floors; storage; asbestos, lead, & high level of radon; needs remediation

Montana

Boulder Admin. Site
12 Depot Hill Rd.
Boulder MT 59632
Landholding Agency: GSA
Property Number: 54201130016
Status: Excess
GSA Number: 7–A–MT–532–AA
Comments: 4,799 sq. ft.; recent use: office, repairs are needed

Suitable/Unavailable Properties

Building

Montana

James F. Battin & Courthouse
316 North 26th Street
Billings MT 59101
Landholding Agency: GSA
Property Number: 54201210005
Status: Excess
GSA Number: 7–G–MT–0621–AB
Comments: 116,865 sf.; current use: office; extensive asbestos contamination; needs remediation

Nevada

Alan Bible Federal Bldg.

600 S. Las Vegas Blvd.
Las Vegas NV 89101
Landholding Agency: GSA
Property Number: 54201210009
Status: Excess
GSA Number: 9–G–NV–565
Comments: 81,247 sf.; current use: federal bldg.; extensive structural issues; needs major repairs; contact GSA for further details

New Jersey

Camp Petricktown Sup. Facility
US Route 130
Pedricktown NJ 08067
Landholding Agency: GSA
Property Number: 54200740005
Status: Excess
GSA Number: 1–D–NJ–0662
Comments: 21 bldgs., need rehab, most recent use—barracks/mess hall/garages/quarters/admin., may be issues w/right of entry, utilities privately controlled, contaminants

New Mexico

USDA/NRCS Grants Field Office
117 N. Silver
Grants NM 87020
Landholding Agency: GSA
Property Number: 54201220011
Status: Surplus
GSA Number: 7–A–NM–0604
Comments: 817 sf. for office bldg.; 2,714 sf. for storage; good conditions; office/storage; access will be provided by NRCS employees located in Grants, NM

North Carolina

Greenville Site
10000 Cherry Run Rd.
Greenville NC 27834
Landholding Agency: GSA
Property Number: 54201210002
Status: Unutilized
GSA Number: 4–2–NC–0753
Comments: 49,300 sq. ft.; current use: transmitter bldg.; possible PCB contamination; not available—existing Federal need

Ohio

Oxford USAR Facility
6557 Todd Road
Oxford OH 45056
Landholding Agency: GSA
Property Number: 54201010007
Status: Excess
GSA Number: 1–D–OH–833
Comments: office bldg./mess hall/barracks/simulator bldg./small support bldgs., structures range from good to needing major rehab

Suitable/Unavailable Properties

Building

Ohio

Army Reserve Center
5301 Hauserman Rd.
Parma OH 44130
Landholding Agency: GSA
Property Number: 54201020009
Status: Excess
GSA Number: I–D–OH–842
Comments: 29, 212, and 6,097 sq. ft.; most recent use: office, storage, classroom, and drill hall; water damage on 2nd floor; and wetland property

LTC Dwite Schaffner
U.S. Army Reserve Center
1011 Gorge Blvd.
Akron OH 44310
Landholding Agency: GSA
Property Number: 54201120006
Status: Excess
GSA Number: 1–D–OH–836
Comments: 25,039 sq. ft., most recent use: Office; in good condition

Suitable/Unavailable Properties

Building

Oregon

3 Bldgs/Land
OTHR–B Radar
Cty Rd 514
Christmas Valley OR 97641
Landholding Agency: GSA
Property Number: 54200840003
Status: Excess
GSA Number: 9–D–OR–0768
Comments: 14000 sq. ft. each/2626 acres, most recent use—radar site, right-of-way

Pennsylvania

Old Marienville Compound
110 South Forest St.
Marienville PA 16239
Landholding Agency: GSA
Property Number: 54201230001
Status: Excess
GSA Number: 4–A–PA–808AD
Directions: 10 bldgs.; wood farm duplex; office/garage; pole bard; shop; (2) wood sheds; block shed; trailer; carport; toilet bldg.
Comments: sq. ft. for ea. bldg. on property varies; contact GSA for specific sq. ft.; Forest Service Admin. complex; mold and lead identified; historic property

Suitable/Unavailable Properties

Building

Rhode Island

FDA Davisville Site
113 Bruce Boyer Street
North Kingstown RI 02852
Landholding Agency: GSA
Property Number: 54201130008
Status: Excess
GSA Number: 1–F–RI–0520
Comments: 4,100 sq. ft.; recent use: storage; property currently has no heating (all repairs is the responsibility of owner)

South Dakota

Main House
Lady C Ranch Rd.
Hot Springs SD 57747
Landholding Agency: GSA
Property Number: 54201130011
Status: Surplus
GSA Number: 7–A–0523–3–AE
Comments: Off-site removal only; The property is a 2-story structure with 1,024 sq. ft. per floor for a total of 2,048 sq. ft.; structure type: Log Cabin; recent use: residential

Suitable/Unavailable Properties

Building

Washington

Log House
281 Fish Hatchery Rd.
Quilcene WA 98376
Landholding Agency: GSA
Property Number: 54201220006
Status: Excess
GSA Number: 9–I–WA–1260
Comments: off-site removal only; 3,385 sf.; residential/office

Wisconsin

Wausau Army Reserve Ctr.
1300 Sherman St.
Wausau WI 54401
Landholding Agency: GSA
Property Number: 54201210004
Status: Excess
GSA Number: 1–D–WI–610
Comments: bldg. 12,680 sq. ft.; garage 2,676 sq. ft.; current use: vacant; possible asbestos; remediation may be required; subjected to existing easements; Contact GSA for more detail

Suitable/Unavailable Properties

Land

Arizona

Land
95th Ave/Bethany Home Rd
Glendale AZ 85306
Landholding Agency: GSA
Property Number: 54201010014
Status: Surplus
GSA Number: 9–AZ–852
Comments: 0.29 acre, most recent use—irrigation canal

0.30 acre
Bethany Home Road
Glendale AZ 85306
Landholding Agency: GSA
Property Number: 54201030010
Status: Excess
GSA Number: 9–I–AZ–0859
Comments: 10 feet wide access road

Suitable/Unavailable Properties

Land

California

Parcel F–2 Right of Way
null
Seal Beach CA 90740
Landholding Agency: GSA
Property Number: 54201030012
Status: Surplus
GSA Number: 9–N–CA–1508–AI
Comments: 6331.62 sq. ft., encroachment

Drill Site #3A
null
Ford City CA 93268
Landholding Agency: GSA
Property Number: 54201040004
Status: Surplus
GSA Number: 9–B–CA–1673–AG
Comments: 2.07 acres, mineral rights, utility easements

Drill Site #4
null
Ford City CA 93268
Landholding Agency: GSA
Property Number: 54201040005

Status: Surplus
GSA Number: 9–B–CA–1673–AB
Comments: 2.21 acres, mineral rights, utility easements

Drill Site #6
null
Ford City CA 93268
Landholding Agency: GSA
Property Number: 54201040006
Status: Surplus
GSA Number: 9–B–CA–1673–AC
Comments: 2.13 acres, mineral rights, utility easements

Drill Site #9
null
Ford City CA 93268
Landholding Agency: GSA
Property Number: 54201040007
Status: Surplus
GSA Number: 9–B–CA–1673–AH
Comments: 2.07 acres, mineral rights, utility easements

Drill Site #20
null
Ford City CA 93268
Landholding Agency: GSA
Property Number: 54201040008
Status: Surplus
GSA Number: 9–B–CA–1673–AD
Comments: 2.07 acres, mineral rights, utility easements

Drill Site #22
null
Ford City CA 93268
Landholding Agency: GSA
Property Number: 54201040009
Status: Surplus
GSA Number: 9–B–CA–1673–AF
Comments: 2.07 acres, mineral rights, utility easements

Drill Site #24
null
Ford City CA 93268
Landholding Agency: GSA
Property Number: 54201040010
Status: Surplus
GSA Number: 9–B–CA–1673–AE
Comments: 2.06 acres, mineral rights, utility easements

Drill Site #26
null
Ford City CA 93268
Landholding Agency: GSA
Property Number: 54201040011
Status: Surplus
GSA Number: 9–B–CA–1673–AA
Comments: 2.07 acres, mineral rights, utility easements

Seal Beach RR Right of Way
West 19th Street
Seal Beach CA 90740
Landholding Agency: GSA
Property Number: 54201140015
Status: Surplus
GSA Number: 9–N–CA–1508–AF
Comments: 8,036.82 sq. ft.; current use: vacant lot

Seal Beach RR Right of Way
East 17th Street
Seal Beach CA 90740
Landholding Agency: GSA
Property Number: 54201140016
Status: Surplus
GSA Number: 9–N–CA–1508–AB
Comments: 9,713.88 sq. ft.; current use: private home

Seal Beach RR Right of Way
East of 16th Street
Seal Beach CA 90740
Landholding Agency: GSA
Property Number: 54201140017
Status: Surplus
GSA Number: 9–N–CA–1508–AG
Comments: 6,834.56 sq. ft.; current use: vacant

Seal Beach RR Right of Way
West of Seal Beach Blvd.
Seal Beach CA 90740
Landholding Agency: GSA
Property Number: 54201140018
Status: Surplus
GSA Number: 9–N–CA–1508–AA
Comments: 10,493.60 sq. ft.; current use: vacant lot

Seal Beach RR Right of Way
Seal Beach
Seal Beach CA 90740
Landholding Agency: GSA
Property Number: 54201210006
Status: Surplus
GSA Number: 9–N–CA–1508–AH
Comments: 4,721.90 sf.; current use: vacant lot between residential bldg.

Seal Beach RR Right of Way
Seal Beach
Seal Beach CA 90740
Landholding Agency: GSA
Property Number: 54201210007
Status: Surplus
GSA Number: 9–N–CA–1508–AJ
Comments: 6,028.70 sf.; current use: vacant lot between residential bldgs.

Suitable/Unavailable Properties

Land

Illinois

former Outer Marker Compass
2651 West 83rd Place
Chicago IL
Landholding Agency: GSA
Property Number: 54201220002
Status: Excess
GSA Number: 1–U–I–797
Comments: .22 acres; current use: airport outer maker

Massachusetts

FAA Site
Massasoit Bridge Rd.
Nantucket MA 02554
Landholding Agency: GSA
Property Number: 54200830026
Status: Surplus
GSA Number: MA–0895
Comments: approx 92 acres, entire parcel within MA Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program

Missouri

Whiteman ILS Outer Marker Anne
Hwy 23 North, 9 miles S. of Knob Noster
Knob Noster MO 65336
Landholding Agency: GSA
Property Number: 54201220010
Status: Unutilized
GSA Number: 7–D–MO–0428–2
Directions: previously reported by Air Force under property #18200940001
Comments: .75 acres +/-; fenced grassy area

Long Branch Lake
30174 Visitor Center Rd.
Macon MO 63552
Landholding Agency: GSA
Property Number: 54201230006
Status: Surplus
GSA Number: 7–D–MO–0579
Comments: 7.60 acres

Nevada

RBG Water Project Site
Bureau of Reclamation
Henderson NV 89011
Landholding Agency: GSA
Property Number: 54201140004
Status: Surplus
GSA Number: 9–I–AZ–0562
Comments: water easement (will not impact conveyance); 22+/-acres; current use: water sludge disposal site; lead from shotgun shells on <1 acre.

North Dakota

Vacant Land of MSR Site
Stanley Mickelsen
Nekoma ND
Landholding Agency: GSA
Property Number: 54201130009
Status: Surplus
GSA Number: 7–D–ND–0499
Comments: 201.2 acres; recent use: unknown

Pennsylvania

approx. 16.88
271 Sterrettania Rd.
Erie PA 16506
Landholding Agency: GSA
Property Number: 54200820011
Status: Surplus
GSA Number: 4–D–PA–0810
Comments: vacant land

[FR Doc. 2012–28717 Filed 11–29–12; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5675–N–01]

Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs To Assist With Recovery and Relief in Superstorm Sandy Disaster Areas

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice advises the public of HUD regulations and other administrative requirements governing HUD's Office of Public and Indian Housing (PIH) programs that have been waived in order to facilitate the delivery of decent, safe, and sanitary housing under these programs to families and individuals who have been displaced from their housing by Superstorm Sandy. Entities that administer PIH programs, which include public housing

agencies (PHAs), Indian and tribally designated housing entities (TDHEs), and local and tribal governments, and are located in an area declared by the President to be a federal disaster area as a result of Superstorm Sandy, may defer compliance with the regulations and other requirements listed in this notice for an initial period of 12 months or such other period as may be specified in this notice, and must provide notice to HUD of their decision to do so as described in Section II.A. below. PIH program administrations not located within a federal disaster area but assisting with Superstorm Sandy recovery and relief may request to defer compliance with these regulations and other requirements for the same period of time through the expedited waiver process described in Section II.B. below.

This notice applies only to PIH programs or to cross-cutting regulatory or administrative requirements that are applicable to PIH program administrators.

DATES: November 15, 2012.

FOR FURTHER INFORMATION CONTACT: PIH Disaster Relief Officer, Office of Policy Programs and Legislation, Office of Public and Indian Housing, Department of Housing and Urban Development, 490 L'Enfant Plaza SW., Suite 2206, Washington, DC 20024, telephone number (202) 402–5774 or (202) 402–5467. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background Information

In late October 2012, Superstorm Sandy hit the east coast of the United States, causing loss of life, significant damage to property, and displacement of individuals and families from their homes and communities. The President has called upon all federal agencies to do everything in their power to assist the victims of Superstorm Sandy and to eliminate or reduce ''red tape'' that will impede the delivery of federal financial assistance and other needed benefits. To that end, this notice identifies HUD regulations and other administrative requirements governing HUD's PIH programs that may be waived or temporarily suspended or deferred in an area declared by the President to be a federal disaster area as a result of Superstorm Sandy (''disaster area'') or for other PIH entities impacted by the storm or providing assistance with Superstorm Sandy recovery and relief efforts.

HUD's Office of Public and Indian Housing (PIH) examined the regulations governing PIH programs and recommended waiver or temporary suspension or deferral of those regulations that the office believes could impede PIH program administrators in their effort to expeditiously assist with housing current PIH program participants who lost housing as a result of Superstorm Sandy as well as others who now need housing assistance under PIH programs as a result of the Superstorm. For the majority of the regulations and administrative requirements listed in this notice and for which a waiver may be granted, HUD did not waive the requirements entirely but deferred compliance until such time as compliance may be feasible; for example, in many cases HUD extended deadlines for reports or other documents that PIH program administrators must submit to HUD. HUD is relying on its experienced partners in the HUD housing-assistance programs who are in the front-line of recovery efforts to meet the challenge of providing decent, safe, and sanitary housing as expeditiously as possible and to comply to the extent possible with the regulations that promote that goal. HUD does not want the time and resources of PHAs, Indian tribes, and THDEs diverted by requirements that are important but can be deferred until such time as a degree of normalcy in operations returns to the disaster areas.

In addition to the waiver of regulatory requirements, some statutory provisions contain built-in waiver provisions that allow administrative waiver of the statutory requirements for cause. Certain of those provisions are included in Section III.A of this notice.

This notice lists all HUD regulatory and administrative requirements that PIH determined needed to be waived or temporarily deferred or suspended during the Superstorm Sandy recovery period. If PHAs, Indian tribes, TDHEs, or other PIH program administrators identify other regulations that they believe should be waived, they should seek a waiver by submitting a waiver request as specified in Section II.C.

II. Waiver Process

A. For PIH Program Administrators in Declared Disaster Areas

PIH program administrators in the Superstorm Sandy disaster areas may defer or suspend compliance with the regulations or other administrative requirements upon the effective date of this notice, for an initial period of 12 months or for such other period as may be specified in this notice. These entities, however, should notify HUD within two weeks of determination of the need to utilize the waived requirements in this notice, or as soon as possible, by contacting HUD in the manner detailed in the following paragraph.

An official of the PHA, TDHE, tribal or local government that seeks the suspension of compliance with requirements listed in this notice must contact HUD in writing (email communication is allowed) and identify the requirements they have chosen to waive using the checklist provided by HUD for this purpose. This checklist is available at *http://portal.hud.gov/hudportal/HUD?src=/sandy*. The instructions on the checklist require the PHA, TDHE, tribal or local government to select the desired provisions and to submit the completed checklist by email to *PIH_Disaster_Relief@hud.gov*. If you are a PHA, this email should also include either the Field Office Public Housing Director or the Program Center Coordinator as a recipient. For the Office of Native American Program's (ONAP) grantees, this email should also be addressed to *Kevin.Fitzgibbons@hud.gov.* This email notification process will remain open for use for 75 days after the publication date of this notice.

This is a notification process only, and HUD asks that this notification be made to HUD before a PHA begins to rely on one or more or all of the waived or suspended requirements in this notice. While, as noted earlier, HUD does not want to impose additional administrative requirements on PIH program administrators located in the disaster areas during this period, it is important and helpful for HUD to know how these entities are administering their PIH programs during the recovery period. Thus, HUD has tried to make this notification process as easy as possible. HUD will maintain information on the names of the PHAs, Indian tribes, or TDHEs that have deferred compliance with certain regulatory and administrative requirements in accordance with this notice. The regulation or administrative requirement will remain inapplicable for a period of 12 months, or for the period specified below, and will be considered waived or suspended by HUD. If an extension is necessary, this extension may be made available for an additional three months upon notification to HUD following the same notification process described above.

B. For PIH Program Participants in Non-Disaster Declared Areas

PIH program administrators that are not located in a Superstorm Sandy disaster area but were impacted by the storm or are contributing to relief and recovery efforts may request a waiver of the regulations or administrative requirements listed below by sending the checklist referenced in Section II.A. above to the *PIH_Disaster_Relief@hud.gov* email address. The submission must specify the need, including justification, for the waiver of the requirement in the space provided. Waiver requests submitted through this email address will receive priority processing. This email notification process will remain open for use for 75 days after the publication date of this notice.

C. Regulations and Requirements Not Waived in This Notice

Based on experience to date with Superstorm recovery efforts, PIH believes that this notice contains a comprehensive list of waivers that will assist with relief efforts. However, for any regulation or other administrative requirement not listed for which a PIH program administrator seeks waiver or suspension, the program administrator may seek a waiver by sending a request to the *PIH_Disaster_Relief@hud.gov* email address. The request must specify the need, including justification, for the waiver of the requirement. As noted earlier, waiver requests submitted through this email address will receive priority processing, and HUD will respond to the requestor by email.

The expedited waiver process is provided only for waiver or suspension of requirements that will assist with the Superstorm Sandy relief and recovery efforts. HUD will not respond to any waiver requests submitted to this email address that are unrelated to relief and recovery of the disaster areas. This email notification process will remain open for use for 75 days after the publication date of this notice.

III. Authority To Grant Waivers

Generally, waivers of HUD regulations are handled on a case-by-case basis. Under statutory requirements set forth in section 7(q) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)) and its implementing regulations, 24 CFR 5.110,, a regulated party that seeks a waiver of a HUD regulation must request a waiver from HUD in writing and the waiver request must specify the need for the waiver. HUD then responds to the request in writing and, if the waiver is granted, HUD includes a summary of the waiver granted (and all regulatory waivers granted during a three-month period) in a **Federal Register** notice that is published quarterly. Since the damage to property and the displacement of families and individuals in the disaster areas is widespread, and the need for regulatory relief in many areas pertaining to HUD-assisted housing is readily apparent, HUD is suspending its usual regulatory waiver protocols for the disaster areas and has substituted an expedited process that meets the requirements of section 7(q) and 24 CFR 5.110.

In a quarterly notice of regulations waived, HUD will identify the PIH program administrators in the disaster areas that are utilizing one or more of the waived regulations in this notice or other regulations for which a waiver was requested or granted. The quarterly notice will also identify PIH program administrators located in non-federally declared disaster areas that are either impacted by the storm or contributing to Superstorm Sandy relief and recovery efforts that requested and were granted waivers in accordance with the expedited waiver process provided in this notice.

The regulatory and administrative requirements set forth in Section III of this notice have been waived or temporarily deferred or suspended as provided in this notice. This action was determined necessary to assist PIH program administrators in the disaster areas in facilitating the identification and delivery of housing for families and individuals displaced from their homes by Superstorm Sandy. PIH program administrators referenced in Section III of this notice (e.g., PHAs, TDHEs), even if, at times, not specifically described as PIH program administrators located in a disaster area, refer only to administrators located in disaster areas.

A. Statutory Requirements With Built-in Waiver Authority

1. Extension of Deadline for Obligation and Expenditure of Capital Funds. Section 9(j)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437g(j)(2)) (1937 Act) authorizes the Secretary to extend the time period for obligation of Capital Funds by PHAs, as set forth in section 9(j)(1), for such period as the Secretary determines necessary if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to, among other criteria listed, an event beyond the control of the PHA, or any other reason established by the Secretary by notice published in the **Federal Register**. Pursuant to section 9(j)(1) of the 1937 Act, PHAs are required to obligate Capital Funds not later than 24 months after the date on which the funds became available, or the date on which the PHA accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units, plus the period of any extension approved under section 9(j)(2). The occurrence of Superstorm Sandy was beyond the control of the PHAs located in the disaster areas and caused widespread destruction and displacement. Thus, all Capital Fund Grants with undisbursed balances and FY 2013 Capital Fund Grants' obligation deadlines under section 9(j)(1) of the 1937 Act, are hereby extended pursuant to section 9(j)(2) of the 1937 Act an additional 12 months for PHAs located in the areas declared a federal disaster area for all Capital Fund Grants with undisbursed balances that had not reached the expenditure end date prior to Superstorm Sandy and for FY 2013 Capital Fund Grants. Capital Fund grants include Replacement Housing Factor grants.

For Capital Fund grants whose obligation end date has been approved for extension under section 9(j)(2), the expenditure period under section 9(j)(5) is accordingly also extended in the affected areas for 12 months to include the extension approved under section 9(j)(2). The extension of the section 9(j) obligation and extension deadlines made in this notice also apply to the implementing regulation for section 9(j) at 24 CFR 905.120.

2. Waiver of ICDBG 50 Percent Downpayment Assistance Limitation for Low- and Moderate-Income Homebuyers. Section 122 of the Housing and Community Development Act of 1974 (42 U.S.C. 5321) authorizes the Secretary to suspend requirements for activities to address the damage in a Presidentially declared disaster area. Section 105(a)(24)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) permits a grantee to provide downpayment assistance to low- and moderate-income homebuyers, but limits the assistance to 50 percent of the amount of downpayment the homebuyer must provide. Because of the extraordinary need for housing among low- and moderate-income evacuees, HUD finds good cause to permit downpayment assistance of up to 100 percent for the purchase of homes in the disaster area.

3. Waiver of Indian Housing Plan (IHP) Submission Deadline. Section 101(b)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C.

4111(b)(1)) requires that an Indian Housing Plans (IHP) must be submitted by an Indian Housing Block Grant (IHBG) recipient no later than 75 days prior to the start of the recipient's program year. Section 101(b)(2) of NAHASDA authorizes HUD to waive the IHP submission requirements Section 101(b)(1) for up to 90 days if the Secretary determines that the recipient has not complied with, or is unable to comply with, the IHP submission requirements due to exigent circumstances beyond the control its control. HUD recognizes that Superstorm Sandy has caused significant disruption in operations. Because of the exigent circumstances created by Superstorm Sandy, HUD finds good cause to extend the IHP submission deadline, for those recipients impacted by Superstorm Sandy, by 90 days from the recipient's original IHP submission deadline.

The chart provided below indicates when each IHP is due by calendar quarter. If the IHP ''Sandy Waiver'' submission deadline falls on a weekend or holiday, the IHP will be due on the working day immediately after the weekend or holiday.

Recipient program year	Original IHP submission deadline	IHP submission ''Sandy waiver'' deadline
April 1, 2013	January 17, 2013	April 17, 2013.
July 1, 2013	April 17, 2013	July 16, 2013.
October 1, 2013	July 18, 2013	October 16, 2013.
January 1, 2014	October 18, 2013	January 16, 2014.

4. Waiver of ICDBG 15 Percent (%) Cap on Public Services to assist displaced individuals due to Superstorm Sandy. Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) authorizes the use of ICDBG grant funds for public services, including but not limited to those concerned with employment, crime prevention, child care, and health. The Act sets a 15 Percent (%) per grant cap on the amount of funds that can be spent on public services. Section 122 of the Act states that for funds designated by a grantee to address the damage in areas where the President has declared a disaster under title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq), HUD may suspend all requirements except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, and requirements that activities benefit persons of low- and moderate-income (42 U.S.C. 5321).

In order to assist grantees in providing needed services to individuals impacted by Superstorm Sandy, particularly displaced individuals and households, ICDBG grantees may request that HUD suspend the ICDBG 15 Percent (%) cap on public services. Upon the granting of this waiver, ICDBG grantees may expend up to 100% of their ICDBG grant funds on public services. This applies only to ICDBG funds designated by a grantee to address Superstorm Sandy-related damage in the Presidentially declared disaster areas.

B. Regulatory Requirements.

1. 24 CFR 5.512(c) (Verification of Eligible Immigration Status; Secondary Verification). Section 5.512 provides the process by which verification of eligible immigration status must be undertaken for families seeking assistance under certain HUD programs. While the declaration of eligibility and this verification process is required by statute and cannot be waived, HUD does have the authority to waive certain deadlines. Section 5.512(d) provides the time frame under which a secondary verification must be requested of the Immigration and Customs Enforcement (ICE), by the responsible entity when the primary verification (the automated verification system) is not conclusive of immigration status. The responsible entity must request ICE to undertake a secondary verification within 10 days of receipt of the results of the primary verification, and must provide the ICE with all records on the applicant evidencing citizen or eligible immigration status that the applicant has provided to the responsible entity. This notice provides that the time frame under which a secondary verification must be requested is expanded from 10 days of the date of the results of the primary verification to 90 days from such date.

2. 24 CFR 5.801(c) and 5.801(d)(1) (Uniform Financial Reporting Standards (UFRS); Reporting Due Date). These sections establish uniform financial reporting standards for PHAs and other owners and administrators of HUD-assisted housing. Section 5.801(c) establishes the financial information requirements. Section 5.801(d)(1) establishes the filing deadline for financial information and provides that PHAs must submit their unaudited financial information no later than 60 days after the end of their fiscal year. This deadline is changed from 60 days to 180 days after the end of the PHA's fiscal year for PHAs with fiscal years ending September 30, 2012, December 31, 2012, March 31, 2013, and June 30, 2013. Section 5.801(d)(1) further requires that PHAs submit their audited financial information no later than nine months after the PHA's fiscal year end. For PHAs with fiscal years ending March 31, 2012, June 30, 2012, September 30, 2012, and December 31, 2012, this deadline is changed from nine months to 13 months after the end of the PHA's fiscal year. Although PHAs are still required to submit unaudited and audited financial information pursuant to UFRS, as more fully discussed in Section III.B.3 below, they will not be scored under the Public Housing Assessment System (PHAS).

3. 24 CFR part 902 (Public Housing Assessment System (PHAS)). Part 902 sets out the indicators by which HUD measures the performance of a PHA. The indicators measure a PHA's physical condition, financial condition, management operations, and Capital Fund performance. For PHAs in the areas declared a federal disaster area, beginning with fiscal year end September 30, 2012, through and including fiscal year end June 30, 2013, and with fiscal years ending March 31, 2012, and June 30, 2012, that have not yet received their physical condition inspections for fiscal year 2012, the PHAS score of record will be the PHA's previous year PHAS score. All affected PHAs, however, are still required to submit unaudited and audited information in accordance with Section III.B.2. above.

4. 24 CFR 903.5 (Annual Plan Submission Deadline). Section 5A(h)(2) of the 1937 Act (42 U.S.C. 1437c–1(h)(2)) and 24 CFR 903.5 provide that a PHA Annual Plan must be submitted no later than 75 days before the commencement of a PHA's fiscal year. Each PHA affected may have a different fiscal year and for those PHAs that are approaching this submission deadline, this requirement may be impossible to

meet because the PHAs are not operating. This requirement is a statutory one and not waivable by HUD without further authority. However, HUD will accept as a submission a letter from the PHA stating that HUD should consider its existing annual plan to be the plan for the next year or until it submits another annual plan. For Capital Fund activities, PHAs may obligate their Capital Funds for any activity listed in their existing and approved 5-year plan. PHAs should also submit amendments to their 5-year plan to the extent necessary.

5. 24 CFR 905.10(i) (Capital Fund Formula; Limitation of Replacement Housing Funds to New Development). Section 905.10 describes the Capital Fund formula. Section 905.10(i) limits the use of replacement housing funds to the development of new public housing. This section is waived to allow all Capital Fund Replacement Housing Factor Grants with undisbursed balances and FY 2013 Capital Fund Replacement Housing Factor Grants to be used for two additional areas, public housing modernization and homeownership for public housing families. This waiver will help address housing needs as a result of the displacement caused by Superstorm Sandy.

6. 24 CFR 941.306 (Maximum Project Cost). Section 941.306 establishes the calculation of maximum project cost and the calculation of the total development cost. In order to facilitate the use of Capital Funds for repairs and construction for needed housing in the disaster areas, HUD has waived the total development cost (TDC) and housing cost cap limits for all work funded by the Capital Fund (Capital Fund Grants with undisbursed balances and FY 2013 Capital Fund Grants; including Replacement Housing Factor Fund grants), Choice Neighborhood, and HOPE VI funds until issuance of 2014 TDC levels. Until 2014 TDC levels are issued, PHAs should strive to keep housing costs reasonable given local market conditions.

7. 24 CFR 965.302 (Requirements for Energy Audits). This section establishes the requirement that all PHAs complete an energy audit for each PHA-owned project under management, not less than once every five years. PHAs that are required to conduct or update an audit this year are given an additional 12 months after September 30, 2012, to complete the audit. HUD is relieving PHAs of this administrative burden so that they may focus on the more urgent need to house impacted families.

8. 24 CFR 982.54 (Administrative Plan). This section provides that a PHA must adopt a written administrative plan that establishes local policies for the administration of the Housing Choice Voucher Program in accordance with HUD requirements. In order to allow PHAs to exercise maximum flexibility with program administration as a result of Superstorm Sandy, the PHA may temporarily revise the administrative plan to address unique circumstances without PHA Board of Commissioners approval or other authorized PHA official approval if such Board or officials also waive this requirement.

9. 24 CFR 982.206 (Waiting List; Opening and Public Notice). This section requires a PHA to give the public notice that families may apply for tenant-based assistance. The regulation requires a PHA to publish a notice of the opening of the list in a local newspaper of general circulation, and also by minority media and other suitable means. The requirement to publish in a newspaper of general circulation and also by minority media is waived, and a PHA may provide such information on its Web site and at any of its offices and in a voice mail message for any callers that may inquire whether a list is opened.

10. 24 CFR 982.401(d) (Housing Quality Standards: Space Requirements). By regulation, section 982.401 establishes housing quality standards. Section 982.401(d) provides, among other things, the requirement for adequate space for the family. With respect to space, this section provides that each dwelling unit must have at least one bedroom or living/sleeping room for each two persons. The spacing requirements of this section can be waived only if the family understands and consents to a waiver of this provision. The waiver of this regulation does not represent a long-term change but rather a temporary suspension of requirements to address emergency needs.

11. 24 CFR 984.303 (Contract of Participation; Family Self-Sufficiency (FSS) Program; Extension of Contract) and 24 CFR 984.105 (Minimum Program Size). Part 984 of HUD's regulations provide the requirements for the Section 8 and Public Housing FSS Program. Section 984.303 sets out the requirements for the contract of participation and section 984.303(d) allows for an extension of the FSS program for a period not to exceed two years. For those families at the end of their initial contract term, the two-year limitation is waived and PHAs may provide an extension for a period not to exceed three years. This additional time period would account for any time lost on the FSS contract as a result of the displacement of families participating in the FSS program. Section 984.105 sets out the requirements for minimum FSS program size. The minimum program size requirement provision is also waived; PHAs are exempt from the minimum program size (§§ 984.105(a) and (b)) for a period of two years.

12. 24 CFR part 985 (Section 8 Management Assessment Program (SEMAP)). Part 985 sets out the requirements by which section 8 tenant-based assistance programs are assessed. Similar to the action that HUD has taken with respect to the PHAS regulations in 24 CFR part 902 (see Section III.B.3.), PHAs administering a section 8 tenant-based assistance program are eligible to defer compliance with the SEMAP certification requirements for a period of 12 months. HUD will defer issuing the PHA a new SEMAP score and overall performance rating based on PHA submissions during the waiver period.

13. 24 CFR 990.145 (Dwelling Units with Approved Vacancies). Section 990.145 of the Operating Fund Program regulation (79 FR 54984, September 19, 2005) lists the categories of vacant units that are eligible to receive operating subsidy and, therefore, are considered approved vacancies. PHAs that had vacant units during the reporting period that were not ''approved'' vacancies pursuant to section 990.145, but were available for occupancy, may treat those units as approved vacancies if: (1) the PHA anticipates the units will be occupied by families and individuals affected by the disaster during the upcoming funding year, or (2) the PHA is holding the units vacant for families and individuals affected by the disaster.

14. 24 CFR 982.503(b) and (c) (Waiver of payment standard limit; Establishing Payment Standard Amounts, HUD approval of exception payment standard amount). For Disaster Area PHAs only. Section 982.503(b) limits the payment standard amount a PHA may establish without HUD approval to no greater than 110 percent of the published fair market rent (FMR). Section 982.503(c) sets forth the requirement for HUD approval of an exception payment standard that is higher than the 110 percent of FMR limitation. In order to expand the housing available to families displaced by Superstorm Sandy and to prevent the displacement of assisted families where rents may be increasing significantly as the result of the loss of rental housing stock, PHAs in disaster areas may establish payment standards amounts up to 120 percent of the published FMR for part or all of their jurisdiction by requesting a waiver of 24 CFR

982.503(b) and (c). This waiver will allow the PHA to establish the exception payment standard up to 120 percent of the FMR in an expedited manner by waiving the requirement at 24 CFR 982.503(b) that the PHA must request HUD approval to establish a payment standard that is higher than the basic range. The requirement at 24 CFR 982.503(c)(2) that exception payment standards above 110 percent to 120 percent of the published FMR must be justified by either the median rent method or the 40th or 50th percentile rent method will also be waived. Finally, the requirement at 24 CFR 982.503(c)(2) that the PHA must present statistically representative rental housing survey data to justify HUD approval will be waived as well. Please note: the exception payment standard established by the PHA under this notice may only be applied to the area of PHA's jurisdiction that falls within the Presidentially Declared Disaster Area in the case of multi-county or Statewide PHAs.

PHAs must keep in mind that although this waiver will allow the PHA to establish payment standards up to 120 percent of the FMR, it does not increase the PHA's program funding. The PHA must continue to manage its program within its budgetary constraints, and the increased costs resulting from the exception payment standards may require the PHA to reduce the number of families it is assisting through attrition or to take other actions to stay within its funding limitations. In addition, it is important to note that the rent reasonableness requirements apply to all housing choice voucher units, regardless of whether the PHA receives an exception payment standard through this expedited waiver process.

Higher exception rents above 120 percent of the FMR may be requested through the expedited waiver process by PHAs located in disaster areas but must be justified by rental housing data. However, the requirement at 24 CFR 982.503(c)(4)(ii) that HUD will only approve an exception payment standard amount above 120 percent of the FMR after six months from the date of HUD approval of an exception payment standard above 110 percent to 120 percent of the FMR is waived for PHAs in disaster areas.

15. PIH Notice 2012–10 (Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report). Section 8(c) of PIH Notice 2012–10 requires that a PHA submit form HUD–50058 to HUD no later than 30 days after receiving SSN information from applicants or participants. This 30-day requirement is extended to 90 days for all families.

16. 24 CFR 1000.156 and 1000.158 (IHBG Moderate Design Requirements for Housing Development). The IHBG program regulations at §§ 1000.156 and 1000.158 require that housing developed with IHBG funds must be of moderate design. Under these regulatory sections, IHBG recipients must either adopt written moderate design standards or comply with the TDC limits issued by HUD. In recognition of the higher development costs in communities affected by Superstorm Sandy, and to facilitate the development of housing for families in these communities, these moderate design requirements are waived for IHBG recipients until issuance of new TDC levels. Until new TDC levels are issued, IHBG recipients should strive to keep housing costs reasonable given local market conditions.

17. 24 CFR 1000.514 (Annual Performance Report (APR) Submission Deadline. 24 CFR 1000.514 establishes the due date for submission of the APR to HUD no later than 90 days of the end of the recipient's program year. 1000.514 also states that if a justified request is submitted by the recipient, the Area ONAP may extend the due date for submission of the APR. Due to the disruption of normal operations and damage caused by Superstorm Sandy HUD has determined that Tribes and TDHE's located in the disaster area are justified in requesting up to an additional 90 days for submission of the APR to HUD for program years ending September 30, 2012 and December 31, 2012. HUD may also consider additional requests for APR deadline extensions if justification is shown.

18. 24 CFR 1003.400(c) and Section I.C. of FY 2012 Indian Community Development Block Grants (ICDBG) Program Notice of Funding Availability (NOFA) (Grant Ceilings for ICDBG Imminent Threat Applications). The application funding ceiling for ICDBG Imminent Threat (IT) grants in the FY 2012 NOFA is $450,000, if the applicant is not located in a Presidentially declared disaster area, and $900,000, if the applicant is located in a Presidentially declared disaster area. In order to maximize the availability of ICDBG IT grants to Indian tribes, HUD is waiving these caps to enable all applicants located in areas impacted by Superstorm Sandy to request funds to quickly address critical and emergency needs. HUD reserves the right to award a lesser amount than requested by an applicant based on available funds and if it receives multiple applications from applicants located in the areas impacted by this disaster.

19. 24 CFR 1003.401 and Section I.C. of FY 2012 Indian Community Development Block Grants (ICDBG) Program Notice of Funding Availability (NOFA) (Application Requirements for ICDBG Imminent Threat Funds). Section I.C.2 of the FY 2012 ICDBG NOFA requires applicants of Imminent Threat grants to include the following documentation in its application for funding: independent verification from a third party of the existence of the threat (such as the Indian Health Service, or the Bureau of Indian Affairs); the threat must not be recurring in nature; the threat must impact an entire service area; and it must be established that funds are not available from other tribal or federal sources. Because obtaining this documentation can lead to delays in requesting emergency IT assistance, these provisions and the related regulatory provisions in 24 CFR 1003.400 are waived to permit Indian tribes located in areas affected by Superstorm Sandy to more expeditiously request and receive ICDBG imminent threat funds without having to obtain extensive documentation. Applicants in these areas are still required to submit an application for imminent threat assistance to HUD which includes the following: HUD 424 (Application for Federal Assistance); a brief description of the project; HUD–4123 (Cost Summary); and HUD–4125 (Implementation Schedule) in accordance with Section 1003.401 and the NOFA after the letter to proceed has been sent to the applicant.

20. 24 CFR 1003.604 (ICDBG Citizen Participation Requirements). 24 CFR 1003.604 requires ICDBG applicants to involve residents in the development of their grant applications. Applicants must: furnish residents with information about the amount of funds available and the range of activities that may be undertaken; hold one or more meetings to obtain the views of residents on the needs; publish a statement of needs; and afford residents an opportunity to review the applicant's performance under previous ICDBG awards. The holding of one or more public meetings may be time consuming and result in delays to any relief effort. To quickly meet the demand for funds impacted by Superstorm Sandy, 24 CFR 1003.604(a)(2) is waived so that the tribe will not have to hold one or more meetings to obtain the views of residents on community development and housing needs. Tribes will be

required to meet the remaining citizen participation requirements by publishing or posting information on their plans to use ICDBG funds and soliciting comments on such plans.

Dated: November 15, 2012.

Sandra B. Henriquez,

Assistant Secretary, Public and Indian Housing.

[FR Doc. 2012–29038 Filed 11–29–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 5677–N–01]

Regulatory and Administrative Waivers Granted for Multifamily Housing Programs To Assist With Recovery and Relief in Sandy Disaster Areas

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice advises the public of HUD regulations and other administrative requirements governing HUD's Office of Multifamily Housing programs that have been waived in order to facilitate the delivery of decent, safe, and sanitary housing under these programs to families and individuals who have been displaced from their housing by Sandy. Owners of HUD project-based Section 8 properties located in an area declared by the President to be a federal disaster area as a result of Sandy may defer compliance with the regulations listed in this notice for a period up to 60 days (December 2012 and January 2013). Owners must provide notice of their decision to HUD as described below. Housing assistance payments made for November 2012 will remain unchanged.

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

FOR FURTHER INFORMATION CONTACT: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6138, Washington, DC 20410, telephone number (202) 708–3000. Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Relay Service at 1 (800) 877–8339 or by visiting *http://federalrelay.us/* or *http://www.federalip.us/*.

SUPPLEMENTARY INFORMATION:

I. Background Information

In late October 2012, Hurricane Sandy hit the east coast of the United States causing significant damage to property, loss of life, and displacement of individuals and families from their homes and communities. The President has called upon all federal agencies to do everything in their power to assist the victims of Hurricane Sandy and to eliminate or reduce ''red tape'' that will impede the delivery of federal financial assistance and other needed benefits. To that end, this Notice identifies HUD regulations and other administrative requirements governing HUD's project-based Section 8 programs that may be waived, temporarily suspended, or deferred in an area declared by the President to be a federal disaster area as a result of Hurricane Sandy. This Notice is not applicable to the Rent Supplemental (Rent Supp) and RAP programs.

II. Request To Exercise Option To Receive Vacancy Claims

Multifamily Hub Directors in the Sandy disaster areas may defer or suspend compliance with the regulations or other administrative requirements upon the effective date of this Notice. An owner who wishes to exercise his/her option to receive vacancy claims in accordance with the requirements listed in this Notice must contact the Hub Director in writing (email communication is encouraged) with that request. If an owner wishes to receive vacancy claims for both December 2012 and January 2013, two separate written requests, one for each month, must be made to the Hub Director. The Hub Director will then verify that the units are uninhabitable based on phone and physical assessment (if available) and, once verified, approve the request. Hub Directors will provide the owner's request form to HUD Headquarters for tracking.

III. Business Interruption Insurance

In many cases, an owner may have insurance to protect against a loss of profits during a period of total or partial suspension of business activity. Owners who have such insurance, must decide whether to exercise the option to receive vacancy claims as described in this Notice or to receive insurance payments. An owner should not voucher under this waiver if they are/will receive vacancy insurance payments for the same time for the same unit.

IV. Pass-Through Payments

Owners with residents under a project-based Section 8 contract whose unit was rendered uninhabitable can temporarily lease a unit in another building that is habitable under Uniform Physical Condition Standards. The owner can sign a temporary lease on behalf of the displaced Section 8 resident and begin to voucher for the contract rent for that temporary unit. The owner will then pay the contract rent on the temporary dwelling until the resident's permanent rental unit has been restored to a habitable condition and the owner notifies the resident that he/she may resume occupancy of the unit. The resident is still responsible for the resident's share for the temporary unit.

Once the original unit is fully repaired and ready for occupancy, all Section 8 provisions apply. This arrangement calls for close contact and cooperation between the owner and the resident as the displaced resident has first right of refusal for the unit. Further information relating to pass-through payments can be found in Housing Handbook 4350.1, Chapter 38.

V. November 2012 Housing Voucher Payments and Tenant Rent Payments

Housing Assistance Payments made to an owner for November 2012 will remain unaffected. Owners are encouraged to refund tenant rental payments received for the month of November 2012 from any tenant whose unit was deemed uninhabitable.

VI. Regulatory Requirements Which Have Been Waived

a. *24 CFR 880.611 Conditions for receipt of vacancy payments.* Section 880.611 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to 60 days (December 2012 and January 2013).

b. *24 CFR 881.501 The contract.* Section 881.501 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Hurricane Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to 60 days (December 2012 and January 2013).

c. *24 CFR 884.106 Housing assistance payments to owners.* Section 884.106 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to

60 days (December 2012 and January 2013).

d. *24 CFR 886.109 Housing assistance payments to owners.* Section 886.109 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to 60 days (December 2012 and January 2013).

VII. Authority To Grant Waivers

Generally, waivers of HUD regulations are handled on a case-by-case basis. Under statutory requirements set forth in section 7(q) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)) and its implementing regulations, 24 CFR 5.110, a regulated party that seeks a waiver of a HUD regulation must request a waiver from HUD in writing and the waiver request must specify the need for the waiver. HUD then responds to the request in writing and, if the waiver is granted, HUD includes a summary of the waiver granted (and all regulatory waivers granted during a three-month period) in a **Federal Register** notice that is published quarterly. Since the damage to property and the displacement of families and individuals in the disaster areas is widespread, and the need for regulatory relief in many areas pertaining to HUD-assisted housing is readily apparent, HUD is suspending its usual regulatory waiver protocols for the disaster areas and has substituted an expedited process that meets the requirements of Section 7(q) and 24 CFR 5.110.

Dated: November 26, 2012.

Carol J. Galante,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2012–29036 Filed 11–29–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD070000, L91310000, E10000]

Notice of Availability of the Final Environmental Impact Statement for the West Chocolate Mountains Renewable Energy Evaluation Area, Imperial County, CA, and the Proposed California Desert Conservation Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the West Chocolate Mountains Renewable Energy Evaluation Area (REEA) and a California Desert Conservation Area (CDCA) Proposed Plan Amendment, and by this notice is announcing its availability.

DATES: The BLM's planning regulations state that any person who meets the conditions as described in the regulations may protest the BLM's proposed plan amendment. A person who meets the conditions and files a protest must file the protest within 30 days of the date that the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register.**

ADDRESSES: Copies of the West Chocolate Mountains Renewable Energy Evaluation Area Final EIS/Proposed Plan Amendment have been sent to affected Federal, State, local government agencies, tribal governments and other stakeholders. Copies are available for public inspection at the El Centro Field Office at 1661 S. 4th Street, El Centro, CA; California Desert District Office at 22835 Calle San Juan de Los Lagos, Moreno Valley, CA; and the Palm Springs—South Coast Field Office at 1201 Bird Center Drive, Palm Springs, CA. Interested persons may also review the Final EIS/Proposed Plan Amendment at *http://www.blm.gov/ca/st/en/fo/elcentro/nepa/wcm.html.* All protests must be in writing and mailed to one of the following addresses:

Regular mail	Overnight mail
BLM Director (210), Attention: Brenda Williams, P.O. Box 71383, Washington, DC 20024–1383.	BLM Director (210), Attention: Brenda Williams, 20 M Street SE., Room 2134LM, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Sandra McGinnis, BLM Planning and Environmental Coordinator, telephone 916–978–4427; address 2800 Cottage Way, Suite w-1623, Sacramento, CA 95825; *email wcm_comments@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Final EIS/Proposed Plan Amendment analyzes the potential environmental impacts of making available approximately 18,765 acres of BLM-managed surface lands in the West Chocolate Mountains REEA for testing and developing solar and wind energy facilities and for leasing approximately 20,027 acres of Federal mineral estate near Niland, California, for geothermal energy testing and development. The Final EIS also analyzes the potential environmental impacts of approving a pending geothermal lease application in the REEA.

The purpose of the proposed action is to facilitate appropriate development of geothermal, solar, and wind energy in the REEA and make land use plan decisions regarding the potential location, development, and management of those resources to balance competing uses and continue to achieve the resource condition goals for all resources in the planning area. The analysis includes consideration of the possible environmental consequences associated with a reasonably foreseeable development scenario, as well as possible conditions upon or restrictions for development that may be established to protect certain resource values.

The Final EIS/Proposed Plan Amendment analyzed six alternatives. The preferred alternative is Alternative 6—Geothermal Development Emphasis with Moderate Solar Development and No Wind Development. Under this alternative, the CDCA Plan would be amended to identify areas in the West Chocolate REEA as suitable for geothermal leasing and development and solar energy development, subject to constraints related to the presence of sensitive resources. Standard stipulations would be required for leasing and development, as well as a special stipulation for groundwater usage that would require preparation of a Water Supply Assessment under State law SB–610. Proposed renewable energy development that would require high water usage would not be authorized. The CDCA Plan would be amended to identify the West Chocolate REEA as unsuitable for wind energy development due to conflicts with the Chocolate Mountains Aerial Gunnery Range fly zone. Under the preferred alternative, overall development also would be managed with lands east of the Coachella Canal subject to a disturbance cap of 10 percent to preserve wildlife habitat, and the west side of the Coachella Canal identified as a Solar Energy Zone (SEZ). No projects would be authorized at this time. The principal issues identified during scoping and

public review included Native American concerns; potential land use conflicts including recreation; cumulative impacts considering existing, proposed, and potential geothermal projects in the area; and potential impacts on cultural resources, wildlife, visual resources, and surface and groundwater resources. The Final EIS addresses other issues such as geology, mining, vegetation, threatened or endangered species, air quality, noise, transportation, human health and safety, and social and economic issues, as well as issues raised during the scoping process.

Comments on the Draft Resource Management Plan Amendment/Draft EIS received from the public and internal BLM review were considered and incorporated as appropriate into the Final EIS/Proposed Plan Amendment. Public comments resulted in the addition of clarifying text, but did not significantly change proposed land use plan decisions.

Instructions for filing a protest with the Director of the BLM regarding the Final EIS/Proposed Plan Amendment may be found in the ''Dear Reader'' letter of the Final EIS and CDCA Plan Amendment for the West Chocolate Mountains REEA and at 43 CFR 1610.5–2. Email and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, the BLM will consider the email or faxed protest as an advance copy and it will receive full consideration. If you wish to provide the BLM with such advance notification, please direct faxed protests to the attention of the BLM protest coordinator at 202–245–0028, and emails to *Brenda_Hudgens-Williams@blm.gov.*

All protests, including the follow-up letter to emails or faxes, must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section above.

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2; 43 CFR 1610.5

Cynthia Staszak,

Associate Deputy State Director.

[FR Doc. 2012–28929 Filed 11–29–12; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–TPS–11136; 2200–686]

Notice of Fee Schedule for Reviewing Historic Preservation Certification Applications and Instructions

AGENCY: National Park Service, Interior.

ACTION: Notice of Fee Schedule and Instructions.

SUMMARY: The National Park Service (NPS) is revising the fees it charges for reviewing Historic Preservation Certification Applications.

DATES: *Effective Date:* December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Brian Goeken, Chief, Technical Preservation Services, National Park Service, 1849 C St., NW., Org Code 2255, Washington, DC 20240; telephone 202–354–2033; email: *brian_goeken@nps.gov*.

SUPPLEMENTARY INFORMATION:

I. Background
II. Response to Comments
III. Final Action

I. Background

The NPS charges fees for reviewing certification applications for Federal tax incentives contained in Section 47 of the Internal Revenue Code (referred to herein as ''Historic Preservation Certification Applications''). The fees have not been changed since 1984. Current fees do not cover the full costs of administering the program.

The fee schedule established in 1984 expressed the fees in fixed dollar amounts and did not contain provisions for adjusting the fees over time. This method contrasts with the now-standard Government practice of establishing and revising fees in periodic **Federal Register** notices, pursuant to the Independent Offices Appropriations Act (IOAA) and OMB Circular A–25. Accordingly, the NPS published a final rulemaking, effective June 27, 2011, which stated that ''Fees are charged for reviewing certification requests according to the schedule and instructions provided in public notices in the **Federal Register** by NPS.'' 36 CFR 67.11(a) (2011). This rule authorizes the NPS to make the changes it is now implementing. The NPS will be retaining the collected fees in accordance with Public Law. 106–113–Appendix C, 113 Stat. 1501A–142 (Nov. 29, 1999), which provides that notwithstanding any other provision of law, the NPS may hereafter recover all fees derived from providing necessary review services associated with historic preservation tax certification, and such funds shall be available until expended without further appropriation for the costs of such review services.

II. Response to Comments

On June 22, 2012, the NPS published the proposed revised fee schedule (77 FR 37708) to solicit public comment. A notice published July 6, 2012, corrected the addresses for submitting comments and extended the comment period (77 FR 40080). The NPS received four comments by the close of the comment period (August 6, 2012).

The proposed fee schedule was:

Cost of rehabilitation	Fee
$0–$49,999	$–0–.
$50,000–$3,849,999	$800 + 0.15% (0.0015) of rehabilitation costs over $50,000.
$3,850,000 or more ..	$6,500.

Two of the four comments expressed support for the new fee schedule.

The third comment expressed general support for the new fee schedule, but suggested that additional fee revenues realized through the change in fees be used to expand services provided to applicants. The NPS notes that the current level of fees collected does not cover the costs of administering the program. The increase in fees collected as a result of the revised fee schedule is necessary to maintain the existing level of services. To the extent that the revised fee schedule may accommodate some expanded services as part of the program, such additions may be considered in the future.

The final comment suggested that the minimum rehabilitation costs for which fees apply should be raised to projects of $100,000, or even higher, rather than $50,000 as proposed. The commenter stated that this would make the rehabilitation tax credit more attractive for small projects. In setting the revised fee schedule as initially proposed, the NPS proposed to raise the minimum project level at which fees are charged from $20,000 (the level in effect since 1984) to $50,000 in rehabilitation costs. This change was roughly proportional to inflation since 1984. However, upon consideration of this comment, the NPS considered the amount of the fee

relative to the value of the credit and agrees that the minimum level at which fees are charged should be raised further. Under the current fee schedule, a review fee of $500 is charged for projects less than $100,000, equivalent to 12.5% of the value of the incentive (20% of the cost of the rehabilitation) for a $20,000 project; and under the initially proposed schedule, the review fee would be equal to 8% of the value of the incentive for a $50,000 project. After considering the costs to the Government of administering the program, the value of the service to the recipient, and the public policy of promoting investment in our Nation's historic buildings, the NPS considers that raising the minimum project level at which fees are assessed to $80,000 (with a review fee equivalent to 5.3% of the value of the incentive) effectively balances these goals. It would preserve the long-standing NPS practice of not charging for the smallest projects, and promote the rehabilitation of historic buildings without substantially increasing the cost of administering the program or resulting in significant loss of fee revenues. Raising the level further, however, would mean more substantial loss of such revenues or require that fees be increased.

In consideration of this change, the fee schedule has been revised as set forth below so that no fee is charged for projects with rehabilitation costs less than $80,000. There is no change as the result of this revision to the fees charged to projects with rehabilitation costs of $80,000 and above to that previously proposed.

III. Action

Fee Schedule Information and Instructions

Fees will be charged for reviewing Historic Preservation Certification Applications in accordance with the schedule appearing below. The fee schedule and instructions concerning the same may also be obtained through the NPS's Web site at *http://www.nps.gov/tps/tax-incentives.htm.*

The new fee schedule applies only to new applications received by State Historic Preservation Offices after the effective date of this fee schedule. Part 3 applications describing completed work in previously reviewed Part 2 applications will be charged according to the schedule in effect at the time the Part 2 was reviewed.

Fee Schedule

Applicants should make no payment until requested to do so by the NPS. A certification decision will not be issued on an application until the appropriate remittance is received. Fees are nonrefundable.

Application review fees (rounded to the nearest dollar) are based on the applicant's estimated rehabilitation costs (defined as ''Qualified Rehabilitation Expenditures,'' or ''QREs,'' pursuant to section 47 of the Internal Revenue Code).

Cost of rehabilitation	Fee
$0–$79,999	$–0–.
$80,000–$3,849,999	$845 + 0.15% (0.0015) of rehabilitation costs over $80,000.
$3,850,000 or more ..	$6,500.

1. The application review fee will, upon request by the NPS, be payable one-half upon NPS receipt of a Part 2—Description of Rehabilitation, and one-half upon NPS receipt of a Part 3—Request for Certification of Completed Work.

2. If the estimated rehabilitation costs reported on the Part 3 application are lower than those reported on the Part 2 application previously submitted, then the Part 3 portion of the application review fee will be based on the costs reported on the Part 3. No refund of the Part 2 fee difference—if any—will be made.

3. If the estimated rehabilitation costs reported on the Part 3 application are higher than those reported on the Part 2 application previously submitted, then the Part 3 portion of the fee will be 100% of the review fee less the Part 2 portion of the fee previously paid.

4. If Part 2 and Part 3 applications are received at the same time, the application review fee will be assessed on the estimated rehabilitation costs reported on the Part 3.

5. For a project involving multiple buildings that were functionally related historically pursuant to 36 CFR part 67, the application review fee will be based on the estimated rehabilitation costs of the entire project.

6. For a phased project pursuant to 36 CFR part 67, the application review fee will be based on the total estimated rehabilitation costs for all phases.

7. Projects requiring submittal of a new Part 2 application will be assessed an application review fee equal to the fee for a new Part 2 application. No refunds or credits toward the new application will be issued for the fees paid for the prior Part 2 application.

Dated: November 5, 2012.

Jonathan B. Jarvis,

Director, National Park Service.

[FR Doc. 2012–29010 Filed 11–29–12; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0002]

States' Decisions on Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice.

SUMMARY: Final regulations that the Office of Natural Resources Revenue (ONRR) published September 13, 2004 (69 FR 55076), provide two types of accounting and auditing relief for Federal onshore or Outer Continental Shelf lease production from marginal properties. As the regulations require, ONRR provided a list of qualifying marginal Federal oil and gas properties to States that received a portion of Federal royalties. Each State then decided whether to participate in one or both relief options. For calendar year 2013, we provide in this notice the affected States' decisions to allow one or both types of relief.

DATES: Effective January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Richard Adamski, Program Manager, Asset Valuation, at (303) 231–3410; or (303) 231–3744 via fax; or via email to *richard.adamski@onrr.gov.*

SUPPLEMENTARY INFORMATION: The regulations, codified at 30 CFR part 1204, subpart C, implement certain provisions of section 7 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA) (30 U.S.C. 1726), which allows States to relieve the lessees of marginal properties from certain reporting, accounting, and auditing requirements. States make an annual determination of whether or not to allow relief. Two options for relief are provided: (1) Notification-based relief for annual reporting and (2) other requested relief, as industry proposed and ONRR and the affected State approved. The regulations require ONRR to publish by December 1 of each year a list of the States and their decisions regarding marginal property relief.

To qualify for the first relief option (notification-based relief) for calendar year 2013, properties must have

produced less than 1,000 barrels-of-oil-equivalent (BOE) per year for the base period (July 1, 2011, through June 30, 2012). Annual reporting relief will begin January 1, 2013, with the annual report and payment due February 28, 2014, or March 31, 2014, if you have an estimated payment on file. To qualify for the second relief option (other requested relief), the combined equivalent production of the marginal properties during the base period must equal an average daily well production of less than 15 BOE per well, per day calculated under 30 CFR 1204.4(c).

The following table shows the States that have qualifying marginal properties and the States' decisions to allow one or both forms of relief.

State	Notification-based relief (less than 1,000 BOE per year)	Request-based relief (less than 15 BOE per well per day)
Alabama	No	No.
California	No	No.
Colorado	No	No.
Kansas	No	No.
Louisiana	Yes	Yes.
Michigan	Yes	Yes.
Mississippi	No	No.
Montana	No	No.
Nebraska	No	No.
Nevada	No	No.
New Mexico	No	Yes.
North Dakota	Yes	Yes.
Oklahoma	No	No.
South Dakota	No	No.
Utah	No	No.
Wyoming	No	No.

Federal oil and gas properties located in all other States where ONRR does not share a portion of Federal royalties with the State are eligible for relief if they qualify as marginal under the regulations (See section 117(c) of RSFA (30 U.S.C. 1726(c))). For information on how to obtain relief, please refer to 30 CFR 1204.205 or to the published rule, which you may view at *www.onrr.gov/Laws_R_D/FRNotices/AC30.htm.*

Unless the information that ONRR received is proprietary data, all correspondence, records, or information that we receive in response to this notice may be subject to disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552 *et seq.*). If applicable, please highlight the proprietary portions, including any supporting documentation, or mark the page(s) that contain proprietary data. We protect the proprietary information under the Trade Secrets Act (18 U.S.C. 1905); FOIA, Exemption 4 (5 U.S.C. 552(b)(4)); and Department regulations (43 CFR part 2).

Dated: November 16, 2012.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2012–28935 Filed 11–29–12; 8:45 am]

BILLING CODE 4310–T2–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

On November 26, 2012 the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Nebraska in the lawsuit entitled *United States and State of Nebraska* v. *Aaron Ferer & Sons, Company,* Civil Action No. 8:12-cv-00406.

The Complaint states claims on behalf of the United States and the State of Nebraska against Aaron Ferer & Sons, Company, under CERCLA Section 107 as the former owner and operator of a lead processing facility that contaminated the Omaha Lead Site in Omaha, Nebraska. Aaron Ferer & Sons, Company, is resolving its liability for a payment of $500,000, $20,000 of which is being paid to the State of Nebraska. Aaron Ferer & Sons, Company is receiving a covenant-not-to-sue from the United States and the State of Nebraska.

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. *Aaron Ferer & Sons, Company,* D.J. Ref. No. 90–11–3–07834/3. 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 $4.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert E. Maher, Jr.,

Acting Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–28942 Filed 11–29–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Benefit Accuracy Measurement Program

ACTION: Notice.

SUMMARY: On November 30, 2012, the Department of Labor (DOL) will submit the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Benefit Accuracy Measurement Program,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before December 31, 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,* as of December 1, 2012, or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The Benefits Accuracy Measurement (BAM) program is one of the tools the DOL uses to measure and reduce waste, fraud, and abuse for the Unemployment Insurance (UI) program. The BAM program provides reliable estimates of the accuracy of benefit payments and denied claims in the UI program, and identifies the sources of improper payments and denials so their causes can be eliminated. The BAM program consists of two comprehensive reviews: Paid Claims Accuracy (PCA) and Denied Claims Accuracy (DCA). States conduct intensive audits of statewide random samples of UI payments and denials to determine their accuracy. The DOL provides State Workforce Agencies with software to edit the sampling frame files and to select the weekly PCA and DCA samples.

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 1205–0245. 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 6, 2012 (77 FR 54927).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by December 31, 2012. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0245. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Benefit Accuracy Measurement Program.

OMB Control Number: 1205–0245.

Affected Public: Individuals or Households; Private Sector—businesses or other for profits, farms, and not-for-profit institutions; and State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 101,892.

Total Estimated Number of Responses: 149,004.

Total Estimated Annual Burden Hours: 524,744.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 26, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–28939 Filed 11–29–12; 8:45 a.m.]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prohibited Transaction Class Exemptions for Multi-Employer Plans & Multi-Employer Apprenticeship Plans, PTE 76–1, PTE 77–10, and PTE 78–6

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Prohibited Transaction Class Exemptions for Multi-Employer Plans & Multi-Employer Apprenticeship Plans, PTE 76–1, PTE 77–10, PTE 78–6'' 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 31, 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: Prohibited Transaction Exemption (PTE) 76–1 permits a multi-employer employee benefit plan, under specific conditions, to negotiate with a contributing employer to accept a delinquent contribution and to settle a delinquency; to make a construction loan to a contributing employer; and to lease property and purchase services and goods from a party in interest, including a contributing employer and an employee association. PTE 77–10 expands the scope of relief provided under PTE 76–1 part C for leasing property and purchasing goods and services. PTE 78–6 provides an exemption to a multi-employer apprenticeship plan for purchasing personal property or leasing real property from a contributing employer. All three exemptions impose recordkeeping requirements on plans as a condition to availability of the relief.

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 1210–0058. 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 37922).

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 1210–0058. 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: Prohibited Transaction Class Exemptions for Multi-Employer Plans & Multi-Employer Apprenticeship Plans, PTE 76–1, PTE 77–10, and PTE 78–6.

OMB Control Number: 1210–0058.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 5,718.

Total Estimated Number of Responses: 5,718.

Total Estimated Annual Burden Hours: 1,430.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 19, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–29062 Filed 11–29–12; 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; Placement Verification and Follow-Up of Job Corps Participants

ACTION: Notice.

SUMMARY: On November 30, 2012, the Department of Labor (DOL) will submit the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Placement Verification and Follow-up of Job Corps Participants,'' 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 31, 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*, as of December 1, 2012, or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street, NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR is for continued authorization of three primary and two secondary data collection instruments used to collect follow-up data on individuals who are no longer actively participating in Job Corps. The instruments are comprised of modules that include questions designed to obtain the following information: re-verification of initial job and/or school placements, employment and educational experiences, job search activities of those who are neither working nor in school, and information about former participants' satisfaction with services received.

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 1205–0426. 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 October 1, 2012 (77 FR 59984).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by December 31, 2012. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0426. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Placement Verification and Follow-up of Job Corps Participants.

OMB Control Number: 1205–0426.

Affected Public: Individuals or Households and Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 53,323.

Total Estimated Number of Responses: 53,323.

Total Estimated Annual Burden Hours: 11,440.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 26, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–29058 Filed 11–29–12; 8:45 a.m.]

BILLING CODE 4510–FT–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2012–10]

Extension of Comment Period: Orphan Works and Mass Digitization

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of comment period.

SUMMARY: The Copyright Office is extending the period of public comment in response to its October 22, 2012 Notice of Inquiry requesting comments on issues relating to orphan works and mass digitization under U.S. copyright law.

DATES: Comments are due by 5:00 p.m. EST on February 4, 2013. Reply comments are due by 5:00 p.m. EST on March 6, 2013.

ADDRESSES: All comments and reply comments shall be submitted electronically. A comment page containing a comment form is posted on the Office Web site at *http://www.copyright.gov/orphan/.* The Web site interface requires commenting parties to complete a form specifying name and organization, as applicable, and to upload comments as an attachment via a browser button. To meet accessibility standards, commenting parties must upload comments in a single file not to exceed six megabytes (MB) in one of the following formats: The Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The form and face of the comments must include both the name of the submitter and organization. The Office will post the comments publicly on the Office's Web site exactly as they are received, along with names and organizations. If electronic submission of comments is not feasible, please contact the Office at 202–707–8350 for special instructions.

FOR FURTHER INFORMATION CONTACT: Karyn Temple Claggett, Senior Counsel, Office of Policy and International Affairs, by email at *kacl@loc.gov;* or Catherine Rowland, Senior Counsel, Office of Policy and International Affairs, by email at *crowland@loc.gov;* or contact the Copyright Office by telephone, at 202–707–8350.

SUPPLEMENTARY INFORMATION: On October 22, 2012, the Copyright Office published a Notice of Inquiry inviting public comments on issues relating to orphan works and mass digitization under U.S. copyright law. Due to the number and complexity of the issues raised in that Notice, it appears that some stakeholders may need additional time to respond. In order to facilitate full and adequate public comment, the Office hereby extends the time for filing comments to 5:00 p.m. EST on February 4, 2013. The due date for filing reply comments is extended to 5:00 p.m. EST on March 6, 2013.

Dated: November 27, 2012.

Maria A. Pallante,

Register of Copyrights.

[FR Doc. 2012–29023 Filed 11–29–12; 8:45 am]

BILLING CODE 1410–30–P

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meetings: December 2012

TIME AND DATES:

All meetings are held at 2:30 p.m.

Tuesday, December 4;
Wednesday, December 5;
Thursday, December 6;
Tuesday, December 11;
Wednesday, December 12;
Thursday, December 13;
Tuesday, December 18;
Wednesday, December 19;
Thursday, December 20;
Wednesday, December 26;
Thursday, December 27.

PLACE: Board Agenda Room, No. 11820, 1099 14th St., NW., Washington, DC 20570.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Pursuant to § 102.139(a) of the Board's Rules and Regulations, the Board or a panel thereof will consider ''the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct, or disposition * * * of particular representation or unfair labor practice proceedings under section 8, 9, or 10 of the [National Labor Relations] Act, or any court proceedings collateral or ancillary thereto.'' See also 5 U.S.C. 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: *Lester A. Heltzer,* Executive Secretary, (202) 273–1067.

Dated: November 28, 2012.

Lester A. Heltzer,

Executive Secretary.

[FR Doc. 2012–29120 Filed 11–28–12; 4:15 pm]

BILLING CODE 7545–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The review and evaluation may also include assessment of the progress of awarded proposals. The majority of these meetings will take place at NSF, 4201 Wilson Blvd., Arlington, Virginia 22230.

These meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will not be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web site: *http://www.nsf.gov/events/.* This information may also be requested by telephoning, 703/292–8182.

Dated: November 27, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–29022 Filed 11–29–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

AGENCY HOLDING MEETING: National Science Board.

DATE AND TIME: December 4, 2012, from 8:00 a.m. to 5:00 p.m., and December 5, 2012 from 8:00 a.m. to 2:00 p.m.

PLACE: These meetings will be held at the National Science Foundation, 4201 Wilson Blvd., Rooms 1235 and 1295, Arlington, VA 22230. All visitors must contact the Board Office (call 703–292–7000 or send an e-mail message to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the meeting and provide name and organizational affiliation. All visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Streets entrance to receive a visitor's badge.

WEBCAST INFORMATION: The public meetings and public portions of meetings will be webcast. To view the meetings, go to *http://www.tvworldwide.com/events/nsf/121204/* and follow the instructions.

UPDATES: Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information. Meeting information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/.*

AGENCY CONTACT: Jennie L. Moehlmann, *jmoehlma@nsf.gov*, (703) 292–7000.

PUBLIC AFFAIRS CONTACT: Dana Topousis, *dtopousi@nsf.gov*, (703) 292–7750.

STATUS: Portions open; portions closed.

Open Sessions

December 4, 2012

8:00–8:05 a.m. (Chairman's introduction)
8:05 a.m.–12:00 p.m. (CPP)
1:30–2:00 p.m. (Executive Committee)
2:00–3:00 p.m. (A&O)
3:00–3:40 p.m. (CSB)
3:45–5:00 p.m. (SEI)

December 5, 2012

9:30 a.m.–11:30 p.m. (Board)

Closed Sessions

December 4, 2012

8:15–8:45 a.m. (CSB)
2:00–2:45 p.m. (CPP)

December 5, 2012

8:00 a.m.–8:30 a.m. (Board, executive closed)
8:30–8:50 a.m. (Board, closed)

Matters To Be Discussed

Tuesday December 4, 2012

Committee on Programs and Plans (CPP)

Open Session: 8:05 a.m.–12:00 p.m.

- Approval of Open CPP Minutes for July 2012
- Committee Chairman's Remarks
- Discussion Item: Structure and Charge for CPP and CPP subcommittees
- Discussion Item: Implementation of Board Policy on Recompetition
- Information Item: Advanced Technology Solar Telescope (ATST): construction update
- Information Item: Renewal of the Cornell High Energy Synchrotron (CHESS) and Assessment of DMR's Future Role
- CPP Program Portfolio Planning: Follow-up from July Space Weather presentation; NSF framework for handling data; next steps and schedule for future program portfolio discussions
- Information Item: U.S. Antarctic Programs

Committee on Programs and Plans (CPP)

Closed Session: 2:00–2:45 p.m.

- Committee Chairman's Remarks
- Approval of Closed CPP Minutes for July 2012
- Information Item: Gemini Observatory: Annual Update
- Information Item: MPS Advisory Committee Review of Astronomy Portfolio

Committee on Strategy and Budget (CSB)

Closed Session: 8:15–8:45 a.m.

- Committee Chairman's Remarks
- Approval of CSB Closed Minutes for July 2012 Meeting and August 2012 teleconference Meeting
- NSF FY 2014 Budget Development and Potential Sequestration Impacts

Committee on Strategy and Budget (CSB)

Open Session: 3:00–3:40 p.m.

- Committee Chairman's Remarks
- Approval of CSB Open Meeting Minutes for July 2012
- NSF FY 2013 Budget Update
- Study on Trends in Science Budget Priorities
- Other Committee Business

Executive Committee

Open Session: 1:30–2:00 p.m.

- Chairman's Remarks
- Discussion of February 2013 Board Meeting Agenda
- Chairman's Closing Remarks

Committee on Audit and Oversight (A&O)

Open Session: 1:30–2:30 p.m.

- Approval of Minutes of the July 2012 Meeting and August 2012 teleconference Meeting
- Committee Chairman's Opening Remarks
- Inspector General's Update and Discussion of Auditor's Report
- Chief Financial Officer's Update
- Human Capital Officer's Update
- Committee Chairman's Closing Remarks

Committee on Science & Engineering Indicators (SEI)

Open Session: 3:45–5:00 p.m.

- Chairman's Remarks
- Approval of June and July 2012 teleconference Meeting Minutes and July 2012 Meeting Minutes
- Approval of *Science and Engineering Indicators 2014* Narrative Chapter Outlines
- Update on *Science and Engineering Indicators 2014* Production
- Update on the development of *Science and Engineering Indicators 2014* Mobile Application
- The Future of *Science and Engineering Indicators:* Taking Full Advantage of Electronic Delivery
- Update on Release of the Second Companion to *Science and Engineering Indicators 2012* entitled, *Diminishing Funding and Rising Expectations: Trends and Challenges for Public Research Universities*
- Discussion of *Indicators* Outreach and Future Companion Letters, Statements, and/or Reports
- Chairman's Summary

Wednesday, December 5, 2012

Plenary Board Meeting

Executive Closed Session: 8:00–8:30 a.m.

- Approval of Executive Closed Session Minutes, July 2012 teleconference Meeting
- Approval of Executive Closed Session Minutes, July 2012 Meeting

- 2013 Board Retreat, Off-Site Meeting and Site Visits
- Approval of Honorary Awards Recommendations

Plenary Board Meeting

Closed Session: 8:30–8:50 a.m.

- Approval of Closed Session Minutes, July 2012
- Approval of Closed Session Minutes, August 2012 teleconference Meeting
- Closed Committee Reports

Plenary Board Meeting

Open Session: 9:30–11:30 a.m.

- Approval of Open Session Minutes, July 2012
- Chairman's Report
- Director's Report
- Open Committee Reports

Public Event: Graduate Research Fellowship Program Anniversary

Room 375: 12:30–2:00 p.m.

Meeting Adjourns: 2:00 p.m.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2012–29057 Filed 11–28–12; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–391–OL; ASLBP No. 09–893–01–OL–BD01]

Notice of Atomic Safety And Licensing Board Reconstitution, Tennessee Valley Authority (Watts Bar, Unit 2)

Pursuant to 10 CFR 2.313(c) and 2.321(b), the Atomic Safety and Licensing Board (Board) in the above-captioned *Watts Bar, Unit 2* operating license application proceeding is hereby reconstituted by appointing Administrative Judge Paul S. Ryerson to serve on the Board as Chairman in place of Administrative Judge Lawrence G. McDade.

All correspondence, documents, and other materials shall continue to be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302 *et seq.*

Issued at Rockville, Maryland this 16th day of November 2012.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2012–29004 Filed 11–29–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–08943; NRC–2012–0281]

Crow Butte Resources, Inc. License SUA–1534, License Amendment To Construct and Operate Marsland Expansion Area

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to request a hearing and to petition for leave to intervene; order.

DATES: Requests for a hearing or leave to intervene must be filed by January 29, 2013. Any potential party as defined in Section 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to Sensitive Unclassified Non-Safeguards Information is necessary to respond to this notice must request document access by December 10, 2012.

ADDRESSES: Please refer to Docket ID NRC–2012–0281 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 any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2012–0281. Address questions about NRC dockets to Carol Gallagher 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. The Marsland Expansion Area License Amendment request and additional supporting documents (Marsland Technical Report and Environmental Report) are available electronically in ADAMS under Accession Nos. ML121600598 and ML121650565. Documents related to the application can be found in ADAMS under Docket No. 04008943.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Tom Lancaster, Project Manager, Uranium Recovery Licensing Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–6563; fax number: 301–415–5369; email: *Thomas.Lancaster@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

By letters dated May 16, 2012 and June 8, 2012, Crow Butte Resources, Inc. (CBR) submitted a request to amend Source Material License SUA–1534 to the U.S. Nuclear Regulatory Commission (NRC) to construct and operate an *in situ* uranium recovery (ISL) satellite facility at its Marsland site in Dawes County, Nebraska.

An NRC administrative review, documented in an email to CBR dated October 5, 2012, found the application acceptable to begin a technical review (ADAMS Accession No. ML12285A142). Prior to approving the amendment request, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report and an environmental review report. The environmental review report will be the subject of a subsequent notice in the **Federal Register**.

II. Opportunity To Request a Hearing

The NRC hereby provides notice that this is a proceeding on an amendment to Source Material License SUA–1534 to construct and operate an ISL satellite facility at CBR's Marsland site in Dawes County, Nebraska. Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, ''Hearing requests, petitions to intervene, requirements for standing, and contentions.'' Interested persons should consult 10 CFR part 2, Section 2.309, which is available at the NRC's PDR, located at O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at 800–397–4209 or 301–415–4737). NRC regulations are also accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.*

III. Petitions for Leave To Intervene

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. 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 must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

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 with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Requests for hearing, petitions for leave to intervene, and motions for leave to file contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the new or amended 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.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1) and (2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by January 29, 2013. The petition must be filed in accordance with the filing instructions in section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian tribe does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance under 10 CFR 2.315(a), by making an oral or written statement of his or her position on the issues at any session of the hearing or at any prehearing conference, within the limits and conditions fixed by the presiding officer. However, that person may not otherwise participate in the proceeding.

IV. Electronic Submissions (E-Filing)

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 (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on 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 NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document

using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public 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 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 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.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 26th day of November, 2012.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of FEDERAL REGISTER notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/activity
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2012–29000 Filed 11–29–12; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2013–20; Order No. 1553]

New International Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to enter into an additional Global Reseller Expedited Package Contracts 1. This document invites public comments on the request and addresses several related procedural steps.

DATES: *Comments are due:* December 5, 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. Contents of Filing
III. Notice of Proceeding
IV. Ordering Paragraphs

I. Introduction

Background. On November 21, 2012, the Postal Service filed a notice pursuant to 39 CFR 3015.5 announcing that it has entered into an additional Global Reseller Expedited Package (GREP) contract (Contracts 1).[1] It seeks to have the instant Contract included within the existing GREP Contracts 1 product on grounds of functional equivalence to the baseline agreement filed in Docket No. CP2010–36.[2] *Id.* at 2–3.

II. Contents of Filing

The instant Contract. The Postal Service identifies the instant Contract as a successor to the GREP contract filed in Docket No. CP2012–21. *Id.* at 3. It states that the Docket No. CP2012–21 contract will terminate the day prior to the effective date established for the instant Contract. *Id.*

The Postal Service filed the following material in conjunction with its Notice, along with public (redacted) versions of supporting financial information:

- Attachment 1—a redacted copy of the instant contract;
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 10–1; and
- Attachment 4—an application for non-public treatment of materials filed under seal.

Functional equivalency. The Postal Service asserts that the instant Contract is substantially similar to the baseline agreement filed in Docket No. CP2010–36 because it shares similar cost and market characteristics and meets criteria in Governors' Decision No. 10–1 concerning attributable costs. *Id.* at 3–4. The Postal Service further asserts that the functional terms of the two contracts are the same and the benefits are comparable. *Id.* at 4. It states that prices offered under the contracts may differ due to postage commitments and when the agreement is signed (due to updated costing information), but asserts that these differences do not alter the functional equivalency of the contracts. *Id.* The Postal Service also identifies differences between the terms of the two contracts, but asserts that these differences do not affect the fundamental service being offering or the fundamental structure of the contract.[3] *Id.* at 5–7.

III. Notice of Proceeding

The Commission establishes Docket No. CP2013–20 for consideration of matters raised by the Postal Service's Notice. Interested persons may submit comments on whether the instant contract is consistent with the requirements of 39 CFR 3015.5 and the policies of 39 U.S.C. 3632 and 3633. Comments are due no later than December 5, 2012. The public portions of this filing can be accessed via the Commission's Web site, *http://www.prc.gov.* Information on how to obtain access to material filed under seal appears in 39 CFR 3007.50.

The Commission appoints James F. Callow to serve as Public Representative in the captioned proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2013–20 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in this proceeding are due no later than December 5, 2012.

3. 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.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–28954 Filed 11–29–12; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 3a–4.

OMB Control No. 3235–0459, SEC File No. 270–401.

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Negotiated Service Agreement and Application For Non-Public Treatment of Materials Filed Under Seal, November 21, 2012 (Notice).

[2] *See also* Docket No. MC2010–21 (based on Governors' Decision No. 10–1), Order No. 445, April 22, 2010, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement.

[3] Differences include numerous revisions to existing Articles and five new Articles. *Id.* at 7.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 3a–4 (17 CFR 270.3a–4) under the Investment Company Act of 1940 (15 U.S.C. 80a) (''Investment Company Act'' or ''Act'') provides a nonexclusive safe harbor from the definition of investment company under the Act for certain investment advisory programs. These programs, which include ''wrap fee'' and ''mutual fund wrap'' programs, generally are designed to provide professional portfolio management services to clients who are investing less than the minimum usually required by portfolio managers but more than the minimum account size of most mutual funds. Under wrap fee and similar programs, a client's account is typically managed on a discretionary basis according to pre-selected investment objectives. Clients with similar investment objectives often receive the same investment advice and may hold the same or substantially similar securities in their accounts. Some of these investment advisory programs may meet the definition of investment company under the Act because of the similarity of account management.

In 1997, the Commission adopted rule 3a–4, which clarifies that programs organized and operated in a manner consistent with the conditions of rule 3a–4 are not required to register under the Investment Company Act or comply with the Act's requirements.[1] These programs differ from investment companies because, among other things, they provide individualized investment advice to the client. The rule's provisions have the effect of ensuring that clients in a program relying on the rule receive advice tailored to the client's needs.

Rule 3a–4 provides that each client's account must be managed on the basis of the client's financial situation and investment objectives and consistent with any reasonable restrictions the client imposes on managing the account. When an account is opened, the sponsor[2] (or its designee) must obtain information from each client regarding the client's financial situation and investment objectives, and must allow the client an opportunity to impose reasonable restrictions on managing the account.[3] In addition, the sponsor (or its designee) must contact the client annually to determine whether the client's financial situation or investment objectives have changed and whether the client wishes to impose any reasonable restrictions on the management of the account or reasonably modify existing restrictions. The sponsor (or its designee) must also notify the client quarterly, in writing, to contact the sponsor (or its designee) regarding changes to the client's financial situation, investment objectives, or restrictions on the account's management.[4]

The program must provide each client with a quarterly statement describing all activity in the client's account during the previous quarter. The sponsor and personnel of the client's account manager who know about the client's account and its management must be reasonably available to consult with the client. Each client also must retain certain indicia of ownership of all securities and funds in the account.

The requirement that the sponsor (or its designee) obtain information about each new client's financial situation and investment objectives when their account is opened is designed to ensure that the investment adviser has sufficient information regarding the client's unique needs and goals to enable the portfolio manager to provide individualized investment advice. The sponsor is required to contact clients annually and provide them with quarterly notices to ensure that the sponsor has current information about the client's financial status, investment objectives, and restrictions on management of the account. Maintaining current information enables the portfolio manager to evaluate each client's portfolio in light of the client's changing needs and circumstances. The requirement that clients be provided with quarterly statements of account activity is designed to ensure each client receives an individualized report, which the Commission believes is a key element of individualized advisory services.

The Commission staff estimates that 11,291,005 clients participate each year in investment advisory programs relying on rule 3a–4. Of that number, the staff estimates that 903,280 are new clients and 10,387,725 are continuing clients. The staff estimates that each year investment advisory program sponsors staff engage in 1.3 hours per new client and 1 hour per continuing client to prepare, conduct and/or review interviews regarding the client's financial situation and investment objectives as required by the rule. Furthermore, the staff estimates that each year investment advisory program staff spends 1 hour per client to prepare and mail quarterly client account statements, including notices to update information. Based on the estimates above, the Commission estimates that the total annual burden of the rule's paperwork requirements is 22,852,994 hours.

The total annual hour burden of 22,852,994 hours represents an increase of 17,245,466 hours from the prior estimate of 5,607,528 hours. This increase principally results from an increase in the estimated number of clients, which was due to a change in the way Commission staff made its estimates. The change in annual burden hours also reflects changes in the estimated burden hours associated with several collections of information required under the rule (certain burden estimates increased and certain burden estimates decreased). These changes in estimated burden hours per collection of information result from changes in burden hours reported by representatives of investment advisers that rely on rule 3a–4 that Commission staff surveyed.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's safe harbor. Nevertheless, rule 3a–4 is a nonexclusive safe harbor, and a program that does not comply with the rule's collection of information requirements does not necessarily meet the Investment Company Act's definition of investment company. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it

[1] Status of Investment Advisory Programs Under the Investment Company Act of 1940, Investment Company Act Release No. 22579 (Mar. 24, 1997) (62 FR 15098 (Mar. 31, 1997)) (''Adopting Release''). In addition, there are no registration requirements under section 5 of the Securities Act of 1933 for these programs. *See* 17 CFR 270.3a–4, introductory note.

[2] For purposes of rule 3a–4, the term ''sponsor'' refers to any person who receives compensation for sponsoring, organizing or administering the program, or for selecting, or providing advice to clients regarding the selection of, persons responsible for managing the client's account in the program.

[3] Clients specifically must be allowed to designate securities that should not be purchased for the account or that should be sold if held in the account. The rule does not require that a client be able to require particular securities be purchased for the account.

[4] The sponsor also must provide a means by which clients can contact the sponsor (or its designee).

displays a currently valid OMB control number.

The public may view the background documentation for this information collection 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@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: November 26, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28945 Filed 11–29–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 17Ad–16; OMB Control No. 3235–0413, SEC File No. 270–363.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17Ad–16 (17 CFR 240.17Ad–16) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17Ad–16 requires a registered transfer agent to provide written notice to the appropriate qualified registered securities depository when assuming or terminating transfer agent services on behalf of an issuer or when changing its name or address. In addition, transfer agents that provide such notice shall maintain such notice for a period of at least two years in an easily accessible place. This rule addresses the problem of certificate transfer delays caused by transfer requests that are directed to the wrong transfer agent or the wrong address.

We estimate that the transfer agent industry submits 3,700 Rule 17Ad–16 notices to appropriate qualified registered securities depositories. The staff estimates that the average amount of time necessary to create and submit each notice is approximately 15 minutes per notice. Accordingly, the estimated total industry burden is 925 hours per year (15 minutes multiplied by 3,700 notices filed annually).

Because the information needed by transfer agents to properly notify the appropriate registered securities depository is readily available to them and the report is simple and straightforward, the cost is relatively minimal. The average internal compliance cost to prepare and send a notice is approximately $7.50 (15 minutes at $30 per hour). This yields an industry-wide internal compliance cost estimate of $27,750 (3,700 notices multiplied by $7.50 per notice).

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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: November 26, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28947 Filed 11–29–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form N–Q. OMB Control No. 3235–0578, SEC File No. 270–519.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form N–Q (17 CFR 249.332 and 274.130) is a combined reporting form that is used for reports of registered management investment companies (''funds''), other than small business investment companies registered on Form N–5, under Section 30(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) (''Investment Company Act'') and Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). Pursuant to Rule 30b1–5 under the Investment Company Act, funds are required to file with the Commission quarterly reports on Form N–Q not more than 60 days after the close of the first and third quarters of each fiscal year containing their complete portfolio holdings.

Form N–Q contains collection of information requirements. The respondents to this information collection are management investment companies subject to Rule 30b1–5 under the Investment Company Act. We estimate that there are 10,453 portfolios required to file reports on Form N–Q. Based on conversations with industry representatives, we estimate that it takes approximately 21 hours per portfolio to prepare Form N–Q. Accordingly, we estimate that the total annual burden estimated associated with Form N–Q is 219,513 hours (21 hours per portfolio × 10,453 portfolios) per year.

The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. The collection of information under Form N–Q is mandatory. The information provided by the form is not kept confidential. An agency may not

conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection 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@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 26, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28949 Filed 11–29–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Regulation R, Rule 701; SEC File No. 270–562, OMB Control No. 3235–0624.

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 Regulation R, Rule 701 (17 CFR 247.701) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Regulation R, Rule 701 requires a broker or dealer (as part of a written agreement between the bank and the broker or dealer) to notify the bank if the broker or dealer makes certain determinations regarding the financial status of the customer, a bank employee's statutory disqualification status, and compliance with suitability or sophistication standards.

The Commission estimates that brokers or dealers would, on average, notify 1,000 banks approximately two times annually about a determination regarding a customer's high net worth or institutional status or suitability or sophistication standing as well as a bank employee's statutory disqualification status. Based on these estimates, the Commission anticipates that Regulation R, Rule 701 would result in brokers or dealers making approximately 2,000 notices to banks per year. The Commission further estimates (based on the level of difficulty and complexity of the applicable activities) that a broker or dealer would spend approximately 15 minutes per notice to a bank. Therefore, the estimated total annual third party disclosure burden for the requirements in Regulation R, Rule 701 is 500 [1] hours for brokers or dealers.

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.

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@omb.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 26, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28950 Filed 11–29–12; 8:45 am]

BILLING CODE 8011–01–P

[1] (2000 notices × 15 minutes) = 30,000 minutes/60 minutes = 500 hours.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Form ADV–E. OMB Control No. 3235–0361, SEC File No. 270–318.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Form ADV–E (17 CFR 279.8) is the cover sheet for certificates of accounting filed pursuant to rule 206(4)–2 under the Investment Advisers Act of 1940 (17 CFR 275.206(4)–2). The rule further requires that the public accountant file with the Commission a Form ADV–E and accompanying statement within four business days of the resignation, dismissal, removal or other termination of its engagement. The annual burden is approximately three minutes per respondent.

The estimate of burden hours set forth above is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

The information provided on Form ADV–E is mandatory. Responses will not be kept confidential. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

The public may view the background documentation for this information collection at the following Web site *www.reginfo.gov.* Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email

to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 26, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28948 Filed 11–29–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 17a–12/Form X–17A–5IIB. OMB Control No. 3235–0498, SEC File No. 270–442.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17a–12 (17 CFR 240.17a–12) and Part IIB of Form X–17A–5 (17 CFR 249.617) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17a–12 is the reporting rule tailored specifically for over-the-counter (''OTC'') derivatives dealers registered with the Commission, and Part IIB of Form X–17A–5, the Financial and Operational Combined Uniform Single (''FOCUS'') Report, is the basic document for reporting the financial and operational condition of OTC derivatives dealers. Rule 17a–12 requires registered OTC derivatives dealers to file Part IIB of the FOCUS Report quarterly. Rule 17a–12 also requires that OTC derivatives dealers file audited financial statements annually.

There are currently four registered OTC derivatives dealers. The staff expects that one additional firm will register as an OTC derivatives dealer within the next three years. The staff estimates that the average amount of time necessary to prepare and file the quarterly reports required by the rule is eighty hours per OTC derivatives dealer [1] and that the average amount of time to prepare and file the annual audit report is 100 hours per OTC derivatives dealer per year, for a total reporting burden of 180 hours per OTC derivatives dealer annually. Thus the staff estimates that the total industry-wide reporting burden to comply with the requirements of Rule 17a–12 is 900 hours per year (180 x 5). Further, the Commission estimates that the total internal compliance cost associated with this requirement is approximately $250,000 per year.[2] The Commission previously estimated that there were no external annualized costs associated with Rule 17a–12. However, the cost associated with an independent accountant's examination of the financial statements OTC derivatives dealers file with the Commission should have been included in prior submissions. For purposes of the reporting burden for Rule 17a–5 under the Exchange Act (17 CFR 240.17a–5), the Commission estimated that the average annual reporting cost per broker-dealer for an independent public accountant to examine the financial statements was approximately $46,300 per broker-dealer. Based on this estimate, the total industry-wide annual reporting cost would be approximately $231,500 ($46,300 × 5).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: November 26, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28946 Filed 11–29–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30280; 812–14026]

Blackstone Alternative Alpha Fund, et al.; Notice of Application

November 26, 2012.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(c) and 18(i) of the Act and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY: *Summary of Application:* Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares of beneficial interest (''Shares'') and to impose asset-based service and/or distribution fees and contingent deferred sales loads (''CDSCs'').

APPLICANTS: Blackstone Alternative Alpha Fund (the ''Feeder Fund''), Blackstone Alternative Alpha Master Fund (the ''Master Fund''), Blackstone Alternative Asset Management L.P. (the ''Adviser'') and Blackstone Advisory Partners L.P. (the ''Distributor'').

DATES: *Filing Dates:* The application was filed on April 13, 2012, and amended on September 19, 2012.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests

[1] Based upon an average of 4 responses per year and an average of 20 hours spent preparing each response.

[2] Based on staff experience, an OTC derivatives dealer likely would have a Compliance Manager gather the necessary information and prepare and file the quarterly reports and annual audit report and supporting schedules. According to the Securities Industry and Financial Markets Association Report on Management and Professional Earnings in the Securities Industry dated October 2011, which provides base salary and bonus information for middle-management and professional positions within the securities industry, the hourly cost of a compliance manager, which the Commission staff has modified to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, is approximately $279/hour. $279 times 900 hours = $251,100.

should be received by the Commission by 5:30 p.m. on December 24, 2012, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, c/o Peter Koffler, Esq., Blackstone Alternative Asset Management L.P., 345 Park Avenue, 28th Floor, New York, NY 10154.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915 or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Feeder Fund and the Master Fund are continuously offered non-diversified closed-end management investment companies registered under the Act and organized as Massachusetts business trusts. The Feeder Fund operates as a feeder fund in a master-feeder structure and intends to invest substantially all of its assets in the Master Fund. The Master Fund invests in non-traditional or ''alternative'' strategies which may include investment funds commonly referred to as ''hedge funds.''

2. The Adviser, a Delaware limited partnership and wholly owned subsidiary of The Blackstone Group L.P., is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to the Feeder Fund and the Master Fund. The Distributor, a broker-dealer registered under the Securities Exchange Act of 1934 (''1934 Act''), acts as the principal underwriter of the Feeder Fund. The Distributor is under common control with the Adviser and is an affiliated person, as defined in section 2(a)(3) of the Act, of the Adviser.

3. The Feeder Fund continuously offers its Shares [1] to the public under the Securities Act of 1933, as amended (the ''Securities Act''). Shares of the Feeder Fund are not listed on any securities exchange and do not trade on an over-the-counter system such as Nasdaq. Applicants do not expect that any secondary market will develop for the Shares.

4. The Feeder Fund currently offers a single class of Shares (the ''Initial Class'') at net asset value per share subject to a sales load and annual asset-based service and distribution fee and proposes to issue multiple classes of Shares. The Feeder Fund proposes to offer a new Share class (the ''New Class'') at net asset value that may (but would not necessarily) be subject to a front-end sales load and an annual asset-based service and/or distribution fee. The Feeder Fund intends to continue to offer Initial Class Shares, subject to a sales load, a service and/or distribution fee, and minimum purchase requirements.

5. In order to provide a limited degree of liquidity to shareholders, the Feeder Fund may from time to time offer to repurchase Shares at their then current net asset value in accordance with rule 13e–4 under the 1934 Act pursuant to written tenders by shareholders.[2] Repurchases will be made at such times, in such amounts and on such terms as may be determined by the Feeder Fund's board of trustees (''Board''), in its sole discretion.[3] The Adviser expects to ordinarily recommend that the Board authorize the Feeder Fund to offer to repurchase Shares from shareholders quarterly.

6. Applicants request that the order also apply to any other continuously offered registered closed-end management investment company existing now or in the future for which the Adviser, the Distributor, or any entity controlling, controlled by, or under common control with the Adviser or the Distributor acts as investment adviser or principal underwriter, and which provides periodic liquidity with respect to its Shares through tender offers conducted in compliance with rule 13e–4 under the 1934 Act.[4]

7. Applicants represent that any asset-based service and/or distribution fees will comply with the provisions of rule 2830(d) of the Conduct Rules of the National Association of Securities Dealers, Inc. (''NASD Conduct Rule 2830'') as if that rule applied to the Feeder Fund.[5] Applicants also represent that the Feeder Fund will disclose in its prospectus, the fees, expenses and other characteristics of each class of Shares offered for sale by the prospectus as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, the Feeder Fund will disclose its expenses in shareholder reports, and disclose any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[6] The Feeder Fund and the Distributor will also comply with any requirements that may be adopted by the Commission or FINRA regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements as if those requirements applied to the Feeder Fund and the Distributor.[7]

8. The Feeder Fund will allocate all expenses incurred by it among the various classes of Shares based on the net assets of the Feeder Fund

[1] ''Shares'' includes any other equivalent designation of a proportionate ownership interest of the Feeder Fund (or any other registered closed-end management investment company relying on the requested order).

[2] Likewise, the Master Fund's repurchase offers are conducted pursuant to rule 13e–4 under the 1934 Act.

[3] Shares are subject to an early withdrawal fee at a rate of 2% of the aggregate net asset value of the shareholder's Shares repurchased by the Feeder Fund (the ''Early Withdrawal Fee'') if the interval between the date of purchase of the Shares and the valuation date with respect to the repurchase of those Shares is less than one year. The Early Withdrawal Fee will equally apply to all shareholders of the Feeder Fund, regardless of class, consistent with section 18 of the Act and rule 18f–3 under the Act. To the extent the Feeder Fund determines to waive, impose scheduled variations of, or eliminate the Early Withdrawal Fee, it will do so consistently with the requirements of rule 22d–1 under the Act and apply uniformly to all shareholders of the Feeder Fund.

[4] The Feeder Fund and any other investment company relying on the requested relief will do so in a manner consistent with the terms and conditions of the application. Applicants represent that any person presently intending to rely on the requested relief is listed as an applicant.

[5] All references to NASD Conduct Rule 2830 include any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[6] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[7] *See, e.g.,* Confirmation Requirements and Point of Sale Disclosure Requirements for Transactions and Certain Mutual Funds and Other Securities, and Other Confirmation Requirement Amendments, and Amendments to the Registration Form for Mutual Funds, Investment Company Act Release No. 26341 (Jan. 29, 2004) (proposing release).

attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses of that class. Expenses of a Feeder Fund allocated to a particular class of Shares will be borne on a pro rata basis by each outstanding Share of that class. Applicants state that the Feeder Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

9. In the event the Feeder Fund imposes a CDSC, the applicants will comply with the provisions of rule 6c–10 under the Act, as if that rule applied to closed-end management investment companies. With respect to any waiver of, scheduled variation in, or elimination of the CDSC, the Feeder Fund will comply with rule 22d–1 under the Act as if the Feeder Fund were an open-end investment company.

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of Shares of the Feeder Fund may be prohibited by section 18(c).

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that permitting multiple classes of Shares of the Feeder Fund may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(c) and 18(i) to permit the Feeder Fund to issue multiple classes of Shares.[8]

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit the Feeder Fund to facilitate the distribution of its Shares and provide investors with a broader choice of shareholder options. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that the Feeder Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

CDSCs

1. Applicants believe that the requested relief meets the standards of section 6(c) of the Act. Rule 6c–10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that any CDSC imposed by the Feeder Fund will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Feeder Fund also will disclose CDSCs in accordance with the requirements of Form N–1A concerning CDSCs as if the Feeder Fund were an open-end investment company. Applicants further state that the Feeder Fund will apply the CDSC (and any waivers or scheduled variations of the CDSC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act.

Asset-Based Service and/or Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to permit the Feeder Fund to impose asset-based service and/or distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies.

Applicants' Condition

The Feeder Fund agrees that any order granting the requested relief will be subject to the following condition:

Applicants will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3 and 22d–1 under the Act, as amended from time to time, or replaced as if those rules applied to closed-end management investment companies, and will comply with the NASD Conduct Rule 2830, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28951 Filed 11–29–12; 8:45 am]

BILLING CODE 8011–01–P

[8] The Master Fund will not issue multiple classes of its shares and is an applicant because of the master-feeder structure.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68287; File No. SR–NASDAQ–2012–131]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Listing Requirements for Other Securities Listed Under Rule 5730

November 26, 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 16, 2012, The NASDAQ

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Stock Market LLC (''Nasdaq'' or ''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 the Exchange. 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 modify the listing requirements for Other Securities listed under Rule 5730. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.[3]

5730. Listing Requirements for Securities Not *Otherwise* Specified [Above] (Other Securities)

(a) Initial Listing Requirements

(1) Nasdaq will consider listing on the Global Market any security not otherwise covered by the criteria in the Rule 5400 or 5700 Series, provided the instrument is otherwise suited to trade through the facilities of Nasdaq. Such securities will be evaluated for listing against the following criteria:

(A) No change.

(B) *For equity securities, there [*There] must be*:*

(i) a minimum of 400 holders of the security[, provided, however, that if the instrument is traded in $1,000 denominations, there must be a minimum of 100 holders.]*; and*

(ii) a minimum public distribution of 1,000,000 trading units. However, if the instrument is redeemable at the option of the holders thereof on at least a weekly basis, these requirements shall not apply.

(C) [For equity securities listed pursuant to this paragraph, there must be a minimum public distribution of 1,000,000 trading units.

(D)] The aggregate market value/principal amount of the security shall be at least $4 million.

(2)–(3) No change.

(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

Nasdaq Rule 5730 provides rules for listing ''Other Securities,'' which are not described elsewhere in Nasdaq's listing requirements.[4] Generally, this rule allows the listing of innovative securities of substantially-sized companies, which are not readily categorized under the traditional listing standards. It is not intended to accommodate the listing of securities that raise significant new regulatory issues, which would require a separate rule filing submitted pursuant to Section 19(b) of the Act and Rule 19b–4 thereunder.[5]

The issuer of a security listed under Rule 5730 must have assets in excess of $100 million, stockholders' equity of at least $10 million, and income of at least $1 million; assets in excess of $200 million and stockholders' equity of at least $10 million; or assets in excess of $100 million and stockholders' equity of at least $20 million.[6] In addition, the security generally must have a minimum of 400 holders, an aggregate market value/principal amount of at least $4 million, and, in the case of equity securities, there must be a minimum public distribution of 1 million trading units.[7] Prior to the trading of a security under this rule, Nasdaq evaluates the nature and complexity of the issue and, if appropriate, distributes a circular to the membership providing guidance regarding member firm compliance responsibilities and requirements when handling transactions in such securities.[8]

This rule was based on a rule of the New York Stock Exchange (''NYSE'')[9] and is also similar to a rule of NYSE MKT.[10] Nasdaq now proposes changes to Rule 5730 to more closely align that rule with those other markets' rules.

Specifically, the proposed rule change would modify the holder requirement so that it applies only to equity securities, and thereby eliminate the holder requirement for listing debt securities. In this way, the revised rule will more closely track the NYSE's requirement, which does not impose a holder requirement on such listings.[11] In addition, Nasdaq proposes to adopt an exception adopted by NYSE MKT to the holder and public distribution requirements for securities that are redeemable at the option of their holders on at least a weekly basis.[12] Finally, Nasdaq also proposes to change the title of the rule, to clarify its applicability to only securities that do not otherwise have specific listing standards, wherever they may be in the rulebook.

b. Statutory Basis

Nasdaq 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, Nasdaq notes that the proposed changes will conform Rule 5730 with the rules of other national securities exchanges, while continuing to limit the availability of the rule to more financially substantial companies, which can satisfy the assets, equity, income, and other requirements of Rule 5730(a). In addition, Nasdaq is unaware

[3] Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at *http://nasdaqomx.cchwallstreet.com.*

[4] Securities Exchange Act Release No. 32988 (September 29, 1993), 58 FR 52124 (October 6, 1993) (SR–NASD–93–15). This order approved the predecessor to current Nasdaq Rule 5730 while Nasdaq was a facility of the NASD, now FINRA.

[5] 15 U.S.C. 78s(b) and 17 CFR 240.19b–4.

[6] Rule 5730(a)(1)(A).

[7] Rule 5730(a)(1)(B), (C) and (D). A security traded in one thousand dollar denominations must only have 100 holders.

[8] Rule 5730(a)(3).

[9] *See* Section 703.19 of the NYSE Listed Company Manual.

[10] *See* Section 107 of the NYSE MKT Company Guide.

[11] The proposed rule change would also remove the 100 holder requirement for securities that trade in $1,000 denominations because such securities are debt securities, which would no longer be subject to the holder requirement.

[12] Securities Exchange Act Release No. 55733 (May 10, 2007), 72 FR 27602 (May 16, 2007) (SR–Amex–2007–34).

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(5).

of any problems related to the trading of instruments that have qualified under the other markets' lower holder and distribution requirements.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Instead, the proposed rule change will allow Nasdaq to list securities that can already be listed on other exchanges, thereby increasing competition with other national securities exchanges.

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

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 if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16]

The Exchange has requested the Commission to waive the 30-day operative delay period to allow the proposed rule change to become operative upon filing.[17] The Commission believes it is consistent with the public interest to waive the 30-day operative delay. The proposed rule change is substantially similar in all material respects to Section 703.19 of the NYSE Listed Company Manual and Section 107A(b) of the NYSE MKT Listed Company Guide, and each policy issue raised by the proposed rule change (i) has been considered by the Commission in approving the other exchanges' rules and (ii) is resolved in a manner generally consistent with the approved rules. As such, the Commission believes that the proposal presents no novel regulatory issues. Waiver of the operative delay will allow the Exchange to list certain securities that can already be listed and traded on other exchanges without undue delay. Therefore, the Commission grants such waiver and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NASDAQ–2012–131 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 No. SR–NASDAQ–2012–131. 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 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 Nasdaq. 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 No. SR–NASDAQ–2012–131 and should be submitted on or before December 21, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28943 Filed 11–29–12; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change along with a brief description and the 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.

[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).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68288 File No. SR–OCC–2012–22]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Clarify the Use of Certain Amounts Credited to the Liquidating Settlement Account To Settle Mark-to-Market Payments Arising From Stock Loan and Borrow Positions Carried in the Customers' Account

November 26, 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 13, 2012, The Options Clearing Corporation (''OCC'') 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 OCC. 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

OCC proposes to make certain changes to Rule 1104 in order to eliminate potential ambiguity as to OCC's right, in connection with the suspension of a clearing member, to use

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

margin and other amounts credited to the Liquidating Settlement Account pursuant to Rule 1104, to settle mark-to-market payments arising from stock loan and borrow positions carried in the clearing member's customers' account, notwithstanding that such payments are required by OCC's Rules to be settled in the clearing member's firm account or its combined market makers' account. In addition, OCC proposes to amend Rule 1104 to provide that any proceeds from stock loan and borrow positions carried in the customers' account could be applied only to obligations arising in such account.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule changes is to eliminate potential ambiguity as to OCC's right to use margin and other amounts credited to the Liquidating Settlement Account pursuant to Rule 1104 to settle mark-to-market payments arising from stock loan and borrow positions carried in the clearing member's customers' account even though such payments are required by OCC's Rules to be settled in the clearing member's firm account or its combined market makers' account. In addition, a proposed amendment to Rule 1104 would provide that any proceeds from stock loan and borrow positions carried in the customers' account could be applied only to obligations arising in such account as is the case with margin assets deposited in respect of that account.

Background

OCC's By-Laws currently provide that stock loan and borrow positions (collectively, ''Stock Loan Positions'') may be carried at OCC in any eligible account of a clearing member, including the firm, market-maker, and customers' accounts. More specifically, under Section 5 of Articles XXI and XXIA of the By-Laws, and notwithstanding the provisions of Section 3 of Article VI of the By-Laws (requiring separation of firm and customer positions), clearing members have discretion as to which Stock Loan Positions may be carried in which eligible accounts, subject only to the clearing member's general representations under Rules 2202(e) and 2202A(f) that the clearing member's participation in the lending and borrowing activity is in compliance with all applicable laws and regulations. However, Rules 2201(a) and 2201A(a) provide that a clearing member must designate either its firm account or its combined market-makers' account as the account to or from which all stock loan mark-to-market payments are to be made, regardless of the account in which particular Stock Loan Positions may be held.

Rule 1104 generally provides that, upon suspension of a clearing member, OCC shall promptly liquidate, in the most orderly manner practicable, all margins deposited with OCC by such clearing member in all accounts (excluding securities held in a specific deposit or escrow deposit) and all of such clearing member's contributions to the clearing fund, subject to certain conditions. Under Rule 1104, in general, these and all other funds of the suspended clearing member subject to the control of OCC (except proceeds of segregated long positions, funds disposed of pursuant to Rules 1105 through 1107, and funds held in or payable to a segregated futures account) shall be credited by OCC to a special account, to be known as the Liquidating Settlement Account, in the name of the suspended clearing member, for the purposes specified in Chapter 11.

Under Rule 1104, therefore, in general, proceeds of all margin (other than margin held in segregated futures accounts) including margin in a clearing member's securities customers' account, are credited to the Liquidating Settlement Account. However, for purposes of administration of the liquidation, the margin does not lose its identity as being derived from the customers' account. Rules 2210 and 2210A (relating to the Stock Loan/Hedge Program and Market Loan Program, respectively) provide that net proceeds from, or amounts due in respect of, the termination of Stock Loan Positions shall be credited to or withdrawn from the Liquidating Settlement Account. The Liquidating Settlement Account will include any mark-to-market payments received that day. In addition, Rule 1104 provides that the proceeds from the liquidation of securities, or from drawing on letters of credit, held as margin in a restricted lien account (such as the customers' account) may be withdrawn and applied to the closing out of pending transactions, open positions, and exercised or matured contracts in such accounts pursuant to Rules 1105, 1106, and 1107, respectively.[4] To the extent that the proceeds derived from assets maintained in accounts subject to OCC's restricted lien exceed the proceeds used from such accounts for that purpose, such proceeds must be remitted by the Corporation to the suspended clearing member or its representative for distribution to the persons entitled thereto in accordance with applicable law.

Description of Rule Change

For the avoidance of doubt, OCC proposes to insert an interpretation indicating that when mark-to-market payments are owed with respect to Stock Loan Positions maintained in a clearing member's customers' account, proceeds of margin and unsegregated long positions, and all other amounts credited to the Liquidating Settlement Account in respect of the customers' account, may be used to satisfy the mark-to-market obligations arising from the Stock Loan Positions in such customers' account, even though such mark-to-market payments may settle in the clearing member's firm account or its combined market makers' account.

OCC's By-Laws clearly provide that Stock Loan Positions may be included in the customers' account and that such positions will be margined in that account along with positions in options and other cleared contracts in the account. It would therefore be inconsistent to conclude that margin required under OCC's Rules to be deposited in the customers' account to margin Stock Loan Positions cannot be used to settle mark-to-market payments

[3] The Commission has modified the text of the summaries prepared by OCC.

[4] The term ''restricted lien account'' is defined in Article I, Section 1 of OCC's By-Laws as follows: ''any account of a Clearing Member with the Corporation over which the Corporation has a restricted lien with respect to specified assets (including any proceeds thereof) in such account.'' The term ''restricted lien'' is defined in Article I, Section 1 of OCC's By-Laws as follows: a security interest of the Corporation in specified assets (including any proceeds thereof) in an account of a Clearing Member with the Corporation as security for the Clearing Member's obligations to the Corporation arising from such account or, to the extent so provided in the By-Laws or Rules, a specified group of accounts that includes such account including, without limitation, obligations in respect of all Exchange transactions effected through such account or group of accounts, short positions maintained in such account or group of accounts, and exercise notices assigned to such account or group of accounts.''

in respect of those positions if the clearing member is suspended. The proposed rule changes are intended to eliminate any doubt in that regard.

In addition, as noted above, the liquidation rules for Stock Loan Positions in Rules 2210 and 2210A provide that any net proceeds of closing out Stock Loan Positions shall be credited to the Liquidating Settlement Account and that any net amounts payable in respect of such close-outs may be withdrawn from such account. However, Rule 1104 as currently drafted does not limit the use of proceeds of Stock Loan Positions carried in a restricted lien account to obligations arising from that restricted lien account as it does in the case of proceeds from a restricted lien account that are credited pursuant to Rules 1105 through 1107. While such a restriction might be implied from the fact that the Stock Loan Positions themselves are subject to a restricted lien and not a general lien pursuant to Section 3(e) of Article VI of the By-Laws, OCC believes that Rule 1104 should be amended to make this restriction explicit. Because margin and other proceeds from a restricted lien account that are credited to the Liquidating Settlement Account may be applied to mark-to-market payments owed in respect of Stock Loan Positions in the restricted lien account, any proceeds of such positions should be subject to the same restriction applicable to proceeds from other positions in the restricted lien account that are credited to the Liquidating Settlement Account. They should be applied only to obligations arising from that restricted lien account. OCC therefore also proposes to amend Rule 1104 to include references to Rules 2210 and 2210A to clearly provide that margin and other proceeds from the customers' account that are credited to the Liquidating Settlement Account may be applied to amounts payable with respect to Stock Loan Positions in the customers' account and that proceeds from Stock Loan Positions in such customers' account may be applied *only* to obligations arising in that account.

OCC believes that the proposed changes are consistent with Section 17A of the Act, because they would help assure that the Rules of OCC are designed to safeguard securities and funds which are in the custody or control of the Corporation or for which it is responsible, and would protect investors and the public interest by eliminating potential ambiguity as to OCC's right, in connection with the suspension of a clearing member, to use the collateral held in a clearing member's customers' account to settle mark-to-market payments arising from Stock Loan Positions carried in the clearing member's customers' account, notwithstanding that such payments are required by OCC's Rules to be settled in the clearing member's firm account or its combined market makers' account. The proposed changes are not inconsistent with the existing rules of OCC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition 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 up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commissions Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or

Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2012–22 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–OCC–2012–22. 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 Section, 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 OCC and on OCC's Web site at *http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_12_22.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–OCC–2012–22 and should be submitted on or before December 21, 2012.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[5]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28944 Filed 11–29–12; 8:45 am]

BILLING CODE 8011–01–P

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68290; File No. SR–NYSEArca–2012–126]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Options Rule 6.64 (OX Trading Auctions) With Respect to Opening Trading in an Options Series

November 26, 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 12, 2012, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I 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 amend NYSE Arca Options Rule 6.64 (OX Trading Auctions) with respect to opening trading in an options series. 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 Rule 6.64 to provide for how the OX System[3] may open an options series for trading when there are no executable orders and/or quotes and the bid-ask differential of the NBBO disseminated by Options Price Reporting Authority (''OPRA'') or a Market Maker quote does not exceed the bid-ask differential specified under Rule 6.37A(b)(4). The Exchange's Rules are currently silent on how the OX System opens an options series when it does not conduct an auction. The proposed rule change will clarify that the Exchange opens an option series when there are no executable orders and/or quotes to match up in the OX System, which is currently based on the bid-ask differentials that are within the acceptable range defined in Rule 6.37(b)(1)(A)–(E) (''open a series on a quote''), and will also amend the current process to provide that the bid-ask differential to allow for the OX System to open a series on a quote would be based on the bid-ask differentials specified in Rule 6.37A(b)(4), which are wider than the bid-ask differential that allows for the OX System to open via an auction during the Auction Process.

Current Opening Process

Currently, Rule 6.64 describes the process pursuant to which the the [sic] OX System opens an option series. Pursuant to the procedures described in Rule 6.64(b) and (c), after the primary market for the underlying security disseminates the opening trade or opening quote, the OX System conducts an ''Auction Process'' to open a series whereby the OX System determines a single price at which a series may be opened by looking either to: (i) The midpoint of the initial uncrossed NBBO disseminated by the Options Price Reporting Authority (''OPRA''), or (ii) the midpoint of the best quotes or orders in the OX Book. If the bid-ask differential for a series is not within an acceptable range, the OX system will not open the series for trading. For purposes of this rule, the acceptable range means the bid-ask differential guidelines specified in Rule 6.37(b)(1)(A)–(E) (''narrow-width quotes'').[4] Assuming the bid-ask differential is within the acceptable range, the OX System matches up orders and quotes in the system based on price-time priority and executes the orders that are matched at the midpoint pricing. Any orders in the OX Book that are not executed in the Auction Process become eligible for the Core Trading Session immediately after the conclusion of the Auction Process.

In addition, although not currently specified in the rule, if the bid-ask differential is within the acceptable range, but there are no orders or quotes to be matched up with one another, the OX System will open the series for trading on a disseminated quote, at which point any unexecuted orders in the OX Book during the Auction Process become eligible for the Core Trading Session. If the bid-ask differential is not within the acceptable range, the Exchange will not open that series for trading until the OX System either receives a narrow-width NBBO from OPRA or a Market Maker submits a narrow-width quote.

Proposed Change to Opening Process

The Exchange proposes to amend Rule 6.64 both to specify that the OX System may open a series on a quote when there are no executable orders and/or quotes and to amend the rule to provide a different bid-ask differential for opening a series on a quote. As noted above, the Exchange currently uses the narrow-width quote bid-ask differential for determining both whether to open with an auction (when there are executable orders and/or quotes) or with a quote (when there are no executable orders and/or quotes). In codifying the process for opening a series on a quote, the Exchange proposes to adopt the bid-ask differential specified under Rule 6.37A(b)(4) instead of the narrow-width quotes.[5]

Rule 6.37A(b)(4) provides that options traded on OX during Core Trading Hours may be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid (''standard-width quote''). As proposed,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''OX'' refers to the Exchange's electronic order delivery, execution and reporting system through which orders and quotes for listed options are consolidated for execution and/or display. *See* NYSE Arca Options Rule 6.1A(a)(13).

[4] *See* NYSE Arca Options Rule 6.37(b)(1). The big-ask [sic] guidelines specified in Rule 6.37(b)(1)(A)–(E) that are required to open a series are narrower than the $5 wide bid-ask differential for options traded on OX during Core Trading Hours. *See also* NYSE Arca Options Rule 6.37A(b)(4). Rule 6.37A(b)(4) provides that options traded on OX during Core Trading Hours may be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid.

[5] Currently, if there are executable orders and/or quotes and the options series does not meet the narrow-width quote bid-ask differential, but does meet the standard-width quote differential, the Exchange will not open the options series for trading. *See* Rule 6.64(b)(D).

if there are no executable orders and/or quotes, but the OX System either receives a standard-width quote NBBO from OPRA in that series or a Market Maker submits a standard-width quote in the option series, the Exchange shall open the series on a quote. The proposed change will align the requirements to open the unopened series on a quote with the existing Market Marker quoting requirements during Core Trading Hours.

While the Exchange believes that narrow-width quoting requirements are beneficial for opening auctions pursuant to the Auction Process in the OX System, the Exchange believes that the continued application of the narrow-width quoting requirement when there are no executable quotes and/or orders to conduct an auction has the opposite effect and prevents series from opening promptly and thus unnecessarily delays the execution of orders on the Exchange. The Exchange believes that setting a wider quote differential requirement for opening on a quote would expedite the opening of all options series on the Exchange promptly after the opening of the underlying security. The Exchange believes that market participants will benefit by having the ability to execute orders on the Exchange without unnecessary delay. In addition, applying the standard-width quote bid-ask differential for opening a series on a quote is consistent with the quoting requirements that are applicable during Core Trading Hours.

The Exchange further believes that applying the standard-width quote for determining when to open a series on a quote is appropriate because it would more closely align the Exchange's rules with the rules of other option exchanges with respect to opening a series. Other options exchanges have the ability to open a series for trading when there are no executable orders and/or quotes to conduct an auction. Both BOX Options Exchange (''BOX'') and NASDAQ Options Market (''NOM''), allow for the opening of series without conducting an opening auction. Neither BOX nor NOM require any bid-ask differential to be met prior to opening series for trading on a quote. Specifically, on BOX, the BOX system attempts to conduct an opening match (similar to Auction Process) to determine a single price at which a particular option series will be opened.[6] During, the ''Pre-Opening Phase'' on BOX, narrow bid-ask differentials are required in a similar manner to the Exchange. However, if the BOX system is not able to determine an opening price, the option series will nevertheless move from the ''Pre-Opening Phase'' to the continuous trading phase and the option series will be open for trading. When the option series move from Pre-Opening Phase to the continuous trading phase, there is no requirement for a bid-ask differential to be met. Market makers on BOX would only be required to meet the $5 bid-ask differential in the option series if and when they ever decided to quote.[7] Similarly, NOM has no bid-ask differential requirements to open a series if an ''Opening Cross'' (similar to Trading Auction) cannot be initiated because there are no opening quotes or orders that lock or cross each other.[8] Specifically, if an Opening Cross cannot be initiated because there are no opening quotes or orders that lock or cross each other, the option series will open for trading on NOM.[9] Market makers on NOM would only be required to meet the $5 bid-ask differentials in the option series if and when they ever decided to quote.[10] Both, BOX and NOM could open options series and disseminate a protected quotation without the benefit of Market Maker quotation to facilitate price discovery.

By contrast, currently, if the options series does not meet the narrow-width quotes, the series will not open at all on the Exchange, which differs from BOX and NOM. As noted above, neither BOX nor NOM require any bid-ask differential to be met prior to opening series for trading on a quote. The current inability of the Exchange to open a series without executable quotes and/or orders subject to a standard-width quote requirement puts the Exchange at a competitive disadvantage to other options exchanges that do not have that similar restriction. By not opening the option series, the Exchange cannot display orders on its Consolidated Book and thus has no protected quotation in the options series. Until the options series officially opens for trading, the Exchange cannot route out orders on its Consolidated Book pursuant to Linkage, nor can it have a protected quote that draws trading interest from other options markets. The Exchange believes that the delay in execution of orders on the Exchange in this situation is unnecessary and harmful to market participants. The Exchange's proposal would provide for the ability to open a option series on a quote in a similar fashion as both BOX and NOM, but in a more prudent and conservative manner that the Exchange believes better protects investors and other market participants. The Exchange believes that having a bid-ask differential requirement to open a series is beneficial for opening series and helps ensure there is a sufficient quoted market in the options series, whether it is via NBBO from OPRA or Market Maker generated quote, prior to opening of the series on the Exchange to facilitate transactions in securities on the Exchange.

To clarify that Rule 6.64 governs the opening process, which includes both trading auctions and opening on a quote, the Exchange also proposes to amend the title of the rule by deleting the phrase ''Trading Auction'' and replacing it with ''Opening Process.'' In addition, the Exchange proposes to clarify that the term ''Auction Process'' refers to the opening procedures set forth in Rule 6.64(b)(A)–(D), when the Exchange opens an options series for trading when there are orders and/or quotes that can be matched at a single price point.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, because it is designed 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.

The proposed rule change is designed to remove impediments to, and perfect the mechanism of, a free and open market and a national market system because it would permit the Exchange to open a series when there are not sufficient orders or quotes to conduct an auction after receiving notification from OPRA that an NBBO has been established for the series or on a Market Maker quote, provided that the bid-ask differential of the NBBO does not exceed the standard-quote width bid-ask differential. The wider quote differential requirement for openings when an Auction Process is not conducted will expedite the opening of all options series on the Exchange promptly after the opening of the underlying security, and thus remove impediments to and

[6] *See* BOX Rule 7070(e).

[7] *See* BOX Rule 7070(f). *See also* BOX Rule 8040, which sets forth BOX market maker quoting obligations.

[8] *See* NOM Chapter VI, Section 8(c)(1).

[9] *See id.*

[10] *See* NOM Chapter VII, Section 6(d).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

perfect the mechanism of a free and open market in a way that benefits market participants and enables them to execute their orders on the Exchange.

The proposed rule change contributes to the protection of investors and the public interest by maintaining the narrow-width quote bid-ask differentials for the Auction Process, which provides price protection for customers and other market participants when they have executable orders and quotes prior to the opening of a series on the Exchange.

The proposal would provide fair and orderly means to open a series when the Exchange does not have sufficient executable quotes and/or orders to conduct an Auction Process and would reasonably ensure that the Exchange does not open the series at a price that is beyond the price at which Market Makers are permitted to quote for the series during the Core Trading Session, which also contributes to the protection of investors and the public interest, generally. The proposed rule change is also designed to promote just and equitable principles of trade because it would permit the Exchange to open a series in a manner that is more consistent with the opening of individual series on other option exchanges.[13]

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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b-4(f)(6)(iii) thereunder.[15] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2012–126 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2012–126. 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–NYSEArca–2012–126 and should be submitted on or before December 21, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–28987 Filed 11–29–12; 8:45 am]

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[13] *See supra* notes 6 and 8.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

[16] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Interagency Task Force on Veterans Small Business Development; Notice of Meeting

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal Interagency Task Force meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for its public meeting of the Interagency Task Force on Veterans Small Business Development. The meeting will be open to the public.

DATES: Friday, December 7, 2012, from 9:00 a.m. to 12:00 Noon in the Eisenhower Conference Room, Side A, located on the 2nd floor.

ADDRESSES: U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development. The Task Force is established pursuant to Executive Order 13540 and focused on coordinating the efforts of Federal agencies to improve capital, business development opportunities and preestablished Federal contracting goals for small business concerns owned and controlled by veterans (VOB's) and service-disabled veterans (SDVOSB'S). Moreover, the Task Force shall coordinate administrative and regulatory activities and develop proposals relating to ''six focus areas'':

(1) Access to capital (loans, surety bonding and franchising); (2) Ensure achievement of pre-established contracting goals, including mentor protégé and matching with contracting opportunities; (3) Increase the integrity of certifications of status as a small business; (4) Reducing paperwork and administrative burdens in accessing business development and entrepreneurship opportunities; (5) Increasing and improving training and counseling services; and (6) Making other improvements to support veteran's business development by the Federal government.

On November 1, 2011, The Interagency Task Force on Veterans Small Business Development submitted its first report to the President, which included 18 recommendations that were applicable to the ''six focus areas'' identified above. The purpose of the meeting is scheduled as a full Task Force meeting. The agenda will include a presentation and discussion of the recommendations included in the Task Force Report to the President. In addition, the Task Force will allow time to obtain public comment from individuals and representatives of organizations regarding the areas of focus.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Task Force must contact Raymond B. Snyder, by December 3, 2012, by email in order to be placed on the agenda. Comments for the Record should be applicable to the ''six focus areas'' of the Task Force and emailed prior to the meeting for inclusion in the public record, verbal presentations; however, will be limited to five minutes in the interest of time and to accommodate as many presenters as possible. Written comments should be emailed to Raymond B. Snyder, Deputy Associate Administrator, Office of Veterans Business Development, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416, at the email address for the Task Force, *vetstaskforce@sba.gov.* Additionally, if you need accommodations because of a disability or require additional information, please contact Raymond B. Snyder, Designated Federal Official for the Task Force at (202) 205–6773; or by email at: *raymond.snyder@sba.gov,* SBA, Office of Veterans Business Development, 409 3rd Street SW., Washington, DC 20416. For more information, please visit our Web site at *www.sba.gov/vets.*

Dated: November 19, 2012.

Dan Jones,

SBA Committee Management Officer.

[FR Doc. 2012–28914 Filed 11–29–12; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 8099]

Culturally Significant Objects Imported for Exhibition Determinations: A Hellenistic ''Herakles Knot'' and a Pair of Tarentine Fibulae

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition A Hellenistic ''Herakles Knot'' and a pair of Tarentine fibulae, imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, NY, from on or about January 10, 2013, until on or about January 1, 2023, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: November 23, 2012.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012–29045 Filed 11–29–12; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aeronautical Chart Point of Sale Survey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for to renew an information collection. Aeronautical Chart Point of Sale Survey data will be used by the Federal Aviation Administration to measure management objectives and analyze customer feedback for ISO–9001.

DATES: Written comments should be submitted by January 29, 2013.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0741.

Title: Aeronautical Chart Point of Sale Survey.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The Aviation System Standards Distribution Dissemination Quality Plan states that the organization shall determine, collect, and analyze appropriate data to demonstrate the suitability and effectiveness of the Quality Management System in relation to customer satisfaction. The Glenn Dale Distribution Center collects the customer feedback for Aviation System Standards Quality Management objectives. To accomplish the research objectives, Customers receive an email with a web link to an anonymous and voluntary survey twice a year. This information is used by Aviation System Standards to help evaluate current aeronautical product customer service at the point of sale.

Respondents: An estimated 320 aeronautical product customers.

Frequency: This information is collected semi-annually.

Estimated Average Burden per Response: 5 minutes.

Estimated Total Annual Burden: 53 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on November 13, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–28981 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Notice of Landing Area Proposal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for to renew an information collection. FAA Form 7480–1 (Notice of Landing Area Proposal) is used to collect information about any construction, alteration, or change to the status or use of an airport.

DATES: Written comments should be submitted by January 29, 2013.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0036.

Title: Notice of Landing Area Proposal.

Form Numbers: FAA Form 7480–1.

Type of Review: Renewal of an information collection.

Background: FAR Part 157 requires that each person who intends to construct, deactivate, or change the status of an airport, runway, or taxiway must notify the FAA of such activity. The information collected provides the basis for determining the effect the proposed action would have on existing airports and on the safe and efficient use of airspace by aircraft, the effects on existing or contemplated traffic patterns of neighboring airports, the effects on the existing airspace structure and projected programs of the FAA, and the effects that existing or proposed manmade objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal.

Respondents: Approximately 1500 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 45 minutes.

Estimated Total Annual Burden: 1,125 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on November 13, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–28989 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Advanced Qualification Program (AQP)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The Advanced Qualification Program uses data driven quality control processes for validating and maintaining the effectiveness of air carrier training program curriculum content.

DATES: Written comments should be submitted by December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0701.

Title: Advanced Qualification Program (AQP).

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: Under Special Federal Aviation Regulation No. 58, Advanced Qualification Program (AQP), the FAA provides certificated air carriers, as well as training centers they employ, with a regulatory alternative for training, checking, qualifying, and certifying aircrew personnel subject to the requirements of 14 CFR parts 121 and 135. The main goal of the AQP is to improve flight crew performance by providing alternative means of complying with certain rules that may inhibit innovative use of modern technology for flight crewmember training. AQP is continuously validated through the collection and analysis of trainee performance. Data collection and analysis processes ensure that the certificate holder provides performance information on its crewmembers, flight instructors, and evaluators that will enable the certificate holder and the FAA to determine whether the form and content of training and evaluation activities are satisfactorily accomplishing the overall objectives of the curriculum.

Respondents: 18 respondents with approved Advanced Qualification Programs.

Frequency: Data is collected monthly.

Estimated Average Burden per Response: 2 hours.

Estimated Total Annual Burden: 432 hours.

ADDRESSES: Interested persons are invited to 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 attention of the Desk Officer, Department of Transportation/FAA, and

sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on November 13, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–29015 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee—Charter Renewal

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

ACTION: Announcement of Charter Renewal of the Commercial Space Transportation Advisory Committee (COMSTAC).

SUMMARY: FAA announces the charter renewal of the COMSTAC, a Federal Advisory Committee that provides information, advice, and recommendations to the Department of Transportation and the Administrator of the Federal Aviation Administration (FAA) on the critical matters facing the U.S. commercial space transportation industry. This charter renewal will take effect on November 16, 2012, and will expire after 2 years.

FOR FURTHER INFORMATION CONTACT: Paul Eckert, COMSTAC Designated Federal Officer/Executive Director, FAA, Commercial Space Transportation, 800 Independence Avenue SW., Rm. 331, Washington, DC 20591, telephone (202) 267–8655, Email *paul.eckert@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FAA is giving notice of the charter renewal for the COMSTAC. The primary goals of COMSTAC are to: evaluate economic, technological, and institutional developments relating to the U.S. commercial space transportation industry; provide a forum for the discussion of problems involving the relationship between industry activities and government requirements; and make recommendations to the FAA Administrator on issues and approaches for Federal policies and programs regarding the industry. COMSTAC membership consists of senior executives from the commercial space transportation industry; representatives from the satellite industry, both manufacturers and users; state and local government officials; representatives from firms providing insurance, financial investment and legal services for commercial space activities; and representatives from academia, space advocacy organizations, and industry associations. Complete information regarding COMSTAC is available on the FAA Web site at: *http://www.faa.gov/about/office_org/headquarters_offices/ast/advisory_committee/.*

Issued in Washington, DC, November 7, 2012.

George C. Nield,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 2012–28994 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventeenth Meeting: RTCA Special Committee 224, Airport Security Access Control Systems

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

ACTION: Meeting Notice of RTCA Special Committee 224, Airport Security Access Control Systems.

SUMMARY: The FAA is issuing this notice to advise the public of the seventeenth meeting of the RTCA Special Committee 224, Airport Security Access Control Systems.

DATES: The meeting will be held December 13, 2012 from 9:00 a.m.–4:00 p.m.

ADDRESSES: The meeting will be held at RTCA, 1150 18th Street NW., Suite 910, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 224. The agenda will include the following:

December 13, 2012

- Welcome/Introductions/ Administrative Remarks
- Review/Approve Summary of Sixteenth Meeting
- Updates from TSA (as required)
- Section Reports
- Times and Place of Next Meeting
- Other Business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 15, 2012.

Richard F. Gonzalez,

Management Analyst, Business Operations Group, ANG–A12, Federal Aviation Administration.

[FR Doc. 2012–28993 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2012–53]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and

must be received on or before December 14, 2012.

ADDRESSES: You may send comments identified by Docket Number FAA–2012–1113 using any of the following methods:

• *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.

• *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert S. Stegeman, Small Airplane Directorate, ACE–111, Federal Aviation Administration, 901 Locust Street, Kansas City, MO 64106, fax 816–329–4090, telephone 816–329–4140, or Andrea Copeland, (202) 267–8081, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on November 23, 2012.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2012–1113.

Petitioner: Tatonduk Outfitters Limited (dba Everts Air Alaska).

Section of 14 CFR Affected: 14 CFR 23.49(b)(1), Amdt 23–21.

Description of Relief Sought: Everts Air Alaska seeks exemption to certificate and operate Air Tractor, AT–802 and AT–802A airplanes as ''special purpose'' restricted category with a stall speed (V_{SO}) in excess of 61 knots. These airplanes would be modified to haul fuel to remote Alaskan populations with an FAA-approved tank system.

[FR Doc. 2012–28927 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in the following locations: Atlanta, GA; Kansas City, MO; and San Bernardino, CA. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before April 29, 2013.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Terence Plaskon, Environmental Protection Specialist, Office of Human and Natural Environment, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on the project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice are:

1. *Project name and location:* Atlanta BeltLine, Atlanta, GA. *Project sponsor:* Metropolitan Atlanta Rapid Transit Authority (MARTA). *Project description:* The FTA and the MARTA have completed a Tier 1 Programmatic Final Environmental Impact Statement (PFEIS) of the Atlanta BeltLine. The Atlanta BeltLine is a proposed fixed guideway transit and multi-use trails system within a corridor of approximately 22 miles encircling central Atlanta. The proposed transit and trails elements are part of a comprehensive economic development effort combining greenspace, trails, transit, and new development along historic rail segments that, together, encircle central Atlanta. Collectively, these railroad corridors form a circuit that intersects existing MARTA rail corridors near six stations: Lindbergh Center, Inman Park/Reynoldstown, King Memorial, West End, Bankhead, and Ashby. The Tier 1 decisions included the selection of either Modern Streetcar or Light Rail Transit technology; selection of a general alignment of new transit and trails; and establishment of the right-of-way needs that were described and evaluated as the preferred alternative in the *Atlanta BeltLine Tier 1 Programmatic Final Environmental Impact Statement/Section 4(f) Evaluation.* When MARTA seeks FTA

funding for any of the elements of the Atlanta BeltLine covered by the Tier 1 PFEIS, FTA and MARTA will perform a Tier 2 NEPA review to identify potential environmental impacts and develop appropriate mitigation measures in more detail. *Final agency actions:* Record of Decision (ROD) dated August 28, 2012. *Supporting documentation:* Programmatic Final Environmental Impact Statement dated April 2012.

2. *Project name and location:* Kansas City Downtown Streetcar Project, Kansas City, MO. *Project sponsor:* City of Kansas City. *Project description:* The project will construct an approximately two-mile streetcar system between Union Station at Pershing Road and Third Street and Grand Boulevard, in the River Market District. The project includes construction of streetcar stops approximately every two blocks and a new vehicle maintenance facility. *Final agency actions:* No use determination of Section 4(f) resources; Section 106 finding of no adverse effect; and Finding of No Significant Impact (FONSI) dated October 30, 2012. *Supporting documentation:* Environmental Assessment dated September 2012.

3. *Project name and location:* Downtown San Bernardino Passenger Rail Project, San Bernardino, CA. *Project sponsor:* San Bernardino Associated Governments (SANBAG). *Project description:* SANBAG is proposing to extend Metrolink regional passenger rail service approximately one mile east from its current terminus at the existing San Bernardino Metrolink Station/Santa Fe Depot (Depot) located at 1170 West 3rd Street to new Metrolink commuter rail platforms proposed near the intersection of Rialto Avenue and E Street in the City of San Bernardino. The primary features of the Downtown San Bernardino Passenger Rail Project include construction of a second track, rail platforms, parking lots, pedestrian overpass at the Depot, and an Omnitrans Bus Facility; grade crossing improvements; railroad signalizations; and roadway closures. Secondary features include construction of drainage improvements, utility accommodation, and implementation of safety controls. *Final agency actions:* No use determination of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity; and Finding of No Significant Impact (FONSI) dated October 26, 2012. *Supporting documentation:* Revised Environmental Assessment/Final Environmental Impact Report dated August 2012.

Issued on: November 27, 2012.

Lucy Garliauskas,

Associate Administrator for Planning and Environment, Washington, DC.

[FR Doc. 2012–28985 Filed 11–29–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2012–0104]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ESCAPADE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 31, 2012.

ADDRESSES: Comments should refer to docket number MARAD–2012–0104. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ESCAPADE is:

Intended Commercial Use of Vessel: ''Learn to Cruise'' charters. 1–7 day charters teaching people the fundamentals of cruising under sail.

Geographic Region: ''California, Florida, Rhode Island, Massachusetts, Maine.''

The complete application is given in DOT docket MARAD–2012–0104 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: November 27, 2012.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2012–29029 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2012–0105]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ECLECTIC LADY; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized

to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 31, 2012.

ADDRESSES: Comments should refer to docket number MARAD–2012–0105. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ECLECTIC LADY is:

Intended Commercial Use of Vessel: ''Small private charters in the Pacific Northwest. 4–5 guests plus a maximum crew of 3 for a total of 8 persons on board.''

Geographic Region: Washington, Alaska (excluding waters in Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound]).

The complete application is given in DOT docket MARAD–2012–0105 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: November 27, 2012.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2012–29030 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms, and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

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

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and the expected burden. A **Federal Register** Notice with a 60-day comment period was published on June 13, 2012 (77 FR 35473–35475).

DATES: Submit comments to the Office of Management and Budget (OMB) on or before December 31, 2012.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for Department of Transportation, National Highway Traffic Safety Administration, or by email at *oira_submission@omb.eop.gov,* or fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Dr. Maria Vegega at the National Highway Traffic Safety Administration, Office of Impaired Driving and Occupant Protection, W44–302, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Dr. Vegega's phone number is 202–366–2668 and her email address is *maria.vegega@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: NHTSA Distracted Driving Survey Project.

Type of Request: Revision of previously approved collection of information.

OMB Control Number: 2127–0665.

NHTSA Form Number: NHTSA Form 1084.

Abstract: The National Highway Traffic Safety Administration (NHTSA) proposes to conduct awareness surveys to evaluate a traffic safety program designed to reduce distracted driving. The program will focus on hand-held phone use and be conducted in two States—either statewide or a multi-jurisdictional area in a state. The awareness surveys would be conducted in-person before and after three program waves. Over the program period, 24,000 drivers would be surveyed, 12,000 in each State. Estimated interview length would be approximately 5 minutes for the survey. Information on attitudes, awareness, knowledge, and behavior would be collected.

A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. Additionally, the proposed survey would be voluntary and anonymous; the surveys would not collect any personal information that would allow anyone to identify respondents.

The findings from the proposed information collection would build on and add to the existing knowledge on distracted driving. In 2010 and 2011, NHTSA conducted a high visibility enforcement program in Hartford, Connecticut and Syracuse, New York using enhanced enforcement and the media campaign, *Phone in One Hand, Ticket in the Other,* to reduce distracted driving behavior. The program demonstrated that this could be done at the community level, exhibited by decreases in both observed hand-held phone use and electronic device manipulation (e.g., texting). The next major step is to demonstrate how this program can be implemented on a larger basis, either statewide or multi-jurisdiction, which is the focus of the

current demonstration project. The findings from the survey will provide insight into the success of expanding the high visibility enforcement effort statewide.

Affected Public: NHTSA intends to collect data from 24,000 licensed drivers to conduct awareness surveys for the distracted driving evaluation program effort. The distracted driving program will be conducted in two States—either statewide or in a multi-jurisdictional area in a State. Awareness surveys would be administered in-person to a licensed driver population 18 years and older, before and after three program waves. Over 3 waves (i.e., 6 measurement periods), 24,000 drivers would be surveyed in both States (12,000 in each State). Participation by all respondents would be voluntary and anonymous.

Estimated Total Annual Burden: NHTSA estimates interviews would require an average of 5 minutes to complete, or a total of 2,000 hours for the 24,000 respondents.

Comments are invited on the following:

(i) 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;

(ii) The accuracy of the agency's estimate of the burden of the proposed information collection;

(iii) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(iv) Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Issued in Washington, DC on: November 27, 2012.

Jeffrey Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2012–28984 Filed 11–29–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 670 (Sub-No. 2)]

Notice of Rail Energy Transportation Advisory Committee Vacancies

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of vacancies on federal advisory committee and solicitation of nominations.

SUMMARY: The Surface Transportation Board (Board), hereby gives notice of four vacancies on the Board's Rail Energy Transportation Advisory Committee for (1) a representative from a state- or municipally-owned electric utility, (2) a representative from a biofuel refiner, processor, or distributor, or biofuel feedstock grower or provider, (3) a representative from a coal producer, and (4) a representative from a petroleum producer or shipper. The Board is soliciting suggestions for candidates to fill those vacancies.

DATES: Suggestions of candidates for membership on RETAC are due December 27, 2012.

ADDRESSES: Suggestions may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 670 (Sub-No. 2), 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Scott M. Zimmerman at 202–245–0386. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board, established in 1996 by Congress to take over many of the functions previously performed by the Interstate Commerce Commission, exercises broad authority over transportation by rail carriers, including regulation of railroad rates and service (49 U.S.C. 10701–10747, 11101–11124), as well as the construction, acquisition, operation, and abandonment of rail lines (49 U.S.C. 10901–10907), and railroad line sales, consolidations, mergers, and common control arrangements (49 U.S.C. 10902, 11323–11327).

In 2007, the Board established RETAC as a federal advisory committee consisting of a balanced cross-section of energy and rail industry stakeholders to provide independent, candid policy advice to the Board and to foster open, effective communication among the affected interests on issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources. RETAC operates subject to the Federal Advisory Committee Act.

RETAC's membership is balanced and representative of interested and affected parties, consisting of not less than: five representatives from the Class I railroads, three representatives from Class II and III railroads, three representatives from coal producers, five representatives from electric utilities (including at least one rural electric cooperative and one state- or municipally-owned utility), four representatives from biofuel refiners, processors, or distributors, or biofuel feedstock growers or providers, and two representatives from private car owners, car lessors, or car manufacturers. RETAC may also include up to three members with relevant experience but not necessarily affiliated with one of the aforementioned industries or sectors. Members are selected by the Chairman of the Board with the concurrence of a majority of the Board. The Chairman of the Board may invite representatives from the U.S. Departments of Agriculture, Energy, and Transportation and the Federal Energy Regulatory Commission to serve on RETAC in advisory capacities as *ex officio* (non-voting) members, and the three members of the Board serve as *ex officio* members of the Committee as well.

RETAC meets at least twice per year. Meetings are generally held at the Board's headquarters in Washington, DC, but may be held in other locations. Members of RETAC serve without compensation and without reimbursement of travel expenses unless reimbursement of such expenses is authorized in advance by the Board's Managing Director. RETAC members appointed or reappointed after June 18, 2010, are prohibited from serving as federally registered lobbyists during their RETAC term.

The Board is soliciting nominations for candidates to fill four vacancies on RETAC for representatives from (1) a state- or municipally-owned electric utility, for a three-year term ending September 30, 2015, (2) a biofuel refiner, processor, or distributor, or biofuel feedstock grower or provider, for a three-year term ending September 30, 2015, (3) a coal producer, for the remainder of a three-year term ending September 30, 2014, and (4) a petroleum producer or shipper, for a three-year term ending September 30, 2015. The petroleum position is a new one, to be established in light of the growing trend of shipping petroleum by rail, and will fill one of the three ''at large'' RETAC seats.

Nominations for candidates to fill these vacancies should be submitted in letter form and should include: (1) The name of the candidate, (2) the interest the candidate will represent, (3) a summary of the candidate's experience and qualifications for the position, (4) a representation that the candidate is willing to serve as a member of RETAC, and (5) a representation that the candidate is not a federally registered lobbyist. Suggestions for candidates for membership on RETAC should be filed with the Board by December 27, 2012. Please note that submissions will be available to the public at the Board's offices and posted on the Board's Web site under Docket No. EP 670 (Sub-No. 2).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 721, 49 U.S.C. 11101; 49 U.S.C. 11121.

By the Board.

Decided: November 26, 2012.

Rachel D. Campbell,

Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–28941 Filed 11–29–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Tribal Consultation Consistent With Executive Order 13175; Request for Public Comment

AGENCY: Community Development Financial Institutions Fund (CDFI Fund), U.S. Department of the Treasury.

ACTION: Request for public comment; Tribal consultation consistent with Executive Order 13175.

SUMMARY: This notice invites comments from the public on issues regarding the CDFI Fund's proposed report to assess the state of access to capital and credit in Native Communities as consistent with Executive Order 13175. The CDFI Fund will offer three opportunities to engage the public on this topic: (1) Through written comment; and (2) through two virtual meetings conducted as webcasts. All material submitted will be available for public inspection and copying.

DATES: For the three opportunities, the dates are listed below.

1. All written public comments and submissions must be received by the CDFI Fund no later than February 28, 2013.

2. The CDFI Fund's first webcast will be held at 1:00 p.m. ET, January 15, 2013. Please RSVP for the event by emailing *cdfihelp@cdfi.treas.gov* and we will provide the call in information.

3. The CDFI Fund's second webcast will be held at 4:00 p.m. ET, January 17, 2013. Please RSVP for the event by emailing *cdfihelp@cdfi.treas.gov* and we will provide the call in information.

ADDRESSES: Comments may be sent by mail to: Amber Kuchar, Associate Program Manager, CDFI Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20005, or by email to *cdfihelp@cdfi.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Information regarding the CDFI Fund and its programs may be downloaded from the CDFI Fund's Web site at *http://www.cdfifund.gov.*

SUPPLEMENTARY INFORMATION: The CDFI Fund was created for the purpose of promoting economic revitalization and community development through investment in and assistance to Community Development Financial Institutions (CDFIs). Its vision is to economically empower America's underserved and distressed communities through the provision of low-cost capital to certified CDFIs. The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994.

In 2001, the CDFI Fund produced the Native American Lending Study (NALS), which analyzed lending and investment practices on Indian reservations and other lands held in trust by the United States government. Specifically, the NALS attempted to provide a baseline of information on access to capital and credit for Native Communities, identify barriers to private financing, analyze the impact on access to capital and to credit for Native people, and provide options to address these barriers.

The CDFI Fund is now building upon the original study and will assess to what extent Native Americans have access to capital and credit in Native Communities in today's economy. The CDFI Fund will produce a report that will be presented to the Department of the Treasury, United States Congress, Tribal governments, Tribal organizations, stakeholders, and the public. The new report will be a publicly available document to guide the CDFI Fund's continued outreach to Native Communities [1] and provide baseline information on the current state of access to credit and capital in Native Communities. The research will provide policy-makers, Tribal governments, Tribal community organizations, and economic development practitioners with detailed analysis and quantitative research that can lead to actionable recommendations for improving access to capital and credit in Native Communities.

On November 6, 2000, President Clinton signed Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments) in order to ''establish regular and meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have Tribal implications, to strengthen the United States government-to-government relationships with Indian Tribes, and to reduce the imposition of unfunded mandates upon Indian Tribes * * *'' The Executive Order was further supported on November 5, 2009 when President Obama signed the Memorandum on Tribal Consultation, pronouncing Tribal consultations a critical ingredient of a sound and productive Federal-Tribal relationship. The CDFI Fund fully embraces the Executive Order and is taking this initial step to engage Tribes and the public in meaningful consultation.

The CDFI Fund invites and encourages comments and suggestions germane to the mission, purpose, content, and implementation of the new, proposed report. The CDFI Fund is particularly interested in comments that will help determine the focus and mission of the report, as well as influence its methodology. Specifically, the CDFI Fund is interested in comments that address the following questions:

1. What should the access to capital and credit report accomplish?

2. What should be the scope and focus of the report?

3. What are the top three desired outcomes of the report?

4. Who are the key users of the report?

5. Are there emerging trends, innovative concepts, and promising solutions that could significantly improve capital access and availability and quality of credit in Native Communities that the report should focus on or address?

6. How did you or your organization use the NALS?

[1] Native American, Alaska Native, and Native Hawaiian communities are collectively referred to as ''Native Communities''.

7. What were the most significant outcomes for you or your organization from the NALS?

8. What were the best elements of how the NALS was conducted?

General Comments

The CDFI Fund is also interested in receiving any general comments and suggestions regarding the focus, mission, and content of the report that are not addressed above.

Dated: November 20, 2012.

Donna J. Gambrell,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2012–28995 Filed 11–29–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of five individuals and three entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the five individuals and three entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on November 20, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. 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 on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On November 20, 2012, the Director of OFAC designated the following five individuals and three entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individuals

1. CARDONA MARTINEZ, Mayela (a.k.a. CARDONA DE IBARRA, Mayela), Calle Lago de La Doga 5312, Tijuana, Baja California, Mexico; DOB 24 Feb 1961; POB Coahuila, Mexico; Passport 99020046985 (Mexico); R.F.C. CAIM610224 (Mexico) (individual) [SDNTK].

2. CARDONA MARTINEZ, Pedro, Calle Lago La Doga 5301, Tijuana, Baja California, Mexico; DOB 30 Jun 1963; POB Coahuila, Mexico; Passport 100024252 (Mexico) (individual) [SDNTK].

3. IBARRA CARDONA, Luis Gerardo, Calle Lago de La Doga 5312, Tijuana, Baja California, Mexico; DOB 28 Nov 1982; nationality Mexico; citizen Mexico; R.F.C. IACL821128 (Mexico) (individual) [SDNTK].

4. IBARRA CARDONA, Carlos Jesus Ivan, Calle Lago La Doga 5312, Tijuana, Baja California, Mexico; DOB 02 Dec 1986; POB Sonora, Mexico; Passport 970200221199 (Mexico) (individual) [SDNTK].

5. IBARRA FAVILA, Jose Gerardo, Calle Lago de La Doga 5312, Tijuana, Baja California, Mexico; DOB 09 Mar 1961; POB Durango, Mexico; R.F.C. IAFG610309 (Mexico) (individual) [SDNTK].

Entities

6. COMERCIALIZADORA CACHO S.A. DE C.V., Calle Lago La Doga 5312, Tijuana, Baja California, Mexico; Identification Number NBC 80114829 [SDNTK].

7. COMERCIALIZADORA GERMAY DE SONORA S.A. DE C.V., San Luis Rio Colorado, Sonora 83450, Mexico [SDNTK].

8. DISTRIBUIDORA GERMAY S.A. DE C.V., San Luis Rio Colorado, Sonora 83450, Mexico; Registration ID NBC80114835 (Mexico) [SDNTK].

Dated: November 20, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–29007 Filed 11–29–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4506T–EZ, 4506–T–EZ (SP)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4506T–EZ, Short Form Request for Individual Tax Return Transcript, and 4506T–EZ (SP), Formulario Abreviado para la Solicitud de un Trasunto de la Declaracion de Impuestos Personales.

DATES: Written comments should be received on or before January 29, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, 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: Short Form Request for Individual Tax Return Transcript (4506T–EZ); Formulario Abreviado para la Solicitud de un Trasunto de la Declaracion de Impuestos Personales (4506T–EZ (SP)).

OMB Number: 1545–2154.

Form Number: Form 4506T–EZ, Form 4506T–EZ (SP).

Abstract: Form 4506T–EZ is used to request tax return transcripts. A taxpayer may designate a third party to receive the transcript.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households, Farms, and Businesses and other for-profit organizations.

Estimated Number of Respondents: 1,100,000.

Estimated Time per Respondent: 47 minutes.

Estimated Total Annual Burden Hours: 870,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 23, 2012.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2012–28931 Filed 11–29–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8911

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8911, Alternative Fuel Vehicle Refueling Property Credit.

DATES: Written comments should be received on or before January 29, 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, at (202) 622–3869, or 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: Alternative Fuel Vehicle Refueling Property Credit.

OMB Number: 1545–1981.

Form Number: Form 8911.

Abstract: IRC section 30C allows a credit for alternative fuel vehicle refueling property. Form 8911, Alternative Fuel Vehicle Refueling Property Credit, will be used by taxpayers to claim the credit.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 300,330.

Estimated Time per Respondent: 12 hours 8 minutes.

Estimated Total Annual Burden Hours: 3,715,083.

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. 2012–28932 Filed 11–29–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Publication of the Tier 2 Tax Rates

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: Publication of the tier 2 tax rates for calendar year 2013 as required by section 3241(d) of the Internal Revenue Code (26 U.S.C. 3241). Tier 2 taxes on railroad employees, employers, and employee representatives are one source of funding for benefits under the Railroad Retirement Act.

DATES: The tier 2 tax rates for calendar year 2013 apply to compensation paid in calendar year 2013.

FOR FURTHER INFORMATION CONTACT: Kathleen Edmondson, CC:TEGE:EOEG:ET1, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Telephone Number (202) 622–0047 (not a toll-free number). TIER 2 TAX RATES: The tier 2 tax rate for 2013 under section 3201(b) on employees is 4.4 percent of compensation. The tier 2 tax rate for 2013 under section 3221(b) on employers is 12.6 percent of compensation. The tier 2 tax rate for 2013 under section 3211(b) on employee representatives is 12.6 percent of compensation.

Dated: November 21, 2012.

Victoria A. Judson,

Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities).

[FR Doc. 2012–28930 Filed 11–29–12; 8:45 am]

BILLING CODE 4830–01–P

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Federal Register

Vol. 77, No. 231

Friday, November 30, 2012

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
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Public Laws Update Service (numbers, dates, etc.)	**741–6043**
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FEDERAL REGISTER PAGES AND DATE, NOVEMBER

66067–66148 1
66149–66360 2
66361–66514 5
66515–66702 6
66703–66914 7
66915–67238 8
67239–67532 9
67533–67742 13
67743–68042 14
68043–68678 15
68679–69380 16
69381–69552 19
69553–69732 20
69733–70104 21
70105–70354 23
70355–70676 26
70677–70884 27
70885–71082 28
71083–71286 29
71287–71482 30

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

Proposed Rules:
Ch. XX 70123

3 CFR

Proclamations:
8894 66507
8895 66515
8896 66517
8897 66519
8898 66521
8899 66523
8900 66525
8901 66527
8902 67533
8903 68043
8904 68045
8905 69731
8906 69733
8907 70677
8908 70679

Executive Orders:
13629 66353

Administrative Orders:
Notices:
Notice of November 1, 2012 66359
Notice of November 9, 2012 67741
Notice of November 21, 2012 70883

5 CFR

890 67743

Proposed Rules
531 70381
532 68073
Ch. XLVIII 70123

7 CFR

205 67239
3201 69381
3434 68679

Proposed Rules
1739 68705

8 CFR

214 71287

9 CFR

Proposed Rules
304 70714
327 70714
381 ..... 70714, 70724
590 70714

10 CFR

429 70105
430 70105

Proposed Rules
Ch. I 70123

12 CFR

19 66529
46 68047
109 66529
204 66361
213 69735
226 69736
263 68680
325 69553
615 66362
652 66375
701 71083
707 71083
714 71083
748 71083
749 71083
1013 69735
1022 67744
1026 ..... 69736, 69738, 70105
1282 67535

Proposed Rules
252 70124
1026 66748
1238 66566

14 CFR

25 ..... 67251, 67557
39 ..... 66534, 67254, 67256, 67261, 67263, 67267, 67559, 67561, 67763, 67764, 68050, 68052, 68055, 68057, 68058, 68061, 68063, 69556, 69558, 69739, 69742, 69744, 69747, 70114, 70355, 70357, 70360, 70362, 70366, 70369, 71085, 71087
43 71089
71 ..... 66067, 66068, 66069, 68065, 68067, 68068, 68681, 68682, 68683
97 ..... 66535, 66536
400 67269

Proposed Rules
25 ..... 67308, 67309, 69568, 69569, 69571, 69572, 69573, 70384, 70941
33 66936
39 ..... 66409, 66411, 66413, 66415, 66417, 66566, 66757, 66760, 66762, 66764, 66767, 66769, 66771, 66772, 67582, 68711, 68714, 69391, 70382, 71357, 71359
71 ..... 67782, 68716, 71361, 71362, 71363, 71364, 71365, 71367, 71368
121 67584
135 67584

15 CFR

744 71097
902 70062

Proposed Rules
734.....71214
740.....71214
764.....66777
766.....66777
772.....71214
774.....70945, 71214

16 CFR
1223.....66703

17 CFR
1.....66288
4.....66288
5.....66288
7.....66288
8.....66288
15.....66288
16.....66288
18.....66288
21.....66288
22.....66288
36.....66288
38.....66288
41.....66288
140.....66288
145.....66288
155.....66288
166.....66288
240.....66220, 70116
249.....70116
270.....70117
Proposed Rules
1.....67866
3.....67866
22.....67866
30.....67866
140.....67866
240.....70214, 71369

18 CFR
2.....69754
4.....67562
5.....67562
16.....67562
33.....67562
34.....67562
35 .....67562, 69754, 71288
157.....67562
348.....67562
375.....67562
385.....67562
388.....67562
Proposed Rules
152.....69781
284.....66568

19 CFR
Proposed Rules
360.....67593

21 CFR
101.....70885
179.....71312, 71316
Proposed Rules
15.....70955
801.....69393

22 CFR
Proposed Rules
121.....70958

24 CFR
203.....71099

25 CFR
Proposed Rules
226.....70964

26 CFR
1.....66915
Proposed Rules
1.....66938
54.....70620

29 CFR
1401.....66539
1910.....68684
1915.....68684
1917.....68684
1918.....68684
1926.....67270, 68684
4022.....68685
4044.....71321
Proposed Rules
1910.....68717
1915.....68717
1917.....68717
1918.....68717
1926.....67313, 68717
2590.....70620

30 CFR
Proposed Rules
943.....66574

31 CFR
552.....67276
561.....66918

33 CFR
100 .....66713, 67563, 70121, 70681
117 .....66714, 69562, 69564, 69759, 69761, 70372
127.....70886
165 .....66541, 67563, 67566, 67568, 69388, 69761, 70684, 70891
Proposed Rules
Ch. I.....71369
100.....66938
110.....66942
117.....67319, 69576
165.....68718, 70964

34 CFR
280.....67572
674.....66088
682.....66088
685.....66088
Proposed Rules
Ch. IV.....69579

36 CFR
Proposed Rules
1002.....69785
1195.....67595

37 CFR
201.....71101
202.....66920
381.....71104
386.....70373
Proposed Rules
3.....70385
201.....68075
210.....68075

38 CFR
3.....70686
9.....66069, 70374
17.....70893
20.....70686
Proposed Rules
3.....66419, 70389
17.....70967

39 CFR
20.....68069
111.....66149, 70895

40 CFR
9.....66149
52 .....66388, 66398, 66405, 66543, 66545, 66547, 66548, 66715, 66921, 66927, 66929, 67767, 70121, 70376, 70687, 70689, 70693, 70707, 71109, 71111, 71115, 71117, 71119, 71129
60.....71323
63.....71323
85.....68070
86.....68070
180 .....66715, 66721, 66723, 67282, 67771, 68686, 68692, 70902, 70908
271.....69765, 71344
272.....71344
300.....66729, 67777
600.....68070
721.....66149
Proposed Rules
52 .....66421, 66422, 66429, 66780, 66945, 67322, 67596, 67600, 68076, 68087, 68721, 69399, 69409, 71139, 71140, 71145, 71371, 71383
81 .....67600, 68076, 68087, 69409, 71371, 71383
98.....69585
174.....66781
180.....66781
271.....69788, 71395
272.....71395
300.....66783, 67783

41 CFR
303.....66554

42 CFR
409.....67068
410.....68892
413.....67450
414.....68892
415.....68892
416.....68210
417.....67450
419.....68210
421.....68892
423.....68892
424.....67068
425.....68892
438.....66670
441.....66670
447.....66670
476.....68210
478.....68210
480.....68210
484.....67068
486.....68892
488.....67068
489.....67068
495.....68210, 68892
498.....67068

44 CFR
64 .....66733, 68697, 69564
67.....66555, 66737
206.....67285
Proposed Rules
67 .....66165, 66785, 66788, 66790, 66791, 67324, 67325

45 CFR
Proposed Rules
144.....70584
146.....70620
147 .....70584, 70620, 70644
150.....70584
154.....70584
155.....70644
156.....70584, 70644

46 CFR
Proposed Rules
Ch. I.....71369
160.....70390
164.....70390

47 CFR
1.....71131
64 .....66935, 71131, 71353, 71354
73.....66743
76.....67290
90.....68070
Proposed Rules
1.....69934, 70400
2.....68721
15.....68722
20.....70407
25.....67172
27.....69934
63.....70400
73.....69934
79.....70970
95.....68721
101.....69581

48 CFR
Ch. 1.....69714, 69726
1.....69715
4.....69715, 69720
13.....69715
17.....69720
19.....69715
25.....69723
32.....69715
52.....69715, 69723
252.....68699
504.....69768
832.....70708
852.....70708
Proposed Rules
9903.....69422

49 CFR
33.....69769
225.....71354
523.....68070
531.....68070
533.....68070
536.....68070
537.....68070
571.....70914
578.....70710
1155.....69769
Proposed Rules
234.....68722
270.....70409

385.....67613
386.....67613
571.....69586, 71163
1121.....66165
1150.....66165
1180.....66165

50 CFR

17.....67302, 71042
21.....66406
224.....70915
229.....71260
622 .....66744, 67303, 67574, 68071
648 .....66746, 67305, 69567, 70939
665.....71260
679 .....66564, 67579, 67580, 70062

Proposed Rules

17 .....67784, 69994, 70410, 70727, 70987
224.....70733
424.....66946
635.....70552
648 .....66169, 66947, 67624, 68723, 69428, 70988
660 .....66577, 67327, 67974

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

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H.R. 2606/P.L. 112–197
New York City Natural Gas Supply Enhancement Act (Nov. 27, 2012; 126 Stat. 1461)

H.R. 4114/P.L. 112–198
Veterans' Compensation Cost-of-Living Adjustment Act of 2012 (Nov. 27, 2012; 126 Stat. 1463)

S. 743/P.L. 112–199
Whistleblower Protection Enhancement Act of 2012 (Nov. 27, 2012; 126 Stat. 1465)

S. 1956/P.L. 112–200
European Union Emissions Trading Scheme Prohibition Act of 2011 (Nov. 27, 2012; 126 Stat. 1477)

Last List October 24, 2012

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