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

WHO: Sponsored by the Office of the Federal Register.

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

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

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

WHEN: Tuesday, February 12, 2013
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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Rules and Regulations

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

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

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1282

RIN 2590–AA49

2012–2014 Enterprise Housing Goals

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule; correction.

SUMMARY: This document reprints, in a more readable format, a table displaying the new benchmark levels for the single-family housing goals for 2012, 2013 and 2014 that originally appeared in the final rule published in the **Federal Register** on November 13, 2012 entitled ''2012–2014 Enterprise Housing Goals.''

DATES: Effective December 20, 2012.

FOR FURTHER INFORMATION CONTACT: Paul Manchester, Principal Economist, (202) 649–3115; Ian Keith, Senior Program Analyst, (202) 649–3114; Office of Housing and Regulatory Policy; Jay Schultz, Senior Economist, (202) 649–3117, Office of National Mortgage Database; Kevin Sheehan, Assistant General Counsel, (202) 649–3086, Office of General Counsel. These are not toll-free numbers. The mailing address for each contact is: Office of General Counsel, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Summary of Correction

The **SUPPLEMENTARY INFORMATION** of the final rule establishing the Enterprise housing goals for 2012 through 2014, published on November 13, 2012, at 77 FR 67535, included a table on pages 67536–67537 that displayed the new benchmark levels for the single-family housing goals for 2012, 2013 and 2014. The table's format did not clearly convey that the benchmark levels for 2012 and 2014 are, in fact, the same as the levels for 2013, as indicated in the accompanying discussion and final rule. To clearly indicate the goal levels for 2012 and 2014, the table is being reprinted with the goal levels in the columns for all three years. The newly formatted table is displayed below.

Correction

In FR Doc. 12–27121, appearing on page 67535 in the **Federal Register** of Tuesday, November 13, 2012, make the following correction. On pages 67536–67537, correct the table to read as follows:

	2012	2013	2014
Low-income home purchase goal:			
Proposed rule	20%	20%	20%
Final rule	23%	23%	23%
Very-low income home purchase goal:			
Proposed rule	7%	7%	7%
Final rule	7%	7%	7%
Low-income areas home purchase subgoal:			
Proposed rule	11%	11%	11%
Final rule	11%	11%	11%
Low-income areas home purchase goal:			
Proposed rule	20%	NA	NA
Final rule	20%	NA	NA
Low-income refinance goal:			
Proposed rule	21%	21%	21%
Final rule	20%	20%	20%
Multifamily special affordable goals (low-income units):			
Fannie Mae			
Proposed rule	251,000	245,000	223,000
Final rule	285,000	265,000	250,000
Freddie Mac			
Proposed rule	191,000	203,000	181,000
Final rule	225,000	215,000	200,000
Multifamily special affordable subgoals (very low-income units):			
Fannie Mae			
Proposed rule	60,000	59,000	53,000
Final rule	80,000	70,000	60,000
Freddie Mac			
Proposed rule	32,000	31,000	27,000
Final rule	59,000	50,000	40,000

Dated: December 11, 2012.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2012–30481 Filed 12–19–12; 8:45 am]

BILLING CODE 8070–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 615

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations

CFR Correction

■ In Title 12 of the Code of Federal Regulations, Parts 600 to 899, revised as of January 1, 2012, on page 209, Subpart S, consisting of § 615.5570, is reinstated to read as follows:

Subpart S—Federal Agricultural Mortgage Corporation Securities

§ 615.5570 Book-entry procedures for Federal Agricultural Mortgage Corporation Securities.

(a) The Federal Agricultural Mortgage Corporation (Farmer Mac) is a Federally chartered instrumentality of the United States and an institution of the Farm Credit System, subject to the examination and regulation of the Farm Credit Administration.

(b) Farmer Mac, either in its own name or through an affiliate controlled or owned by Farmer Mac, is authorized by section 8.6 of the Act:

(1) To issue and/or guarantee the timely payment of principal and interest on securities representing interests in or obligations backed by pools of agricultural real estate loans (guaranteed securities); and

(2) To issue debt obligations (which, together with the guaranteed securities described in paragraph (b)(1) of this section, are referred to as Farmer Mac securities). Farmer Mac may prescribe the forms, the denominations, the rates of interest, the conditions, the manner of issuance, and the prices of Farmer Mac securities.

(c) Farmer Mac securities shall be governed by §§ 615.5450, and 615.5452 through 615.5460. In interpreting those sections for purposes of this subpart, unless the context requires otherwise, the term ''Farmer Mac securities'' shall be read for ''Farm Credit securities,'' and ''Farmer Mac'' shall be read for ''Farm Credit banks'' and ''Funding Corporation.'' These terms shall be read as though modified where necessary to effectuate the application of the designated sections of subpart O of this part to Farmer Mac.

[61 FR 31394, June 20, 1996, as amended at 61 FR 67195, Dec. 20, 1996]

[FR Doc. 2012–30804 Filed 12–19–12; 8:45 am]

BILLING CODE 1505–01–D

SMALL BUSINESS ADMINISTRATION

13 CFR Part 117

Nondiscrimination in Federally Assisted Programs or Activities of SBA—Effectuation of the Age Discrimination Act of 1975, as Amended

CFR Correction

■ In Title 13 of the Code of Federal Regulations, revised as of January 1, 2012, on page 215, in § 117.1, in the last sentence, after the word ''programs'', add the phrase ''or activities''.

[FR Doc. 2012–30797 Filed 12–19–12; 8:45 am]

BILLING CODE 1505–01–D

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1612

Government in the Sunshine Act Regulations

CFR Correction

■ In Title 29 of the Code of Federal Regulations, Parts 900 to 1899, revised as of July 1, 2012, on page 266, in § 1612.6 (b) the words ''2401 E Street NW., Washington, DC, 20506'' are corrected to read ''131 M Street NE., Washington, DC 20507''.

[FR Doc. 2012–30802 Filed 12–19–12; 8:45 am]

BILLING CODE 1505–01–D

POSTAL SERVICE

39 CFR Part 111

New Mailing Standards for Domestic Mailing Services Products

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: In October 2012, the Postal Service filed a notice of mailing services price adjustments with the Postal Regulatory Commission (PRC), effective in January 2013. This final rule contains the revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) that we will adopt to implement the changes coincident with the price adjustments.

DATES: *Effective date:* January 27, 2013.

FOR FURTHER INFORMATION CONTACT: Bill Chatfield, 202–268–7278.

SUPPLEMENTARY INFORMATION: Prices will be available under Docket Number R2013–1 on the Postal Regulatory Commission's Web site at *www.prc.gov.* The Postal Service's final rule includes a summary of comments received and responses to those comments, several mail classification changes, modifications to mailpiece characteristics, and changes in classification terminology.

Comments

Summary

The Postal Service received nine formal responses to our proposed rule as comments, two of which included comments about more than one issue. There were three responses by mailers, two by vendors, and four by associations.

Changes to Proposed Revisions

One comment by an association requested that the USPS™ withdraw a proposed change that would limit the extrusion of an insert; that change has been withdrawn. Three comments regarding wrappers on Periodicals requested that the proposed change to require a return address on all copies with wrappers be limited to opaque wrappers; that change has been modified to only apply to opaque wrappers.

Clarifications

It was requested that we clarify that the minimum number of 300 pieces per route and the rule that multiple pieces per delivery address can count toward the new high density plus prices will apply to both Standard Mail® letters and flats; that will be the case.

It was requested that we clarify the names for Standard Mail parcels. There will be Marketing parcels, mailable at presorted (noncarrier route) prices. There will continue to be irregular and machinable parcels mailable only at Nonprofit prices. Carrier route parcels will be called Product Samples (or Simple Samples).

One response questioned if the new handling charges for inbound First-Class Mail® will apply to First-Class Mail nonmachinable letters. Nonmachinable letters are not authorized for this entry. The Postal Service's current plan is for the handling charge to apply only to First-Class Mail Machinable Letters, Single-Piece Postcards, Single-Piece Flats, and Parcels under an authorization arrangement between the Postal Service and a foreign postal operator. A more complete response can be found at this link, starting on page 23: *http://prc.gov/Docs/85/85452/*

CHIR%20No1%20Response%20Final.pdf.

New Price for Residual Single-Piece First-Class Mail Letters Up to Two Ounces

There were five comments about the new price for single-piece residual First-Class Mail letters weighing up to two ounces that are intended to be part of an automation or presorted mailing, but are not presorted. One response suggested that one price should be provided for all First-Class Mail letters over an ounce. The other four responses indicated displeasure with the new price that will be two cents more than the retail First-Class Mail single-piece one-ounce letter price, but 18 cents less than the retail First-Class Mail two-ounce letter price. The Postal Service notes, however, that the uniform price for residual letters was developed to address mailer claims that it was impractical to prepare one-ounce pieces separate from two-ounce pieces. For mailers who wish to separate out the one-ounce from the two-ounce letters and not submit mixed trays of one-ounce and two-ounce pieces, such mail would be able to be presented separately with a separate postage statement. The one-ounce pieces in a separate tray would be charged a 46-cent per-piece price and the two-ounce pieces in a separate tray would pay a 66-cent per-piece price.

Advance Notice of a New Single-Piece Letter Price for Metered Mail

There were three comments about the advance notice of a possible new price for single-piece metered letter mail. Two customers appreciated the consideration; the other customer suggested that the new price apply also to letters with PCPostage® with IBI, and also advocated another lower price for nonpresorted letters with Intelligent Mail barcodes and CASS-certified addresses. The comments will be considered as this initiative develops.

General

Several responses noted appreciation for prior discussions of some of the proposed changes, but also noted that there were some surprise proposals. Suggestions were made to encourage the USPS to be involved in detailed discussion with mailers prior to any substantive future proposals. While we appreciate the challenges of fully understanding what is going to be proposed before it is filed with the PRC, the USPS declines to share pricing or price cells until the actual filing. It is noted that the structural changes are shared in advance with the mailing and vendor community as part of the ongoing dialogue with many groups.

Change for Letters

Commercial First-Class Mail Letters

The pricing structure for presorted and automation First-Class Mail letters retains the change implemented in 2012 for the minimum postage charge to be that for a 2-ounce letter, and extends the concept to residual single-piece letters that are part of the same mailing job and presented at the same time as the presorted or automation mailing. There will be a new price for residual letters up to 2 ounces, which is different than the price for single-piece letters presented as a stand-alone mailing.

Standard Mail Letters

We add a new price tier for high density letters. In addition to the current high density tier which requires a minimum of 125 pieces per carrier route, the new tier (high density plus) requires a minimum of 300 pieces per carrier route.

Changes for Flats

Standard Mail Flats

We add a new price tier for high density flats. In addition to the current high density tier which requires a minimum of 125 pieces per carrier route, the new tier (high density plus) requires a minimum of 300 pieces per carrier route.

Changes for Letters and Flats

Preparing Residual Mail From First-Class Mail and Standard Mail Mailings

We revise DMM 235.0, 245.0, 335.0, 345.0, and 705.8.0 to provide new standards for the preparation of pallets, trays, and sacks of First-Class Mail or Standard Mail letters and flats.

The Postal Service continuously reviews the processes and requirements related to the preparation and entry of mail from commercial mailers. In this regard, the Postal Service, working in collaboration with the commercial mailing industry, has identified areas for improved mutual efficiencies from minor changes to its mail preparation standards. These specific revisions were offered by members of the mailing community, adopted and implemented as optional standards in the context of a *Postal Bulletin* article (22344, August 23, 2012), and incorporated into the DMM on September 4, 2012. The Postal Service now adopts these current options as mandatory preparation standards.

These changes generally require mailers to place trays or sacks of residual single-piece First-Class Mail letters and flats on an origin sectional center facility (SCF) pallet; and to place trays or sacks of residual Standard Mail letters and flats, paid at the single-piece First-Class Mail prices, on a mixed network distribution center (NDC) pallet. The Postal Service also requires use of new human-readable texts linked to several existing content identifier number (CIN) codes that specifically identify single-piece mailpieces. This requires barcoded labels for trays of residual pieces, and new text on origin SCF pallet placards (identifying this pallet level as a working pallet).

No Additional Entry Fees for Periodicals

We change the designation ''additional entry'' to ''additional mailing offices'' and eliminate the fees for Periodicals publications to be mailed in multiple locations. Approved Periodicals will be able to mail at any Post Office™ with *PostalOne!*® access.

Change in Advertising Percentage Allowed for Periodicals Requester Publications

Requester publications will be permitted to exceed 75% advertising in no more than 25% of the issues produced in any 12-month period. This will allow publishers greater advertising flexibility during high advertising volume periods.

Endorsements on Mailing Wrappers for Periodicals

We clarify that the term ''mailing wrapper'' includes all types of packaging used to enclose Periodicals publications, by adding ''carton'' to the definition of mailing wrapper. We also extend the return address requirement to all pieces with opaque wrappers because all Periodicals receive a type of address correction. These revisions will ensure processing the pieces as Periodicals and eliminate the need to open the items when the mailpiece must be forwarded or returned.

Changes for Parcels

Parcel Post® Now Standard Post™

Parcel Post has become a competitive product, excluding Alaska Bypass. Parcel Post will only be offered at retail in January 2013, and is renamed as Standard Post. Mail currently eligible for Alaska Bypass Service, which is part of the Postal Service's current Parcel Post product, will be retained as a market-dominant product and will be named ''Alaska Bypass Service.'' Information about Alaska Bypass Service may be found in USPS Handbook PO 508, accessible on *usps.com*.

Standard Mail Marketing Parcels, Including Product Samples

Prices for marketing parcels are designed for parcels containing information and/or product samples with the purposes of encouraging recipients to purchase a product or service, make a contribution, support a cause, form a belief or opinion, take an action, or obtain information. Standard Mail Marketing parcels will be mailable at Presorted prices only, except for the new category of Product Samples (also known as Simple Samples), which will be mailable at targeted (similar to the current basic carrier route) or saturation (Every Door) prices. Marketing parcels in general continue to have a maximum size of 12 inches by 9 inches by 2 inches thick.

Product Sample parcels, like other marketing parcels, must be addressed using an alternative addressing format. In addition, each parcel in a mailing of Product Sample parcels must be of identical size and weight. Within each of the price categories—targeted and saturation—there will be separate prices for small samples and for large samples. Saturation parcels must bear simplified addresses and be sorted by route. Detached address labels (DALs) must be used with targeted parcels, and must be sorted by carrier route. There is no additional charge per DAL. DALs are optional with saturation parcels, and there will be an additional charge for each DAL (including detached marketing labels or DMLs).

Special, Extra, and Other Services

Certificate of Bulk Mailing—Fee Payment

Effective August 6, 2012, the Postal Service revised DMM 503.5 to allow mailers paying postage by permit imprint to report identical weight pieces on PS Form 3606, *Certificate of Bulk Mailing.* For January 27, 2013, the Postal Service allows mailers paying postage for the pieces reported on a PS Form 3606 by permit imprint to also pay for the fees by permit imprint.

Delivery Confirmation

We revise the DMM to expand acceptable terminology being allowed for Delivery Confirmation™ service to include *USPS Tracking/Delivery Confirmation.* This provides clarification to mailers who use privately printed forms, create integrated labels, or who may receive an applicable tracking label affixed to their packages at retail Post Offices, station or branches, that the text is acceptable in either format.

Return Receipts

Current DMM standards permit customers to request proof of delivery via mail, fax, email, or electronically when an electronic return receipt is purchased at the time of mailing or via mail, fax, or email when PS Form 3811–A, *Request for Delivery Information/ Return Receipt After Mailing* is requested. The Postal Service will restrict the service provided for electronic return receipts purchased at the time of mailing by discontinuing the options to obtain electronic records by fax, mail or on CD-Rom (for Bulk Proof of Delivery) and for return receipts purchased after mailing by discontinuing the option to obtain proof of delivery signature data by fax. Customers will receive proof of delivery signature data by email for electronic return receipts purchased at the time of mailing, and by email or a PS Form 3811–A by mail for return receipts purchased after mailing. Customers will continue to be able to purchase a return receipt (PS Form 3811) at the time of mailing and receive the 'green card' receipt with delivery signature by mail.

The Postal Service has reviewed data about customer usage of proof of delivery services and the associated system work and time necessary to provide proof of delivery letters by fax, by mail, or in bulk on CD-Rom. Year-to-date data show that approximately 95.8% (up from 91.6% last fiscal year) of customers receive the proof of delivery record by email.

Approximately 97.2% of our customers that receive bulk proof of delivery records electronically receive their records weekly via signature extract file format, instead of bi-monthly by CD-Rom. The cost of the CD-Roms is not included in the price of the service, and the additional work required in addition to maintaining the signature extract file format is currently absorbed by the Postal Service. These revisions help the Postal Service reduce costs and improve the turnaround time for delivery records to be received by our customers.

Registered Mail™ and COD—Where To File Claims for Indemnity

We are extending the online claims function to allow customers filing claims for indemnity for domestic Registered Mail or COD articles the option of filing online at *www.usps.com/insuranceclaims/ online.htm.*

IMb Tracing™

We are removing language concerning the old Confirm® service from DMM 503.15.0, because all Confirm subscriptions will end by January of 2013. IMb Tracing now provides a service similar to the old Confirm service.

Picture Permit Imprint Indicia

Effective June 24, 2012, the Postal Service introduced picture permit imprint indicia standards allowing customers to include business-related color images, such as corporate logos, company brand, or trademarks, in the permit indicia area on commercial mailings of IMb™ full-service automation First-Class Mail letters and postcards, and of IMb full-service automation Standard Mail automation letters, for a per-piece fee in addition to postage.

For January 27, 2013, we expand picture permit imprint indicia standards to also allow its use on First-Class Mail and Standard Mail flats prepared under the IMb full-service automation option. Mailers interested in picture permit imprint indicia may contact *picturepermit@usps.com* by email for more information.

Official Mail (Franked and Penalty)

The Postal Service™ will revise DMM 703.7.0 to remove obsolete standards for the use of official mail such as the need for PS Form 3602–G, references to INTELPOST, and the use of penalty mail stamps.

Advance Notice

The Postal Service is considering the proposal next year of a separate price category for single-piece First-Class Mail metered letters with prices that may be different than other single-piece First-Class Mail letter prices. The Postal Service plans to conduct market research to evaluate various price points for single-piece stamped and metered mail before offering this price differentiation.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), which is incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101,

401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

200 Commercial Letters and Cards

* * * * *

230 First-Class Mail

233 Prices and Eligibility

1.0 Prices and Fees for First-Class Mail

* * * * *

1.2 Price Computation for First-Class Mail Letters

[*Revise the text of 1.2 as follows:*]

Commercial First-Class Mail Presorted letters are charged at one price for the first 2 ounces, with separate prices for pieces over 2 ounces up to 3 ounces and for pieces over 3 ounces up to 3.5 ounces. Any fraction of an ounce is considered a whole ounce. For example, if a piece weighs 2.2 ounces, the weight (postage) increment is 3 ounces. The pricing per ounce is similar for automation First-Class Mail letters, with pricing differences per sortation level.

Single-piece price letters that are presented as residual pieces from either a Presorted or automation mailing are charged the residual single-piece price for letters up to 2 ounces.

* * * * *

235 Mail Preparation

* * * * *

5.0 Preparing Nonautomation Letters

5.1 Basic Standards

* * * * *

5.1.2 Single-Piece Price Pieces Presented With Presort Mailings

* * * The following standards apply:

[*Revise the first two sentences of the introductory paragraph of item 5.1.2a as follows:*]

a. The mailer must prepare the single-piece price pieces in separate trays from the automation and presort pieces. Mailers must label the trays under 708.6.0 using CIN code 260 on trays of single-piece letters. * * *

* * * * *

[*Revise item 5.1.2.a2 as follows:*]

2. Line 2: Use the human-readable content line corresponding to content identifier number 260 (see Exhibit 708.6.2.4).

* * * * *

240 Standard Mail

243 Prices and Eligibility

* * * * *

6.0 Additional Eligibility Standards for Enhanced Carrier Route Standard Mail Letters

6.1 General Enhanced Carrier Route Standards

6.1.1 Optional Preparation

* * *

[*Revise the second sentence of 6.1.1 as follows:*]

* * * An Enhanced Carrier Route mailing may include pieces at basic, high density, high density plus, and saturation prices.

* * * * *

[*Revise the headings of 6.4 and 6.4.1 and the text of 6.4.1 as follows:*]

6.4 High Density and High Density Plus (Enhanced Carrier Route) Standards

6.4.1 Basic Eligibility Standards for High Density and High Density Plus Prices

High density and high density plus letter-size mailpieces must be in a full carrier route tray or in a carrier route bundle of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray. High density and high density plus prices for barcoded letters apply to each piece that is automation-compatible according to 201.3.0, and has an accurate delivery point Intelligent Mail barcode (IMb) encoded with the correct delivery point routing code matching the delivery address and meeting the standards in 202.5.0 and 708.4.0. Pieces that are not automation-compatible or not barcoded are mailable only at the applicable high density or high density plus nonautomation letter prices.

[*Revise the title and text of 6.4.2 as follows:*]

6.4.2 High Density and High Density Plus Prices for Letters

All pieces mailed at high density or high density plus prices must be prepared in walk sequence according to schemes prescribed by the USPS (see 245.6.8 through 245.6.9). Multiple pieces per delivery address can count toward both density standards. Specific density requirements are as follows:

a. Pieces mailed at high density prices must be sorted together in sequence in quantities of at least 125 pieces for each carrier route.

b. Pieces mailed at high density plus prices must be sorted together in sequence in quantities of at least 300 pieces for each carrier route.

[*Revise the title and text of 6.4.3 as follows:*]

6.4.3 High Density and High Density Plus Discount for Heavy Letters

High density and high density plus pieces that are automation-compatible under 201.3.0, accurately barcoded with a delivery point IMb, and weigh more than 3.3 ounces but not more than 3.5 ounces, require postage equal to the piece/pound price and receive a discount equal to the high density flat-size piece price (3.3 ounces or less) minus the high density letter piece price (3.3 ounces or less). The discount is calculated using nondestination entry prices only, regardless of entry level. This discount does not apply to pieces requiring payment of nonautomation high density or high density plus letter prices.

* * * * *

245 Mail Preparation

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5.0 Preparing Nonautomation Letters

* * * * *

5.5 Residual Pieces

[*Revise the introductory paragraph of 5.5 as follows:*]

Mailers entering Standard Mail residual pieces that do not qualify for Standard Mail prices, and paying the First-Class Mail prices (but prepared ''as is'' under 244.5.0), must prepare these pieces in separate trays from the automation and presort pieces. Mailers must label the trays under 708.6.0 using CIN code 560 on residual trays. Label trays as follows:

* * * * *

[*Revise 5.5b as follows:*]

b. Line 2: Use the human-readable content line corresponding to content identifier number 560 (see Exhibit 708.6.2.4).

* * * * *

6.0 Preparing Enhanced Carrier Route Letters

* * * * *

6.2 Marking

All regular and Nonprofit Standard Mail Enhanced Carrier Route pieces must be marked under 202.3.0. All pieces must also be marked ''ECRLOT'' for basic price, ''ECRWSH'' for high density or high density plus price, or ''ECRWSS'' for saturation price. Pieces in carrier route mailings under 6.7 must

bear carrier route information lines under 708.8.0.

* * * * *

6.6 General Traying and Labeling

* * * Preparation sequence, tray size, and labeling:

a. Carrier route: required; full trays only, no overflow.

[*Revise item 6.6a2 as follows:*]

2. Line 2: for saturation, ''STD LTR MACH WSS,'' followed by route type and number; for high density or high density plus, ''STD LTR MACH WSH,'' followed by route type and number; for basic, ''STD LTR MACH LOT,'' followed by route type and number.

* * * * *

6.7 Traying and Labeling for Automation-Compatible ECR Letters

* * * Preparation sequence, tray size, and labeling:

a. Carrier route: required; full trays only, no overflow.

[*Revise item 6.7a2 as follows:*]

2. Line 2: for saturation, ''STD LTR BC WSS,'' followed by route type and number; for high density or high density plus, ''STD LTR BC WSH,'' followed by route type and number; for basic, ''STD LTR BC LOT,'' followed by route type and number.

* * * * *

6.9 Delivery Sequence Documentation

* * * * *

[*Revise the title and txt of 6.9.2 as follows:*]

6.9.2 High Density and High Density Plus

For each carrier route to which high density or high density plus mail is addressed, the mailer must document the total number of addressed pieces to the route.

* * * * *

6.9.5 Both Prices

[*Revise the text of 6.9.5 as follows:*]

If a mailing contains pieces qualifying for more than one walk-sequence price, the documentation required by 6.9.2, 6.9.3, or 6.9.4 may be combined. Entries for pieces at the high density or high density plus prices must be so annotated on the documentation. For the entire mailing, a summary of the total number of pieces at each price must be provided. This documentation must be submitted with each mailing.

6.9.6 Carrier Route Price

[*Revise the text of 6.9.6 as follows:*]

If a mailing includes walk-sequence price and basic carrier route price pieces, in addition to the information required by 6.9.2 through 6.9.5, the documentation for the basic carrier route price mail must show, by 5-digit ZIP Code and, within each, by carrier route, the total number of addressed pieces at each price for each carrier route to which pieces are addressed. Pieces qualifying for the basic carrier route price must be so annotated. For the entire mailing, a summary by 5-digit ZIP Code of the total number of pieces at each price must be provided. This documentation must be submitted with each mailing.

* * * * *

300 Commercial Flats

301 Physical Standards

1.0 Physical Standards for Flats

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1.5 Polywrap Coverings

1.5.1 Polywrap Films and Similar Coverings

[*Revise the introductory text of 1.5.1 as follows:*]

Mailers using polywrap film or similar material on flat-size mailpieces (except pieces mailed at high density, high density plus, or saturation prices) must use a product meeting the standards in 1.5. Film approved for use under 1.5.4 must meet the specifications in Exhibit 1.5.1 as follows:

* * * * *

1.6 Maximum Deflection for Flat-Size Mailpieces

[*Revise the introductory text of 1.6 as follows:*]

Flat-size mailpieces must meet maximum deflection standards. Flat-size pieces mailed at high density, high density plus, or saturation prices, and flats mailed at basic carrier route prices entered by the mailer at destination delivery units (DDUs), are not required to meet these deflection standards. Test deflection as follows:

* * * * *

330 First-Class Mail

* * * * *

335 Mail Preparation

* * * * *

5.0 Preparation of Nonautomation Flats

* * * * *

5.2 Single-Piece Price Pieces Presented With Presort Mailings

[*Revise the second and third sentences of the introductory paragraph of 5.2 as follows:*]

* * * Mailers must label the trays under 708.6.0 using CIN code 282 on single-piece trays. Label the trays as follows:

* * * * *

[*Revise item 5.2b as follows:*]

b. Line 2: Use the human-readable content line corresponding to content identifier number 282 (see Exhibit 708.6.2.4).

* * * * *

340 Standard Mail

343 Prices and Eligibility

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6.0 Additional Eligibility Standards for Enhanced Carrier Route Standard Mail Flats

6.1 General Enhanced Carrier Route Standards

6.1.1 Optional Preparation

[*Revise the last sentence of 6.1.1 as follows:*]

* * * An Enhanced Carrier Route mailing may include pieces at basic, high density, high density plus, and saturation Enhanced Carrier Route prices.

* * * * *

6.1.3 Full-Service Intelligent Mail Eligibility Standards

In addition to other requirements in 6.0, flats eligible for the full-service Intelligent Mail option must:

* * * * *

[*Revise item 6.1.3b as follows:*]

b. Be part of a basic carrier route, high density, or high density plus carrier route mailing under 6.3 or 6.4.

* * * * *

6.2 Carrier Route Code Accuracy

* * * * *

6.2.2 USPS-Approved Methods

[*Revise the text of 6.2.2 as follows:*]

Carrier route coding must be performed using CASS-certified software and the current USPS Carrier Route Product or another Address Information System (AIS) product containing carrier route information subject to 509.1.0 and 708.3.0. Printed Carrier Route Files (schemes) may be used for Standard Mail Enhanced Carrier Route flat-size mail at basic, high density, high density plus, and saturation prices.

* * * * *

[*Revise the title of 6.4 as follows:*]

6.4 High Density and High Density Plus (Enhanced Carrier Route) Standards

[*Revise the title and text of 6.4 as follows:*]

6.4.1 Basic Eligibility Standards for High Density and High Density Plus Prices

All pieces mailed at high density and high density plus prices must:

a. Be prepared in walk sequence according to schemes prescribed by the USPS (see 345.6.9).

b. Meet the density requirement of at least 125 pieces for each carrier route. For high density plus prices, the density requirement is at least 300 pieces for each carrier route. Multiple pieces per delivery address can count toward the density standards.

[*Revise the title of 6.4.2 as follows:*]

6.4.2 High Density and High Density Plus Prices for Flats

[*Revise the introductory text and item a of 6.4.2 as follows:*]

High density or high density plus prices apply to each piece in a carrier route bundle of 10 or more pieces that is:

a. Palletized under 705.8.0, 705.10.0, 705.12.0, or 705.13.0.

* * * * *

345 Mail Preparation

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5.0 Preparing Nonautomation Flats

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5.10 Residual Pieces

[*Revise the introductory paragraph of 5.10 as follows:*]

Mailers entering Standard Mail residual pieces that do not qualify for Standard Mail prices, and paying the First-Class Mail prices (but prepared ''as is'' under 344.5.0), must separately bundle and sack residual pieces from the automation and presort pieces. Mailers must label sacks under 708.6.0 using the CIN code 582 for use with residual sacks. Label sacks as follows:

* * * * *

[*Revise 5.10bas follows:*]

b. Line 2: Use the human-readable content line corresponding to content identifier number 582 (see Exhibit 708.6.2.4).

* * * * *

6.0 Preparing Enhanced Carrier Route Flats

6.1 Basic Standards

All mailings and all pieces in each mailing at Enhanced Carrier Route Standard Mail and Nonprofit Enhanced Carrier Route Standard Mail nonautomation prices are subject to specific preparation standards in 6.2 through 6.7 and to these general standards:

* * * * *

c. All pieces must meet the applicable general preparation standards in 2.0 through 4.0 and 302, and the following:

[*Revise item 6.1c1 as follows:*]

1. All regular and Nonprofit Standard Mail Enhanced Carrier Route pieces must be marked under 302.3.0. All pieces also must be marked ''ECRLOT'' for basic price, ''ECRWSH'' for high density or high density plus prices, or ''ECRWSS'' for saturation price.

* * * * *

6.10 Delivery Sequence Documentation

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[*Revise the title and text of 6.10.2 as follows:*]

6.10.2 High Density and High Density Plus

For each carrier route to which high density or high density plus mail is addressed, the mailer must document the total number of addressed pieces to the route.

* * * * *

6.10.5 Both Prices

[*Revise the text of 6.10.5 as follows:*]

If a mailing contains pieces qualifying for more than one walk-sequence price, the documentation required by 6.10.2, 6.10.3, or 6.10.4 may be combined. Entries for pieces at the high density or high density plus prices must be so annotated on the documentation. For the entire mailing, a summary of the total number of pieces at each price must be provided. This documentation must be submitted with each mailing.

6.10.6 Carrier Route Price

[*Revise the text of 6.10.6 as follows:*]

If a mailing includes walk-sequence price and basic carrier route price pieces, in addition to the information required by 6.10.2 through 6.10.5, the documentation for the basic carrier route price mail must show, by 5-digit ZIP Code and, within each, by carrier route, the total number of addressed pieces at each price for each carrier route to which pieces are addressed. Pieces qualifying for the basic carrier route price must be so annotated. For the entire mailing, a summary by 5-digit ZIP Code of the total number of pieces at each price must be provided. This documentation must be submitted with each mailing.

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400 Commercial Parcels

401 Physical Standards

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2.0 Additional Physical Standards by Class of Mail

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2.4 Standard Mail Parcels

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2.4.2 Marketing Parcels

Marketing parcels do not meet letters or flats standards and have the following characteristics:

* * * * *

[*Add new item 2.4.2e as follows:*]

e. Marketing parcels mailed as *small* Product Samples under 443 must be no larger than 6 inches long, 4 inches high and 1.5 inches thick. Product Samples that have any dimension larger than one of the maximum dimensions for a small Product Sample, up to the maximum size in 2.4.2b, are *large* Product Samples.

* * * * *

440 Standard Mail

443 Prices and Eligibility

1.0 Prices and Fees for Standard Mail

* * * * *

[*Revise title of 1.2 to read as follows:*]

1.2 Regular and Nonprofit Standard Mail—Marketing Parcel and Product Sample Prices

* * * * *

3.0 Basic Standards for Standard Mail Parcels

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3.2 Defining Characteristics

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3.2.2 Standard Mail Marketing Parcels

[*Revise 3.2.2 by adding a new second sentence as follows:*]

* * * All Marketing parcels prepared as Product Samples in the same mailing must additionally be identical in size and weight.

* * * * *

[*Revise the title and the first two sentences of 3.5 as follows:*]

3.5 Merging Similar Standard Mail Mailings

Mailings are subject to the general definitions and conditions in 445.1.0. Generally, mailers may merge similar Standard Mail matter into a single mailing; however all parcels in a mailing of Product Samples must be identical in size and weight. * * *

* * * * *

4.0 Price Eligibility for Standard Mail

4.1 General Information

[*Revise the text of 4.1 as follows:*]

Standard Mail parcel prices are commercial prices that apply to mailings meeting the basic standards in 2.0 through 4.0 and the specific standards in 5.0 through 6.0. Destination entry discount prices are available under 446.2.0 through 446.5.0. Except for Product Samples, pieces are subject to either a single minimum per piece price or a combined piece/pound price, depending on the weight of the individual pieces in the mailing under 4.2 or 4.3. Prices for Product Samples are available under 6.0. Nonprofit prices are available for USPS-authorized organizations under 703.1.0.

* * * * *

4.2 Minimum per Piece Prices

The minimum per piece prices (i.e., the minimum postage that must be paid for each piece) apply as follows:

[*Revise item 4.2a as follows:*]

a. Basic Requirement. Except for pieces mailed at Product Sample prices, pieces are subject to minimum per piece prices when they weigh no more than 3.3 ounces (0.2063 pound).

[*Delete current item 4.2b, redesignate current item 4.2c as new item 4.2b and revise as follows:*]

b. Individual Prices. Except for Product Samples, there are separate minimum per piece prices for each product and, within each product, for the presort and destination entry levels within each mailing. There are also separate prices for Marketing parcels, Nonprofit machinable parcels, and Nonprofit irregular parcels. Under Marketing parcels, there are separate prices for Product Samples.

4.3 Piece/Pound Prices

[*Revise the text of 4.3 as follows:*]

Except for Product Samples, pieces that exceed 3.3 ounces are subject to a two-part piece/pound price that includes a fixed charge per piece and a variable pound charge based on weight. There are separate per piece prices for each product, and within each product, for the type of mailing and the presort and destination entry levels within each mailing. There are separate per pound prices for each product.

4.4 Surcharge

[*Revise the introductory text of 4.4 as follows:*]

Unless prepared as Product Samples or in 5-digit/scheme containers, Standard Mail parcels are subject to a surcharge if: * * *

* * * * *

4.5 Extra Services for Standard Mail

* * * * *

4.5.2 Ineligible Matter

Extra services (other than certificate of mailing service) may not be used for any of the following types of Standard Mail:

* * * * *

[*Revise item 4.5.2d as follows:*]

d. Pieces mailed at Product Sample prices.

* * * * *

5.0 Additional Eligibility Standards for Presorted Standard Mail Pieces

* * * * *

5.2 Price Application

[*Revise the text of 5.2 as follows:*]

Prices for Standard Mail and Nonprofit Standard Mail apply separately to Marketing parcels (and within Marketing parcels, to Product Samples) that meet the eligibility standards in 2.0 through 4.0 and the applicable preparation standards in 445.5.0, 705.6.0, 705.8.0, or 705.22. Prices for Nonprofit parcels not qualifying as Marketing parcels apply separately to machinable parcels and irregular parcels. When parcels are combined (except for Product Samples, which cannot be combined with other parcels) under 445.5.0, 705.6.0, or 705.22, all pieces are eligible for the applicable prices when the combined total meets the eligibility standards.

* * * * *

[*Revise the title and the standards within 6.0 as follows:*]

6.0 Additional Eligibility Standards for Marketing Parcels Mailed as Product Samples

6.1 General Product Sample Standards

6.1.1 Basic Standards and Optional Preparation

Product Samples are a type of Marketing parcels. See 401.2.4.2 for physical standards and 443.3.0 for basic standards. Preparation to qualify for any Product Sample price is optional and need not be performed for all carrier routes in a 5-digit area. A Product Sample mailing may include pieces mailed at targeted prices and pieces mailed at saturation (Every Door) prices, but all pieces in a mailing must be identical in size and weight. All mailings of Product Samples must be entered under DNDC, DSCF, or DDU standards (see 446). No origin office entry of Product Samples is allowed. See 705.18.0 for Express Mail and Priority Mail Open and Distribute options.

6.1.2 Pricing for Product Samples

See Notice 123—Price List for price tables. Detached address labels (DALs; see 602.4.0) for Product Samples must be sorted to carrier routes, including delivery routes and Post Office Box sections. Product Sample mailings are subject to per piece prices and, when not entered at a DDU, are subject to carton/sack and/or pallet prices. Piece prices are different for parcels sorted to the targeted level (6.3) than for parcels sorted to the saturation level (6.4). Within each sortation level, piece prices are different for small parcels than for large parcels (see 401.2.4.2). Prices for cartons (or sacks) and pallets are subject to the following conditions:

a. A pallet charge applies to each pallet of Product Samples entered at a DNDC or DSCF, except 3-digit pallets properly entered at a DSCF.

b. A carton or sack charge applies to each carton or sack of Product Samples on a 3-digit pallet. Each carton must not exceed 40 pounds nor exceed a combined length and girth of 108 inches.

6.1.3 Basic Eligibility Standards

All parcels (or DALs, when used) in a mailing of Product Samples must bear an alternative addressing format. Parcels mailed at targeted prices must have an occupant address format or an exceptional address format under 602.3.0. Parcels mailed at saturation prices must bear a simplified address under 602.3.2. In addition, all Product Sample parcels must meet these conditions:

a. Meet the basic standards for Standard Mail in 2.0 through 4.0.

b. Be part of a single mailing of at least 200 pieces or 50 pounds of parcels mailed at Product Sample prices. Regular and Nonprofit mailings must meet separate minimum volumes.

c. DALs, when used, must be sorted to carrier routes and documented under 445.6.0 and 705.8.0, as applicable.

d. DALs used with parcels mailed at targeted prices must bear a delivery address that includes the correct ZIP Code, ZIP+4 code, or numeric equivalent to the delivery point barcode and that meets the carrier route accuracy standard in 6.2.

e. DALs must meet the applicable sequencing requirements in 6.3 through 6.5 and in 445.6.6.

6.2 Carrier Route Accuracy

6.2.1 Basic Standards

The carrier route accuracy standard is a means of ensuring that the carrier route code correctly matches the delivery address information on detached address labels (DALs) used with Product Samples mailed at targeted prices. For the purposes of this

standard, *address* means a specific address associated with a specific carrier route code. This standard does not apply to pieces with simplified addresses. Addresses used on pieces subject to the carrier route accuracy standard must meet these requirements:

a. Each address and associated carrier route code used on the pieces in a mailing must be updated within 90 days before the mailing date with one of the USPS-approved methods in 6.2.2.

b. If the carrier route code of an address used on a piece in a carrier route mailing at one class of mail and price is updated with an approved method, the same address may be used during the following 90 days to meet the carrier route accuracy standard required for mailing at any other class of mail and price.

6.2.2 USPS-Approved Methods

Carrier route coding must be performed using CASS-certified software and the current USPS Carrier Route Product or another Address Information System (AIS) product containing carrier route information subject to 509.1.0 and 708.3.0.

6.2.3 Mailer Certification

The mailer's signature on the postage statement certifies that the carrier route accuracy standard has been met for each address in the corresponding mailing presented to the USPS.

6.3 Additional Standards for Targeted Product Samples

6.3.1 Sequencing

All parcels mailed at targeted prices must be accompanied with detached address labels (DALs) prepared in walk sequence (see 445.6.6). The combined weight of the DAL and associated sample must be less than 1 pound; there are no additional fees for use of DALs with pieces mailed at targeted prices.

6.3.2 Basic Preparation for Targeted Prices

Targeted prices apply to each parcel for a carrier route, prepared under 445.6.0. There are separate targeted prices for small parcels and for large parcels (see 401.2.4.2). DALs must be in carrier route bundles and prepared under 445.6.0 and 602.4.0.

6.4 Additional Standards for Saturation (Every Door) Product Samples

6.4.1 Basic Eligibility Standards for Saturation Prices

All parcels in a mailing at saturation prices must bear simplified addresses (or be accompanied by DALs bearing simplified addresses), and the mailing must meet the saturation standards for simplified addressed pieces under 602.3.2. For DAL charges, see Notice 123—Price List.

6.4.2 Basic Preparation for Saturation Prices

Saturation prices apply to each parcel in a carrier route or 5-digit/L606 sack or carton of simplified addressed pieces, or as allowed in bundles on pallets under 445.6.0. If used, DALs must be in carrier route bundles and prepared under 445.6.0 and 602.4.0.

* * * * *

444 Postage Payment and Documentation

* * * * *

[*Revise the title of 2.0 as follows:*]

2.0 Additional Postage Payment Standards

* * * * *

2.2 Nonidentical-Weight Pieces

[*Revise the text of 2.2 as follows:*]

Product Samples must be of identical weight within each mailing. Postage for other nonidentical-weight parcels may be paid by precanceled stamps, subject to 4.0 and 604.3.0. Mailings of nonidentical-weight pieces subject to the piece/pound prices may have postage paid by permit imprint (if the mailer is authorized by Business Mailer Support) or by meter (if each piece has the full postage affixed). Alternatively, the mailer may affix the per piece price to each piece and pay the pound price for the mailing through an advance deposit account. Under this option, the mailer must provide a postage statement for each payment method and mark each piece ''Pound Price Pd via Permit'' in the postage meter indicium. For mailings of nonidentical-weight pieces, ''nonidentical'' must be shown as the weight of a single piece on the postage statement.

* * * * *

445 Mail Preparation

1.0 General Information for Mail Preparation

* * * * *

1.2 Definition of Mailings

Mailings are defined as:

* * * * *

b. Standard Mail. Except as provided in 443.3.6, the types of Standard Mail listed below may not be part of the same mailing.

[*Revise items 1.2b1 and 1.2b2 as follows:*]

1. Product Sample parcels and any other type of mail.

2. Product Sample parcels of nonidentical size or nonidentical weight.

* * * * *

1.3 Terms for Presort Levels

Terms used for presort levels are defined as follows:

[*Revise item 1.3a as follows:*]

a. *Targeted (Product Samples or Simple Samples):* a type of Marketing parcel that is intended for specific carrier routes, with DALs sorted to and marked at the carrier route level; with a minimum of one piece per carrier route. Multiple DALs per route are all addressed for delivery to the same city route, rural route, highway contract route, Post Office box section, or general delivery unit.

* * * * *

2.0 Bundles

2.1 General

[Revise the text of 2.1 as follows:]

A *bundle* is a group of addressed pieces for a presort destination secured together as a unit. Bundling is permitted only for Marketing parcels mailed at Product Sample prices and for related DALs when used. Bundles must be in equal quantities of up to 50 parcels per bundles, with quantities of other than 50 indicated on a bundle facing slip. Bundles of parcels must be either banded or shrinkwrapped, and bundles of parcels more than 8 ounces each must be banded and shrinkwrapped. See 601.2.0 for other bundling standards.

[Revise the title of 2.2 as follows:]

2.2 Facing Slips

[Revise the introductory text and item b of 2.2 as follows:]

Facing slips on bundles of DALs must show the carrier route designation, the 5-digit destination ZIP Code, and the number of DALs for that carrier route. Facing slips used on bundles of Product Sample parcels must show the quantity in the bundle if less than 50 and this information:

* * * * *

b. Line 2: Content (e.g., ''STD MKTG SAMPLE) if accompanied by DALs bundled by carrier route, or contents followed by carrier route type and route number when not accompanied by DALs (e.g., ''STD MKTG SAMPLE CR R 012'').

3.0 Sacks

3.1 Standard Containers

[Revise the first sentence of the introductory text, and add a new second sentence, of 3.1 as follows:]

Mailings must be prepared in sacks, except for Product Samples, which may

be in cartons, sacks, or bundles directly on pallets. Also, see 602.4.0 when Product Samples are mailed with DALs.

* * * * *

5.0 Preparing Presorted Parcels

5.4 Preparing Marketing Parcels (Less Than 6 Ounces) and Irregular Parcels

5.4.1 Bundling

[Revise the text of 5.4.1 as follows:]

Bundling is permitted only for bundles of Product Sample parcels (and associated DALs) under 6.0.

* * * * *

[Revise the title of 6.0 as follows:]

6.0 Preparing Enhanced Carrier Route Product Sample Parcels

6.1 Basic Standards

All mailings and all pieces in each mailing at an Enhanced Carrier Route (ECR) parcel price are subject to specific preparation standards in 6.4 and 6.5, entry standards in 446, and these general standards:

* * * * *

[Revise item 6.1b as follows:]

b. All pieces in each mailing must be Product Sample parcels as defined in 443.3.2.2.

* * * * *

[Revise item 6.1e as follows:]

e. Sortation, size, and preparation determine price eligibility as specified in 443.6.0.

6.2 Marking

[Revise the text of 6.2 as follows:]

All Enhanced Carrier Route pieces (or DALs) must be marked under 402.2.0. All pieces must be marked ''ECRLOT'' for pieces claiming a targeted price, or ''ECRWSS'' for pieces claiming a saturation (Every Door) price.

6.3 Residual Pieces

[Revise the text of 6.3 as follows:]

Parcels not prepared or sorted as a carrier route mailing at Product Sample prices must be prepared as a separate mailing at Standard Mail Presorted prices.

6.4 Bundling

6.4.1 Bundle Preparation

[Revise the text of 6.4.1 as follows:]

Carrier route preparation and bundling of DALs is required; Product Samples must be bundled by either carrier route or by 5-digit/L606 destinations. Prepare bundles as follows:

a. Sacks must contain at least 15 pounds or 125 pieces of mail, except under 6.4.2. Cartons may be used instead of sacks. Cartons have no minimum weight, must not weigh more than 40 pounds, and must not exceed 108 inches in combined length and girth.

b. DALs are required for parcels mailed at targeted prices; mailers must prepare carrier route bundles of DALs. Bundles of DALs must have a facing slip with the number of DALs for that carrier route indicated. Bundles of parcels must be prepared in sacks or cartons labeled to the correct 5-digit/L606 destination, and bundled under 2.0 and the same bundling standards as for saturation parcels under 6.4.1c. Optionally, parcels may be prepared in carrier route bundles, with a facing slip on the top of each bundle, noting the carrier route. Prepare bundles of DALs and bundles of samples in the same carton or sack, with the bundles of DALs on the top. See 602.4.0 for additional preparation standards for parcels and accompanying DALs, including optional pallet preparation.

c. DALs are optional for parcels mailed at saturation prices. Bundles of parcels are prepared in sacks or cartons labeled to carrier routes or to 5-digit destination ZIP Codes, and bundled in similar quantities of up to 50 pieces per carrier route bundle or 5-digit/L606 bundle. When DALS are used, the DALs must be prepared in carrier route bundles and placed in the same carton or sack as the samples for the corresponding route or routes within the same delivery ZIP Code. Bundles of DALs must have facing slips with the number of DALs for that carrier route indicated. If not placed in a sack or carton, saturation parcels must be bundled in quantities of 50 or less under 2.0 and the bundles placed on 5-digit/L606 pallets in a stable manner. As an option, bundled saturation parcels without accompanying DALs may be prepared in sacks or cartons labeled to carrier routes or 5-digit destination ZIP Codes, then placed on pallets. A manifest report showing the total number of samples per carrier route is required when the samples are not prepared with DALs.

[Revise the title and the first sentence of 6.4.2 as follows:]

6.4.2 Fewer Than the Minimum Number of Pieces per Route

[Revise 6.4.2 as follows:]

As a general exception to 6.4.1 and 6.5.1, mailers may prepare pieces and DALS with fewer than 125 pieces or less than 15 pounds of mail to a carrier route or a 5-digit destination when the mail is in a carton. Also, there may be less than 125 pieces or 15 pounds of mail to a sack when the saturation price is correctly claimed. * * *

[Revise the title of 6.5 as follows:]

6.5 Preparing Product Samples

6.5.1 Sack Minimums

[Revise the text of 6.5.1 as follows:]

Except for bundled saturation parcels and except under 6.4.2, a sack or carton must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of mail.

[Delete current items 6.5.1a through 6.5.1c in their entirety.]

6.5.2 Sacking and Labeling

Preparation sequence, sack or carton size (see also 602.4.3.5 for additional standards when using cartons), and labeling:

a. Carrier route: optional with no minimum per carton; see 6.5.1 for minimums for sacks:

* * * * *

[Revise item 6.5.2a2 as follows:]

2. Line 2: ''STD MKTG WSS'' (for saturation samples) or ''STD MKTG LOT'' (for targeted samples), followed by the route type and number.

[Add new 6.5.3 as follows:]

6.5.3 Required Palletization

All Product Sample mailings must be destination entered at one or more DDUs, DSCFs, or DNDCs. Except for sacks or cartons of Product Samples entered directly at a DDU, all mailings of Product Samples must be palletized. Pallets (under 705.8.10.3) must be used for sacks or cartons (or bundles of saturation samples only) of Product Samples for mail entered at DNDCs and DSCFs.

* * * * *

6.7 Delivery Sequence Documentation

* * * * *

[Revise the title and text of 6.7.2 as follows:]

6.7.2 Product Samples—Targeted

For each mailing of Product Samples at targeted carrier route prices, the mailer must document the total number of pieces mailed to each carrier route.

* * * * *

[Delete current 6.7.4, Saturation Density—Other Mail, in its entirety.]

[Renumber current 6.75 as new 6.7.4.]

6.7.4 Both Prices

[Revise the text of renumbered 6.7.4 as follows:]

If a mailing contains pieces qualifying for targeted and saturation prices, the documentation required may be combined. Entries for pieces at the targeted price must be so annotated on the documentation. For the entire mailing, a summary of the total number of pieces at each price must be

provided. This documentation must be submitted with each mailing.

[Delete current 6.7.6, Carrier Route Price, in its entirety.]

* * * * *

446 Enter and Deposit

* * * * *

2.0 Destination Entry

* * * * *

2.5 Verification

* * * * *

2.5.5 Volume Standards

Except as permitted for a local mailer under 2.6.13, destination entry mailings are subject to these volume standards:

[Revise item 2.5.5a as follows:]

a. Except for Product Samples, the pieces for which a destination price is claimed must represent more than 50% of the mail (by weight or pieces, whichever is greater) presented by the same mailer within any 24-hour period. Product Samples mailings must be 100% destination-entered. For this standard, *mailer* is the party presenting the mail to the USPS.

* * * * *

3.0 Destination Network Distribution Center (DNDC) Entry

* * * * *

3.2 Eligibility

Pieces in a mailing that are deposited at a NDC or ASF under 2.0 and 3.0 are eligible for the DNDC price when the following conditions are met:

* * * * *

[Revise item 3.2b by adding a new last sentence as follows:]

b. * * * Product Samples must be palletized under 445.6.5 and 705.8.10.3.

* * * * *

4.0 Destination Sectional Center Facility (DSCF) Entry

* * * * *

4.2 Eligibility

Pieces in a mailing that meets the standards in 2.0 and 4.0 are eligible for the DSCF price, as follows:

[Revise item 4.2a by adding a new last sentence as follows:]

a. * * * Product Samples must be palletized under 445.6.5 and 705.8.10.3.

* * * * *

5.0 Destination Delivery Unit (DDU) Entry

* * * * *

5.2 Eligibility

Pieces in a mailing that meets the standards in 2.0 and 5.0 are eligible for the DDU price or DDU entry (as applicable) when deposited at a DDU, addressed for delivery within that facility's service area, and prepared as follows:

[Revise item 5.2a as follows:]

a. Marketing parcels eligible for and prepared as Product Samples in carrier route bundles, cartons, or sacks, and otherwise eligible for and claimed at a carrier route price under 443 and 445.

* * * * *

460 Bound Printed Matter

463 Prices and Eligibility

1.0 Prices and Fees for Bound Printed Matter

1.1 Nonpresorted Bound Printed Matter

* * * Apply the prices and discounts for nonpresorted Bound Printed Matter as follows:

* * * * *

[Delete current 1.1.3, Bound Printed Matter—Nonpresorted, in its entirety.]

[Renumber current 1.1.4 as new 1.1.3.]

* * * * *

465 Mail Preparation

* * * * *

[Delete current 7.0, Standards for Barcode Discounts, in its entirety.]

* * * * *

500 Additional Mailing Services

503 Extra Services

1.0 Extra Services for Express Mail

1.1 Available Services

* * * * *

1.1.2 Proof of Delivery

Proof of delivery information for Express Mail is available as follows:

[Revise the text of item 1.1.2a as follows:]

a. Individual requests by article number can be retrieved at *www.usps.com* or by calling 1–800–222–1811. A proof of delivery letter (signature data) is provided electronically via email or signature extract file as provided in 1.1.2b.

[Revise the text of item 1.1.2b. as follows:]

b. Bulk proof of delivery (7.0) is available only to mailers using Express Mail Manifesting service and is obtained in a signature extract file format.

* * * * *

2.0 Registered Mail

* * * * *

2.2 Basic Information about Registered Mail

* * * * *

2.2.5 Additional Services

[Revise the fourth sentence of 2.2.5 as follows:]

* * * Customers receiving bulk proof of delivery obtain signature data in a signature extract file format.* * *

* * * * *

5.0 Certificate of Mailing

* * * * *

5.1 Certificate of Mailing Fees

[Revise the text of 5.1 as follows:]

In addition to the correct postage, the applicable certificate of mailing fee must be paid for each article on Form 3817 or Form 3877 (5.2.3) and for duplicate copies (5.3.3). When postage evidencing indicia are used to pay the fee, they must bear the full numerical value of the amount paid in the imprint. See Notice 123—Price List.

* * * * *

5.4 Other Bulk Quantities—Certificate of Bulk Mailing

5.4.1 Certificate of Bulk Mailing Fees

[Revise 5.4.1 by adding a new last sentence as follows:]

* * * Mailers using Form 3606 with a permit imprint mailing also may pay certificate of mailing fees, at the time of mailing, using the same permit imprint.* * *

* * * * *

6.0 Return Receipt

* * * * *

6.2 Basic Information

* * * * *

6.2.1 Description

[Revise the second and fourth sentences of 6.2.1 as follows, and delete the current last two sentences of 6.2.1.]

* * * A mailer purchasing return receipt service at the time of mailing may choose to receive the return receipt by mail (Form 3811) or electronically (by email or by signature extract file format as provided in 7.0).* * * A mailer purchasing return receipt service after mailing will receive the proof of delivery record by email (electronic signature data) or by mail (Form 3811–A).* * *

* * * * *

6.2.3 Endorsement

[Revise the last sentence of 6.2.3 as follows:]

* * * No endorsement is required on mail for which electronic return receipt

service is requested or is provided in bulk in a signature extract file format.
* * * * *

6.3 Obtaining Service

* * * * *

6.3.2 After Mailing

[Revise last sentence of the introductory text as follows:]

* * * Mailers may request a delivery record by completing Form 3811–A, paying the appropriate fee in 6.1.1, and submitting the request to the appropriate office as follows:
* * * * *

6.3.3 Time Limit

[Revise the text of 6.3.3 as follows:]

A request for a return receipt after mailing must be submitted within 2 years from the date of mailing.
* * * * *

6.5 Requests for Delivery Information

6.5.1 Receipt Not Received

[Delete the current last sentence of 6.5.1]
* * * * *

7.0 Bulk Proof of Delivery

7.1 Description

[Revise the current second sentence of the introductory text of 7.1 as follows:]

* * * The proof of delivery records are sent in a signature extract file format.* * *
* * * * *

9.0 Adult Signature

* * * * *

9.2 Basic Information

9.2.1 Description

[Revise the current third sentence of the introductory text of 9.2.1 as follows:]

* * * The USPS maintains a record of delivery (which includes the recipient's signature) for 2 years.* * *
* * * * *

9.2.5 Confirmation of Delivery

Confirmation of delivery information for Adult Signature is available as follows:

[Revise the text of item 9.2.5a as follows:]

a. Information by article number can be retrieved at *www.usps.com* or by calling 800–222–1811. A proof of delivery letter may be provided electronically (see 9.2.5b) or by email.

[Revise the second sentence of item 9.2.5b as follows:]

b. * * * Customers receiving bulk proof of delivery obtain signature data in a signature extract file format.
* * * * *

[Revise the title of 11.0 as follows:]

11.0 USPS Tracking/Delivery Confirmation

[**Note:** *Make global change to DMM changing ''Delivery Confirmation'' to ''USPS Tracking/Delivery Confirmation.''*]
* * * * *

12.0 Signature Confirmation

* * * * *

12.2 Basic Information

12.2.1 Description

[Revise the second sentence of the introductory text of 12.2.1 as follows:]

* * *A delivery record, including the recipient's signature, is maintained by the USPS and is available electronically or by email, upon request.* * *
* * * * *

[Revise the title of 15.0 as follows:]

15.0 IMb Tracing

15.1.1 General Information

[Revise the text of 15.1.1 as follows:]

IMb Tracing is available at no charge without a subscription. Requirements for participation in IMb Tracing are the use of the Intelligent Mail barcode, the use of a Mailer Identifier that has been registered (via the Business Customer Gateway, accessible on *usps.com*) to receive scan data, and verification by the Postal Service that the Intelligent Mail barcode (IMb) as printed meets all applicable postal standards.

15.1.2 Description of Service

[Revise the text of 15.1.2 as follows:]

IMb Tracing provides a mailer with data electronically collected from the scanning of barcoded mailpieces as they pass through automated mail processing operations. Scanned data can include the postal facility where such pieces are processed, the postal operation used to process the pieces, the date and time when the pieces are processed, and the numeric equivalent of a barcode(s) that helps to identify the specific pieces. Any piece intended to generate scanned data must meet the physical characteristics and standards in 15.0, although not every piece is guaranteed such data or complete data. This service does not provide a delivery scan or proof of delivery.
* * * * *

15.2 Barcodes

15.2.1 General Barcode Requirements

[Revise the introductory text of 15.2.1 as follows:]

Each piece in a mailing that is intended to generate IMb Tracing information must bear an Intelligent Mail barcode under 15.2.2. Mailers must apply Intelligent Mail barcodes under 708.4.0 and the following standards:
* * * * *

600 Basic Standards for All Mailing Services

* * * * *

602 Addressing

* * * * *

3.0 Use of Alternative Addressing

* * * * *

3.2 Simplified Address

3.2.1 Conditions for General Use

The following conditions must be met when using a simplified address on commercial mailpieces:
* * * * *

[Revise the introductory text of item 3.2.1b as follows:]

b. Standard Mail, Periodicals, and Bound Printed Matter flat-size mailpieces (including Standard Mail pieces allowed as flats under 3.2.1c), Standard Mail Product Samples mailed at saturation (Every Door) prices, and Periodicals irregular parcels for distribution to a city route or to Post Office boxes in offices with city carrier service may bear a simplified address, but only when complete distribution is made under the following conditions:
* * * * *

4.0 Detached Address Labels (DALs) and Detached Marketing Labels (DMLs)

4.1 DAL and DML Use

* * * * *

[Revise the title and text of 4.1.3 as follows:]

4.1.3 Standard Mail Marketing Parcels—Product Samples

DALs or DMLs must be used with Standard Mail Marketing parcels mailed at targeted Product Sample prices and may be used with parcels mailed at saturation (Every Door) Product Sample prices.
* * * * *

4.3 Mail Preparation

* * * * *

4.3.2 Basic Standards for DALs

[Revise the fourth sentence of 4.3.2 as follows:]

* * * Mailers must prepare DALs as bundles placed in sacks or in cartons, unless prepared in trays under 4.3.7 when mailed with saturation flats or with Product Samples. * * *
* * * * *

4.3.3 Basic Standards for Items Distributed With DALs

[Revise the first sentence of 4.3.3 as follows:]

Except for bundles of saturation flats or Product Samples placed directly on pallets under 4.3.7, the items to be distributed with DALs must be placed in cartons or prepared in bundles placed in sacks, subject to the standards for the price claimed. * * *

* * * * *

4.3.6 Optional Tray and Bundle Preparation

[Revise the text of 4.3.6 as follows:]

Mailers may prepare DALs in letter trays according to 245.6.0 when DALs are used in mailings of saturation flats or Product Samples. Bundles of saturation flats and bundles of Product Sample parcels to be distributed with DALs may be prepared on 5-digit (and 5-digit scheme under L606 for parcels) pallets under 4.3.7. Do not use pallets when the Drop Shipment Product indicates the delivery unit that serves the 5-digit pallet destination cannot handle pallets. For such delivery units, mail with DALs must be prepared in cartons or sacks. The tray(s) of corresponding DALs must be placed on top of the accompanying pallet of flats, and the pallet contents must be secured with stretchwrap to avoid separation in transportation and processing. All containers must be labeled according to 4.3.5.

4.3.7 Optional Container Preparation

[Revise the text of 4.3.7 as follows:]

Bundles of flats, bundles of Product Samples, and cartons or sacks of items may be placed on pallets meeting the standards in 705.8.0. Cartons or trays of DALs must be placed on pallets with the corresponding items under 4.3 and 705.8.0. The USPS plant manager at whose facility a DAL mailing is deposited may authorize other containers for the portion of the mailing to be delivered in that plant's service area.

* * * * *

4.5 Postage

* * * * *

4.5.2 Postage Computation and Payment

* * * In addition, these methods of postage payment apply:

* * * * *

[Revise item 4.5.2c as follows:]

c. A surcharge applies to each DAL (including DMLs) used in a Standard Mail flats mailing and to each DAL (or DML) used with pieces mailed at Standard Mail Product Sample saturation parcel prices.

* * * * *

604 Postage Payment Methods

1.0 Stamps

1.1 Postage Stamp Denominations

Postage stamps are available in the following denominations:

[Revise the table in 1.1 as follows:]

Type and format	Denomination
Regular Postage:	
Panes	$0.01, .02, .03, .04, .05, .10, .20, .33, $1, $2, $5, $10. In addition, panes of stamps for the current First-Class Mail (FCM) single-piece 1-ounce letter price, FCM 2-ounce letter price, FCM 3-ounce letter price, Priority Mail flat-rate envelope price, and Express Mail flat-rate envelope price.
Booklets of 10 or 20 stamps	The current First-Class Mail single-piece 1-ounce letter price.
Coils of 50	The current First-Class Mail single-piece 1-ounce letter price.
Coils of 100	$0.20, .33, and the current First-Class Mail single-piece 1-ounce letter price.
Coils of 3,000	The current First-Class Mail single-piece 1-ounce letter price.
Coils of 10,000	$0.01, .02, .03, .04, .05, .10, and coils of the current First-Class Mail single-piece 1-ounce letter price.
Precanceled Presorted Price Postage—First-Class Mail and Standard Mail:	
Coils of 500, 3,000, and 10,000	Various nondenominated (available only to permit holders).
Commemoratives:	
Panes of up to 20 stamps and 20-stamp booklets.	The current First-Class Mail single-piece 1-ounce letter price and other denominations.
Semipostal:	
Breast Cancer Research & Save Vanishing Species.	Purchase price of $0.55; postage value equivalent to First-Class Mail single-piece 1-ounce letter price; remainder, minus reasonable costs incurred by the Postal Service, is contributed to fund specified causes.
Forever Stamp (Nondenominated):	
Panes of up to 20	The current First-Class Mail 1-ounce letter price.
20-Stamp Booklets	The current First-Class Mail 1-ounce letter price.
18-Stamp Sheetlets	The current First-Class Mail 1-ounce letter price.
Coils of 100	The current First-Class Mail 1-ounce letter price.

* * * * *

1.11 Additional Standards for Semipostal Stamps

Semipostal stamps are subject to the following special conditions:

* * * * *

[Revise item 1.11b as follows:]

b. The following semipostal stamps are available for sale:

1. The *Breast Cancer Research* semipostal stamp. The difference between the purchase price and the First-Class Mail single-piece first-ounce letter price in effect at the time of purchase constitutes a contribution to breast cancer research and cannot be used to pay postage. Funds (net of reasonable USPS costs) from the sale of the Breast Cancer Research semipostal stamp are transferred to the Department of Defense and the National Institutes of Health.

2. The *Save Vanishing Species*™ semipostal stamp. The difference between the purchase price and the First-Class Mail single-piece first-ounce letter price in effect at the time of purchase constitutes a contribution to the Multinational Species Conservation Funds. Funds (net of reasonable USPS costs) from the sale of the *Save Vanishing Species* semipostal stamps

are transferred to the United States Fish and Wildlife Service.

c. The postage value of each semipostal stamp is the First-Class Mail single-piece first-ounce letter price in effect at the time of purchase. Additional postage must be affixed to pieces weighing in excess of 1 ounce, pieces subject to the nonmachinable surcharge, or pieces for which extra services have been requested. The postage value of semipostal stamps purchased before any subsequent change in the First-Class Mail single-piece first-ounce letter price is unaffected by any subsequent change in that price. The purchase price is listed in 1.1.

* * * * *

5.0 Permit Imprint (Indicia)

* * * * *

5.4 Picture Permit Imprint Indicia

5.4.1 Description

[Revise the text of 5.4.1 as follows:]

Picture permit imprint indicia may contain business-related color images, such as corporate logos, brand, trademarks and other pictorial business images. These images are known as picture permit imprints. Picture permit imprints may be used to pay postage and extra service fees on commercial mailings of full-service automation First-Class Mail or Standard Mail postcards, letters, or flats.

* * * * *

5.4.5 Picture Permit Imprint Indicia Format

[Revise the introductory text of 5.4.5 as follows:]

As options to the basic format under 5.3.11 and if all other applicable standards in 5.0 are met, permit imprint indicia may be prepared in picture permit imprint format subject to these conditions:

* * * * *

[Revise item 5.4.5f as follows:]

f. Commercial mailings of First-Class Mail and Standard Mail postcards, letters or flats bearing picture permit indicia must be prepared as IMb full-service automation mailings under 705.24.0. Residual mailpieces that result from a mailer's normal preparation of the full-service IMb mailing also can be mailed bearing a picture permit imprint and not be paid at the full-service price.

* * * * *

608 Postal Information and Resources

* * * * *

8.0 USPS Contact Information

8.1 Postal Service

* * * * *

[Revise 8.1 by renaming the reference ''Post Office Accounting Manager, US Postal Service, 475 L'Enfant Plz SW Rm 8831, Washington DC 20260–5241'' as follows:]

Corporate Accounting Manager, US Postal Service, 475 L'Enfant PLZ SW RM 8831, Washington DC 20260–5241

* * * * *

[Revise 8.1 by replacing the address for reference ''National Customer Support Center, US Postal Service, 6060 Primacy Pkwy Ste 201, Memphis TN 38188–0001'' as follows:]

National Customer Support Center, US Postal Service, 225 N. Humphreys Blvd., Ste 501, Memphis, TN 38188–1001

* * * * *

[Revise 8.1 by renaming the reference ''Postage Technology Management, US Postal Service, 475 L'Enfant Plz SW Rm 3660, Washington DC 20260–4110'' as follows:]

Payment Technology, US Postal Service, 475 L'Enfant PLZ SW RM 3660, Washington DC 20260–4110

* * * * *

609 Filing Indemnity Claims for Loss or Damage

* * * * *

1.0 General Filing Instructions

* * * * *

1.5 Where To File

A claim may be filed:

[Revise item 1.5b by deleting the second sentence and revising the first sentence as follows:]

* * * * *

b. Online at www.usps.com/insuranceclaims/online.htm for domestic insured mail, Express Mail, COD and Registered Mail.

* * * * *

700 Special Standards

703 Nonprofit Standard Mail and Other Unique Eligibility

* * * * *

6.0 Official Mail (Franked)

6.1 Basic Information

* * * * *

[Renumber current 6.1.3 through 6.1.7 as new 6.1.4 through 6.1.8:]

[Add a new 6.1.3 as follows:]

6.1.3 Vice President-Elect

The Vice President-elect of the United States may send franked mail in connection with preparations for assuming official duties as Vice President. If the Vice President-elect is authorized/eligible to use penalty mail, the right to use penalty mail ceases immediately on inauguration to the vice presidency.

* * * * *

7.0 Official Mail (Penalty)

* * * * *

7.3 Eligibility

* * * * *

[Delete 7.3.5, Vice President-Elect, in its entirety]

* * * * *

7.4 Authorization

7.4.1 Authorized Agencies

[Add a new second sentence and revise the last sentence in 7.4.1 as follows:]

* * * New locations or departments under these agencies must obtain approval from the Agency Mail Manager before using penalty mail. Other agencies may request authorization to use penalty mail by writing to the Corporate Accounting Manager, USPS Headquarters (608.8.0).

* * * * *

7.4.4 Private Use

[Revise the first sentence of 7.4.4 as follows:]

Unless permitted by USPS standards, an agency may not lend or provide penalty envelopes, cards, cartons, labels, or meter stamps to any private person, concern, or organization.* * *

7.4.5 Permit and BRM Numbers

[Revise 7.4.5 as follows:]

Penalty mail permit imprint or BRM numbers, or information to help agencies track and account for penalty mail postage by cost center, may be obtained by written request to the Corporate Accounting manager, USPS Headquarters (608.8.0).

* * * * *

7.5 Services, Classes, Prices, Preparation, and Detention

* * * * *

7.5.3 Basic Preparation

Penalty mail must:

* * * * *

[Revise item 7.5.3d as follows:]

d. Be endorsed for class or price except for single-piece price First-Class Mail.

* * * * *

7.5.7 Military Units

Military units engaged in hostile operations or operating under arduous

conditions may be authorized to use a special form of postage-due penalty mail, subject to these conditions:

* * * * *

[Revise item 7.5.7e as follows:]

e. The Military Postal Service Agency must notify the Corporate Accounting manager, USPS Headquarters (608.8.0), within three business days after implementing these provisions.

* * * * *

7.5.9 Mail Detention

[Revise the second sentence of 7.5.9 as follows:]

* * * Reports of indicated abuse are submitted to the Pricing Classification Service Center (PCSC) (608.8.0) for referral to the proper agency for investigation and action.

7.6 General Standards for Penalty Indicia

7.6.1 General

[Revise 7.6.1 as follows:]

The formats and methods of mailing penalty mail are penalty metered mail, penalty permit imprint mail, penalty Periodicals imprint mail, and penalty reply mail. There are also special procedures for penalty Express Mail. All penalty mail matter must meet the applicable standards in 7.6 through 7.15.

7.6.2 Use

Envelopes and labels prepared under these standards may be used only to transmit penalty mail within the U.S. Mail, except when:

* * * * *

[Revise item 7.6.2c as follows:]

c. Agencies reach written agreement with the Corporate Accounting Manager, USPS Headquarters (608.8.0), to account for and pay postage on official items carried outside the U.S. Mail (18 USC 1693–1699 and 39 USC 601–606).

7.7 Penalty Meter

* * * * *

7.7.5 Refunds for Unused Penalty Meter Indicia

[Revise the first sentence of 7.7.5 as follows:]

Refunds for complete, legible, valid, unused penalty mail meter indicia are made under 604.9.0. * * *

* * * * *

7.7.10 Computerized Meter Resetting

[Revise the first sentence of 7.7.10 as follows:]

An agency may use a penalty mail version of the authorized postage meter payment process for remotely reset meters if it is offered by one of the USPS-authorized postage meter providers.* * *

* * * * *

7.8 Penalty Permit Imprint

7.8.1 Application

[Revise the fourth sentence of 7.8.1 as follows:]

* * * When the agency receives authorization to use a penalty permit imprint number, a Form 3615 must be submitted to the Post Office where mailings will be entered.* * *

* * * * *

7.8.5 GPO Contractor

An agency mailing submitted by a GPO contractor may contain nonidentical-weight pieces or more than one class of mail, if:

* * * * *

[Revise item 7.8.5c as follows:]

c. A completed postage statement appropriate for each class of mail is submitted to the entry Post Office for each mailing, in duplicate if the contractor wants a copy.

[Delete current item 7.8.5d and redesignate current item 7.8.5e as new item 7.8.5d.]

* * * * *

7.9 Penalty Postage Stationery

* * * * *

7.9.7 Exchanges

[Revise 7.9.7 as follows:]

Incorrectly shipped items or items damaged in shipping or defective or otherwise unserviceable may be exchanged as provided in 604.9.

* * * * *

7.12 Penalty Merchandise Return Service

* * * * *

7.12.4 Application

[Revise the first sentence of 7.12.4 as follows:]

An agency must apply by letter to the Corporate Accounting Manager, USPS Headquarters (608.8.0), to use merchandise return labels. * * *

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

2.0 Manifest Mailing System

* * * * *

2.3 Keyline

* * * * *

2.3.3 Price Category Abbreviations

* * * * *

b. Standard Mail:

Exhibit 2.3.3b Price Category Abbreviations—Standard Mail

[Revise the wording in the column headed ''PRICE CATEGORY'' in the block that corresponds to the CODE ''EH'' to read: ''Enhanced Carrier Route High Density or High Density Plus''.]

* * * * *

8.0 Preparing Pallets

* * * * *

8.10 Pallet Presort and Labeling

8.10.1 First-Class Mail—Letter or Flat Trays

* * * Preparation, sequence, and labeling:

* * * * *

[Revise the second sentence of the introductory paragraph of item 10.1b as follows:]

b. * * * Mailers may place AADC or ADC trays on origin SCF pallets when the tray's ''label to'' 3-digit ZIP Code (from L801 for AADC trays and L004 for ADC trays) is within the origin SCF's service area; and must place trays containing pieces paid at the single-piece price on origin SCF pallets, unless required to be presented separately by special postage payment authorization or customer service agreement (CSA).* * *

* * * * *

[Revise item 10.1b2 as follows:]

2. Line 2: ''FCM LTRS'' or ''FCM FLTS,'' followed by ''WKG.''

* * * * *

8.10.3 Standard Mail or Parcel Select Lightweight—Bundles, Sacks, or Trays

* * * * *

[Revise the current third sentence and add a new fourth sentence of the introductory text as follows:]

* * * For parcels, use this preparation only for irregular parcels in sacks or Marketing parcels prepared as Product Samples in carrier route bundles, sacks or cartons. For Product Samples, only 5-digit pallets under 8.10.3b and 3-digit pallets under 8.10.3d are allowed, and the pallets must be entered under DNDC or DSCF standards only. * * * Preparation sequence and labeling:

[Revise item 8.10.3a as follows:]

a. *5-digit scheme carrier routes, required,* permitted for bundles of flats only. Pallet must contain only carrier route bundles for the same 5-digit scheme under L001. Labeling:

1. Line 1: L001.

2. Line 2: ''STD'' followed by ''FLTS''; followed by ''CARRIER ROUTES'' (or

''CR–RTS''); followed by ''SCHEME'' (or ''SCH'').

[Revise item 8.10.3b as follows:]

b. *5-digit carrier routes, required except for trays,* permitted for bundles, sacks, trays, and cartons. Pallet must contain only carrier route mail for the same 5-digit ZIP Code. Labeling:

1. Line 1: City, state, and 5-digit ZIP Code destination (see 8.6.4c for overseas military mail).

2. Line 2: For flats and Marketing parcels (Product Samples only), ''STD FLTS'' or ''STD MKTG,'' as applicable; followed by ''CARRIER ROUTES'' (or ''CR–RTS''). For letters, ''STD LTRS''; followed by ''CARRIER ROUTES'' (or ''CR–RTS''); followed by ''BC'' if pallet contains barcoded letters; followed by ''MACH'' if pallet contains machinable letters; followed by ''MAN'' if pallet contains nonmachinable letters.

* * * * *

[Revise item 8.10.3d as follows:]

d. *3-digit, optional,* option not available for parcels other than Product Sample parcels or for bundles for 3-digit ZIP Code prefixes marked ''N'' in L002. Pallet may contain mail for the same 3-digit ZIP Code or the same 3-digit scheme under L008 (for automation-compatible flats only under 301.3.0). Three-digit scheme bundles are assigned to pallets according to the ''label to'' 3-digit ZIP Code in L008. Labeling:

1. Line 1: L002, Column A.

2. Line 2: For flats, ''STD'' followed by ''FLTS;'' followed by ''3D''; followed by ''BARCODED'' (or ''BC'') if pallet contains automation price mail; followed by ''NONBARCODED'' (or ''NBC'') if pallet contains carrier route and/or Presorted price mail. For letters, ''STD LTRS 3D''; followed by ''BC'' if pallet contains barcoded letters; followed by ''MACH'' if pallet contains machinable letters; followed by ''MAN'' if pallet contains nonmachinable letters. For Marketing parcels (Product Samples only), use ''STD MKTG.''

* * * * *

[Revise the introductory paragraph of item 10.3h as follows:]

h. *Mixed NDC, optional,* permitted for sacks and trays only. Pallet may contain carrier route, automation, and/or Presorted mail. Mailers must place trays and sacks containing pieces paid at the single-piece price on the mixed NDC pallet (unless required to be presented separately by special postage payment authorization). Labeling: * * *

* * * * *

[Add new item 26.0 as follows:]

26.0 Alaska Bypass Service

26.1 Prices

Alaska Bypass Service prices are calculated based on the zone to which the shipment is addressed and the weight of the shipment. See Notice123—Price List for prices.

26.2 Price Eligibility

Requirements for Alaska Bypass Service are provided in Handbook PO 508.

* * * * *

707 Periodicals

1.0 Prices and Fees

* * * * *

1.4 Fees

[Revise the text of 1.4 as follows:]

Periodicals fees are per application for original entry, news agent registry, and reentry. See Notice 123—Price List.

* * * * *

3.0 Physical Characteristics and Content Eligibility

* * * * *

3.2 Addressing

* * * * *

3.2.3 Return Address

[Revise the text of 3.2.3 as follows:]

The return address must appear on any mailing wrapper (see 3.3.7) of a publication with the optional ancillary service endorsement ''Address Service Requested'' and on any opaque wrapper of a publication. If a clear plastic wrapper is used on a publication endorsed ''Address Service Requested,'' the return address must appear visibly anywhere on the address side of the wrapper or the topmost item inside.

* * * * *

3.3.7 Mailing Wrapper

[Revise the first sentence of 3.3.7 as follows:]

A mailing wrapper is an envelope, sleeve, partial wrapper, polywrap, or carton used to enclose the mailpiece.* * *

* * * * *

3.6 Printed Features

3.6.1 Publication Title and Address Notice

[Revise the second and third sentences of 3.6.1 as follows:]

* * * On any publication enclosed in an opaque mailing wrapper, carton or any wrapper when the title of the publication is not prominently displayed through the wrapper or carton, the publication title and the mailing address to which undeliverable copies or change-of-address notices (see 4.12.5h) are to be sent must be shown in the upper left corner of the address side of the mailing wrapper (see 3.3.7). A publication with a clear wrapper and a prominently displayed publication title need not have the return mailing address on the wrapper unless required under 3.2.5.

3.6.2 Periodicals Imprint

[Revise the first sentence of 3.6.2 as follows:]

Mailing wrappers (see 3.3.7) that completely enclose the host publication must bear the Periodicals imprint ''Periodicals Postage Paid at * * *'' or the word ''Periodicals'' in the upper right corner of the address area.* * *

* * * * *

6.0 Qualification Categories

* * * * *

6.4 Requester Publications

6.4.1 Basic Standards

A publication, whether circulated free or to subscribers, may be authorized Periodicals prices if it meets the basic standards in 4.0 and:

[Revise item 6.4.1b as follows:]

b. Contains more than 75% advertising in no more than 25% of the issues published during any 12-month period.

* * * * *

[Revise the title and text of 30.0 as follows:]

30.0 Additional Mailing Offices

30.1 Basic Standards

30.1.1 Facility

The additional mailing office must be a Post Office.

30.1.2 Definition

Except for publications authorized an alternative payment method, the verification Post Office is also the office where Periodicals postage is paid.

30.1.3 Postage

Postage must be prepaid or available for all copies presented for verification at an additional mailing office before the mail can be released.

30.2 Additional Standards

Approved Periodicals publications may be mailed at any additional mailing office that is linked to *PostalOne!.* Publishers who wish to present Periodicals for verification at additional mailing offices without access to *PostalOne!* must file a PS Form 3510A application indicating that mailings will be presented at these offices. Publishers

of publications pending approval must submit PS Form 3510A applications with their original entry application for all mailing offices where mail will be submitted during the pending period.

* * * * *

708 Technical Specifications

1.0 Standardized Documentation for First-Class Mail, Periodicals, Standard Mail, and Flat-Size Bound Printed Matter

* * * * *

1.3 Price Level Column Headings

The actual name of the price level (or abbreviation) is used for column headings required by 1.2 and shown below:

* * * * *

c. Carrier Route Periodicals and Enhanced Carrier Route Standard Mail:

[Revise the table in 1.3c by adding a new third row as follows:]

Price	Abbreviation
* * * * *	
High Density Plus [Standard Mail only; letters and flats].	HDP

* * * * *

6.0 Standards for Barcoded Tray Labels, Sack Labels, and Container Placards

* * * * *

6.2 Specifications for Barcoded Tray and Sack Labels

* * * * *

6.2.4 3-Digit Content Identifier Numbers

* * * * *

Exhibit 6.2.4 3-Digit Content Identifier Numbers

* * * * *

STANDARD MAIL

ECR Letters—Barcoded

[Revise the second row, first column to read as follows:]

High density or high density plus price

* * * * *

ECR Letters—Nonautomation (Machinable)

[Revise the second row, first column to read as follows:]

High density or high density plus price

* * * * *

ECR Letters—Nonautomation (Nonmachinable)

[Revise the second row, first column to read as follows:

High density or high density plus price

* * * * *

Enhanced Carrier Route Flats—Nonautomation

[Revise the second row, first column to read as follows:]

High density or high density plus price sacks

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

* * * * *

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–30256 Filed 12–19–12; 8:45 am]

BILLING CODE 7710–12–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. CP2012–19, *et al.*]

Product List Update

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is updating the postal product lists. This action reflects the disposition of recent dockets, as reflected in Commission orders, and a publication policy adopted in a recent Commission order. The referenced policy assumes periodic updates. The updates are identified in the body of this document. The product lists, which are re-published in their entirety, include these updates.

DATES: *Effective Date:* December 20, 2012.

Applicability Dates: May 10, 2012 (First-Class Package Service Contract 1 (MC2012–11 and CP2012–19)); May 21, 2012 (Parcel Select & Parcel Return Contract 3) (MC2012–15 and CP2012–22); May 22, 2012 (Parcel Select Contract 2 (MC2012–16 and CP2012–23)); May 25, 2012 (First-Class Package Service Contract 2 (MC2012–18 and CP2012–24)); May 25, 2012 (First-Class Package Service Contract 3 (MC2012–19 and CP2012–25)); May 25, 2012, (First-Class Package Service Contract 4 (MC2012–20 and CP2012–26)); (First-Class Package Service Contract 5 (MC2012–21 and CP2012–27)); (First-Class Package Service Contract 6 (MC2012–22 and CP2012–28)); and (First-Class Package Service Contract 7 (MC2012–23 and CP2012–29)); (Parcel Select & Parcel Select & Parcel Return Service Contract 4 (MC2012–25 and CP2012–33)); (First-Class Package Service Contract 9 (MC2012–28 and CP2012–37)); and (Express Mail & Priority Mail Contract 9 (MC2012–29 and CP2012–38)).

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at *stephen.sharfman@prc.gov* or 202–789–6820.

SUPPLEMENTARY INFORMATION: This document identifies recent updates to the product lists, which appear as 39 CFR Appendix A to Subpart A of Part 3020—Mail Classification Schedule.[1] Publication of updated product lists in the **Federal Register** is consistent with the Postal Accountability and Enhancement Act (PAEA) of 2006.

Authorization. The Commission process for periodic publication of updates was established in Order No. 445, April 22, 2010.

Changes. Since publication of the product lists in the **Federal Register** on March 6, 2012 (77 FR 13198), the following changes to the competitive product list have been made:

1. Global Expedited Package Services—Non-published Rates 1 (MC2010–29 and CP2010–72), added November 22, 2010 (Order No. 593);
2. Parcel Return Service Contract 2 (MC2011–6 and CP2011–33), added December 2, 2010 (Order No. 602);
3. Global Plus 1B Contracts (MC2011–7, CP2011–39 and CP2011–40) and Global Plus 2B Contracts (MC2011–8, CP2011–41 and CP2011–42) added December 23, 2010 (Order Nos. 622 and 623);
4. Global Expedited Package Services—Non-published Rates 2 (MC2010–29 and CP2011–45), added December 30, 2010 (Order No. 630); and
5. Global Expedited Package Services—Non-published Rates 1 (MC2010–29 and CP2010–72), deleted December 30, 2010 (Order No. 630).

Updated product lists. The referenced changes to the competitive product list are included in the product lists following the Secretary's signature.

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure, Postal Service.

By the Commission.

Shoshana M. Grove,

Secretary.

For the reasons discussed in the preamble, the Postal Regulatory Commission amends chapter III of title

[1] Docket No. MC2012–16; and Docket No. CP2011–54.

39 of the Code of Federal Regulations as follows:

PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise Appendix A to Subpart A of Part 3020—Mail Classification Schedule to read as follows:

Appendix A to Subpart A of Part 3020—Mail Classification Schedule

Part A—Market Dominant Products

1000 Market Dominant Product List

First-Class Mail
- Single-Piece Letters/Postcards
- Bulk Letters/Postcards
- Flats
- Parcels
- Outbound Single-Piece First-Class Mail International
- Inbound Single-Piece First-Class Mail International

Standard Mail (Regular and Nonprofit)
- High Density and Saturation Letters
- High Density and Saturation Flats/Parcels
- Carrier Route
- Letters
- Flats
- Not Flat-Machinables (NFMs)/Parcels

Periodicals
- Within County Periodicals
- Outside County Periodicals

Package Services
- Single-Piece Parcel Post
- Inbound Surface Parcel Post (at UPU rates)
- Bound Printed Matter Flats
- Bound Printed Matter Parcels
- Media Mail/Library Mail

Special Services
- Ancillary Services
- International Ancillary Services
- Address Management Services
- Caller Service
- Change-of-Address Credit Card Authentication
- Confirm
- Customized Postage
- International Reply Coupon Service
- International Business Reply Mail Service
- Money Orders
- Post Office Box Service
- Stamp Fulfillment Services

Negotiated Service Agreements
- HSBC North America Holdings Inc. Negotiated Service Agreement
- Bookspan Negotiated Service Agreement
- Bank of America Corporation Negotiated Service Agreement
- The Bradford Group Negotiated Service Agreement
- Inbound International
- Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Market Dominant Services (MC2010–12 and R2010–2)
- The Strategic Bilateral Agreement Between United States Postal Service and Koninklijke TNT Post BV and TNT Postl pakketservice Benelux BV, collectively ''TNT Post'' and China Post Group–United States Postal Service Letter Post Bilateral Agreement (MC2010–35, R2010–5 and R2010–6)

Market Dominant Product Descriptions

First-Class Mail
- Single-Piece Letters/Postcards
- Bulk Letters/Postcards
- Flats
- Parcels
- Outbound Single-Piece First-Class Mail International
- Inbound Single-Piece First-Class Mail International

Standard Mail (Regular and Nonprofit)
- High Density and Saturation Letters
- High Density and Saturation Flats/Parcels
- Carrier Route
- Letters
- [Reserved for Product Description]
- Flats
- Not Flat-Machinables (NFMs)/Parcels

Periodicals
- Within County Periodicals
- Outside County Periodicals

Package Services
- Single-Piece Parcel Post
- Inbound Surface Parcel Post (at UPU rates)
- Bound Printed Matter Flats
- Bound Printed Matter Parcels
- Media Mail/Library Mail

Special Services
- Ancillary Services
- Address Correction Service
- Applications and Mailing Permits
- Business Reply Mail
- Bulk Parcel Return Service
- Certified Mail
- Certificate of Mailing
- Collect on Delivery
- Delivery Confirmation
- Insurance
- Merchandise Return Service
- Parcel Airlift (PAL)
- Registered Mail
- Return Receipt
- Return Receipt for Merchandise
- Restricted Delivery
- Shipper-Paid Forwarding
- Signature Confirmation
- Special Handling
- Stamped Envelopes
- Stamped Cards
- Premium Stamped Stationery
- Premium Stamped Cards
- International Ancillary Services
- International Certificate of Mailing
- International Registered Mail
- International Return Receipt
- International Restricted Delivery
- Address List Services
- Caller Service
- Change-of-Address Credit Card Authentication
- Confirm
- International Reply Coupon Service
- International Business Reply Mail Service
- Money Orders
- Post Office Box Service
- [Reserved for Product Description]

Negotiated Service Agreements
- HSBC North America Holdings Inc. Negotiated Service Agreement
- Bookspan Negotiated Service Agreement
- Bank of America Corporation Negotiated Service Agreement
- The Bradford Group Negotiated Service Agreement

Part B—Competitive Products

2000 Competitive Product List

Express Mail
- Express Mail
- Outbound International Expedited Services
- Inbound International Expedited Services
- Inbound International Expedited Services 1 (CP2008–7)
- Inbound International Expedited Services 2 (MC2009–10 and CP2009–12)
- Inbound International Expedited Services 3 (MC2010–13 and CP2010–12)
- Inbound International Expedited Services 4 (MC2010–37 and CP2010–126)

Priority Mail
- Priority Mail
- Outbound Priority Mail International
- Inbound Air Parcel Post (at non-UPU rates)
- Royal Mail Group Inbound Air Parcel Post Agreement
- Inbound Air Parcel Post (at UPU rates)

Parcel Return Service

Parcel Select

International
- International Priority Airlift (IPA)
- International Surface Airlift (ISAL)
- International Direct Sacks—M-Bags
- Global Customized Shipping Services
- Inbound Surface Parcel Post (at non-UPU rates)
- Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services (MC2010–14 and CP2010–13—Inbound Surface Parcel Post at Non-UPU Rates and Xpresspost-USA)
- International Money Transfer Service—Outbound
- International Money Transfer Service—Inbound
- International Ancillary Services
- Outbound International Expedited Services
- Inbound International Expedited Services
- Inbound International Expedited Services 1 (CP2008–7)
- Inbound International Expedited Services 2 (MC2009–10 and CP2009–12)
- Inbound International Expedited Services 3 (MC2010–13 and CP2010–12)
- Inbound International Expedited Services 4 (MC2010–37 and CP2010–126)

Priority Mail
- Priority Mail
- Outbound Priority Mail International
- Inbound Air Parcel Post (at non-UPU rates)
- Royal Mail Group Inbound Air Parcel Post Agreement
- Inbound Air Parcel Post (at UPU rates)

Parcel Return Service

Parcel Select

International
- International Priority Airlift (IPA)
- International Surface Airlift (ISAL)
- International Direct Sacks—M-Bags
- Global Customized Shipping Services
- Inbound Surface Parcel Post (at non-UPU rates)
- Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services (MC2010–14 and CP2010–13—Inbound Surface Parcel Post at Non-UPU Rates and Xpresspost-USA)

[FR Doc. 2012–30605 Filed 12–19–12; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0926; FRL–9763–4]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas and Permits for Major Stationary Sources Locating in Nonattainment Areas or the Ozone Transport Region

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Virginia Department of Environmental Quality (VADEQ). These revisions allow the terms and conditions of various elements of the preconstruction program in Virginia to be combined into a single permit, establish limitations for issuance of Plantwide Applicability Limits (PALs), provide clarification to the exemption to Virginia's permitting rules regarding the use of alternate fuels and make minor administrative amendments. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on January 22, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2011–0926. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Gerallyn Duke, (215) 814–2084, or by email at *duke.gerallyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On September 7, 2012 (77 FR 55168), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of amendments to Virginia's Prevention of Significant Deterioration (PSD) and nonattainment New Source Review (NSR) programs to allow the terms and conditions of various elements of the preconstruction permit program in Virginia to be combined into a single permit, establish limitations for issuance of Plantwide Applicability Limits (PALs), and clarify exemptions to Virginia's permitting rules regarding the use of alternate fuels. The formal SIP revision was submitted by Virginia on September 27, 2010.

The SIP revision will allow preconstruction permits for major stationary sources to be combined into one permit with certain restrictions and conditions. Each action to combine permit terms and conditions must include a statement referencing the origin of each term or condition in the combined permit, its effective date and whether it is state and/or Federally enforceable. All terms and conditions of contributing permits must be included in the combined permit without change, with certain exceptions, and the combined permit will supersede the contributing permit.

In addition, the SIP revision establishes state operating permits as the sole mechanism for issuing PAL permits. On December 31, 2002 (67 FR 80186), EPA published final rule changes to 40 CFR parts 51 and 52 regarding the CAA's PSD and nonattainment NSR programs that are collectively known as NSR Reform. These changes included provisions that would allow major stationary sources to comply with a PAL to avoid having a significant emissions increase that triggers the requirements of the major NSR program. The proposed SIP revision would limit establishing PALs to state operating permits and no longer allow PALs to be established through major or minor NSR permits.

In 2008, the Virginia General Assembly amended Va. Code Sec. 10.1322.4 to allow exemptions for alternative fuels and raw materials from permit requirements. The SIP revision updates and restructures the exemptions to ensure that there are no conflicts between the Virginia Code and Federal regulations, including the SIP.

II. Summary of SIP Revision

This SIP revision consists of revisions to the VADEQ regulations at 9VAC5 Chapter 80, Article 8 (Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas) and Article 9 (Permits for Major Stationary Sources and Modifications Locating in Nonattainment Areas or the Ozone Transport Region). The following regulations under Article 8 are revised: 5–80–1615 (Definitions), 5–80–1625 (General), 5–80–1695 (Exemptions), 5–80–1925 (Changes to permits), 5–80–1935 (Administrative permit amendments), 5–80–1945 (Minor permit amendments), 5–80–1955 (Significant amendment procedures), and 5–80–1965 (Reopening for cause). Under Article 9, Regulations 5–80–2010 (Definitions), 5–80–2020 (General), 5–80–2140 (Exemptions), 5–80–2200 (Changes to permits), 5–80–2210 (Administrative permit amendments), 5–80–2220 (Minor permit amendments), 5–80–2230 (Significant amendment procedures) and 5–80–2240 (Reopening for cause) are amended. Under Article 8, Regulation 5–80–1915 (Actions to combine permit terms and conditions) is added and under Article 9, Regulation 5–80–2195 (also called ''Actions to combine permit terms and conditions'') is added.

EPA is approving Virginia's SIP submission dated September 27, 2010 that consists of the following actions that pertain to Virginia's PSD and nonattainment NSR Programs: (1) Adding provisions to allow the terms and conditions of the various elements of the NSR Program to be combined into a single permit; (2) establishing state operating permits as the sole mechanism for issuing PALs; (3) clarifying certain exemptions from permitting for alternative fuels to ensure no conflict with federal law and regulation; and (4) making minor administrative amendments.

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

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the

Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

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

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

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

Other specific requirements of the regulations and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

IV. Final Action

EPA is approving the September 27, 2010 SIP submission pertaining to Virginia's PSD and nonattainment NSR programs.

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 19, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action

regarding Virginia's PSD and NSR permit programs may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 10, 2012.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by:

■ a. Revising the entries for Chapter 80, Sections 5–80–1615, 5–80–1625, and 5–80–1695.

■ b. Adding an entry for Chapter 80, Section 5–80–1915, after the existing entry for 5–80–1865.

■ c. Revising the entries for Chapter 80, Sections 5–80–1925, 5–80–1945, 5–80–1955, 5–80–1965, 5–80–2010, 5–80–2020, and 5–80–2140.

■ d. Adding an entry for Chapter 80, Section 5–80–2195, after the existing entry for 5–80–2190.

■ e. Revising the entries for Chapter 80, Sections 5–80–2200, 5–80–2210, 5–80–2220, 5–80–2230, and 5–80–2240.

The amendments read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
9 VAC 5, Chapter 80 Permits for Stationary Sources [Part VIII]				
*	*	*	*	*
Article 8 Permits—Major Stationary Sources and Major Modifications Located in Prevention of Significant Deterioration Areas				
*	*	*	*	*
5–80–1615	Definitions	7/23/09	12/20/12 [Insert page number where the document begins].	Revised 2 terms.
5–80–1625	General	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
*	*	*	*	*
5–80–1695	Exemptions	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
*	*	*	*	*
5–80–1915	Actions to combine permit terms and conditions.	7/23/09	12/20/12 [Insert page number where the document begins].	New.
5–80–1925	Actions to change permits	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
*	*	*	*	*
5–80–1945	Minor permit amendments	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
5–80–1955	Significant amendment procedures.	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
5–80–1965	Reopening for cause	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
*	*	*	*	*
Article 9 Permits—Major Stationary Sources and Major Modifications Located in Nonattainment Areas or the Ozone Transport Region				
*	*	*	*	*
5–80–2010	Definitions	7/23/09	12/20/12 [Insert page number where the document begins].	Revised 2 terms.
5–80–2020	General	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
5–80–2140	Exemptions	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
*	*	*	*	*
5–80–2195	Actions to combine permit terms and conditions.	7/23/09	12/20/12 [Insert page number where the document begins].	New.
5–80–2200	Actions to change permits	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
5–80–2210	Administrative permit amendments.	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
5–80–2220	Minor permit amendments	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
5–80–2230	Significant amendment procedures.	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
5–80–2240	Reopening for cause	7/23/09	12/20/12 [Insert page number where the document begins].	Revised.
*	*	*	*	*

* * * * *

[FR Doc. 2012–30585 Filed 12–19–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0805; EPA–HQ–OAR–2009–0491; FRL–9763–3]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Infrastructure SIP Requirements for the 2006 $PM_{2.5}$ NAAQS; Revisions to FIPs To Reduce Interstate Transport of $PM_{2.5}$ and Ozone; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects errors in the codification of final rules published on July 13, 2011, August 8, 2011, February 21, 2012, and October 29, 2012. The July 13, 2011, and October 29, 2012, actions pertain to State Implementation Plan (SIP) submissions by Illinois regarding the infrastructure requirements of the Clean Air Act (CAA) for the 1997 eight-hour ground level ozone national ambient air quality standards (NAAQS), the 1997 fine particle ($PM_{2.5}$) NAAQS, and the 2006 24-hour $PM_{2.5}$ NAAQS. The August 8, 2011, and February 21, 2012, actions pertain to Federal Implementation Plans (FIPs) to reduce interstate transport of $PM_{2.5}$ and ozone.

DATES: This correcting amendment is effective on December 20, 2012.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–8328, or by email at *panos.christos@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 8, 2011, (76 FR 48208), EPA published FIPs to reduce interstate transport of $PM_{2.5}$ and ozone. It codified the regulation, ''Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?'', at 40 CFR 52.745. In so doing, EPA had not realized that this section had already been reserved by a previous rulemaking action, titled ''Section 110(a)(2) Infrastructure Requirements,'' and created on July 13, 2011, (76 FR 41075). EPA attempted to correct this error on February 21, 2012, (77 FR 10324). What resulted, however, is that the interstate pollutant transport provision disappeared entirely.

We are now correcting this error by codifying the provision titled ''Section 110(a)(2) Infrastructure Requirements'' at 40 CFR 52.745; and codifying the provision titled ''Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?'' at 40 CFR 52.731. As a result of this correction, the rulemaking action published on October 29, 2012, (77 FR 65478) is now codified at 40 CFR 52.745.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 et seq), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a

substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) 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. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq).

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of December 20, 2012. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to 40 CFR 52 for Illinois is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

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

Dated: December 10, 2012.

Susan Hedman,

Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, title 40, chapter I of the Code of the Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

§ 52.731 [Redesignated as § 52.745]

■ 2. Redesignate § 52.731 as § 52.745.

■ 3. A new § 52.731 is added to read as follows:

§ 52.731 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?

(a)(1) The owner and operator of each source and each unit located in the State of Illinois and for which requirements are set forth under the TR NO_X Annual Trading Program in subpart AAAAA of part 97 of this chapter must comply with such requirements. The obligation to comply with such requirements will be eliminated by the promulgation of an approval by the Administrator of a revision to Illinois' State Implementation Plan (SIP) as correcting the SIP's deficiency that is the basis for the TR Federal Implementation Plan under § 52.38(a), except to the extent the Administrator's approval is partial or conditional.

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, if, at the time of the approval of Illinois' SIP revision described in paragraph (a)(1) of this section, the Administrator has already started recording any allocations of TR NO_X Annual allowances under subpart AAAAA of part 97 of this chapter to units in the State for a control period in any year, the provisions of subpart AAAAA of part 97 of this chapter authorizing the Administrator to complete the allocation and recordation of TR NO_X Annual allowances to units in the State for each such control period shall continue to apply, unless provided otherwise by such approval of the State's SIP revision. (b)(1) The owner and operator of each source and each unit located in the State of Illinois and for which requirements are set forth under the TR NO_X Ozone Season Trading Program in subpart BBBBB of part 97 of this chapter must comply with such requirements. The obligation to comply with such requirements will be eliminated by the promulgation of an approval by the Administrator of a revision to Illinois' State Implementation Plan (SIP) as correcting the SIP's deficiency that is the basis for the TR Federal Implementation Plan under § 52.38(b), except to the extent the Administrator's approval is partial or conditional.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, if, at the time of the approval of Illinois' SIP revision described in paragraph (b)(1) of this section, the Administrator has already started recording any allocations of TR NO_X Ozone Season allowances under subpart BBBBB of part 97 of this chapter to units in the State for a control period in any year, the provisions of subpart BBBBB of part 97 of this chapter authorizing the Administrator to complete the allocation and recordation of TR NO_X Ozone Season allowances to units in the State for each such control period shall continue to apply, unless provided otherwise by such approval of the State's SIP revision.

[FR Doc. 2012–30533 Filed 12–19–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2012–0537; FRL–9762–9]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Delaware County (Muncie), Indiana Ozone Maintenance Plan Revision to Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving Indiana's request to revise the Delaware County (Muncie), Indiana 1997 8-hour ozone maintenance State Implementation Plan (SIP) by replacing the previously approved motor vehicle emissions budgets (budgets) with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) emissions model. EPA proposed approval on October 26, 2012, and did not receive any public comments on the proposal.

DATES: This final rule is effective on January 22, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2012–0537. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the 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 Patricia Morris, Environmental Scientist, at (312) 353–8656 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656, *morris.patricia@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. What is the background for this action?

On June 15, 2012, Indiana submitted replacement budgets based on MOVES2010a for Delaware County, Indiana. This SIP revision replaces MOBILE6.2-based approved budgets in the 1997 8-hour ozone maintenance plan for Delaware County, Indiana with MOVES2010a-based budgets. Indiana supplemented the SIP revision request on August 17, 2012. The August 17, 2012, submittal letter with the state public comment documentation completed the requirements for the SIP submittal.

On October 26, 2012, EPA proposed to approve the Indiana SIP revision (see 77 FR 65341). Additional information for today's action is contained in EPA's October 26, 2012, proposal.

The MOVES model is EPA's state-of-the-art tool for estimating highway emissions. The model is based on analyses of millions of emission test results and considerable advances in the agency's understanding of vehicle emissions. MOVES incorporates the latest emissions data, more sophisticated calculation algorithms, increased user flexibility, new software design, and significant new capabilities relative to those reflected in MOBILE6.2.

Under section 176(c) of the Clean Air Act (CAA), transportation plans, Transportation Improvement Programs (TIPs), and transportation projects must ''conform'' to (i.e., be consistent with) the SIP before they can be adopted or approved. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS or delay an interim milestone. The transportation conformity regulations can be found at 40 CFR parts 51 and 93. The Delaware County, Indiana area must use the updated budgets to demonstrate transportation conformity.

States that revise their existing SIPs to include MOVES budgets must show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions contained in the budgets. The transportation conformity rule (40 CFR 93.118(e)(4)(iv)) requires that ''the motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to the given implementation plan submission).''

EPA has determined, based on its evaluation, that the area's maintenance plan continues to serve its intended purpose with the MOVES2010a-based budgets and that the budgets themselves meet the adequacy criteria in the conformity rule at 40 CFR 93.118(e)(4). The basis for this conclusion is contained in the proposed approval (77 FR 65341).

On the effective date of EPA's approval of the submitted budgets, the budgets must be used by local, state and Federal agencies in determining whether transportation activities conform to the SIP as required by section 176(c) of the CAA.

II. What public comments were received?

The State public comment period ended on July 18, 2012. The State offered to hold a public hearing on request but one was not requested. The State received no public comments during the comment period.

EPA also had a public comment period on the proposal. The public comment period closed on November 26, 2012. EPA received no comments during the public comment period.

III. What action is EPA taking?

EPA is approving new MOVES2010a-based budgets for the Delaware County, Indiana 1997 ozone maintenance area because the submitted budgets should continue to keep emissions below the attainment level and maintain air quality. On the effective date of this rulemaking, the submitted MOVES2010a-based budgets will replace the existing, MOBILE6.2-based budgets in the State's 1997 8-hour ozone maintenance plan and will be used in future transportation conformity analyses for the area. The previously approved MOBILE6.2-based budgets will no longer be applicable for transportation conformity purposes. The table below shows the MOVES budgets for Delaware County, Indiana for the year 2015. These are the budgets that are being approved.

MOTOR VEHICLE EMISSION BUDGETS FOR DELAWARE COUNTY, INDIANA

[MOVES-Based Onroad Emissions]

Year	2015
Nitrogen oxides tons/day	7.02
Volatile organic compounds tons/day	2.53

IV. Statutory and Executive Order Reviews

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

those imposed by state law. For that reason, this action:

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 19, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 10, 2012.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. The table in § 52.770 paragraph (e) is amended by adding an entry in alphabetical order for ''Muncie 1997 8-hour ozone maintenance plan'' to read as follows:

§ 52.770 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
* * *	*	* * *	* *
Muncie 1997 8-hour ozone maintenance plan.	.....	12/20/12 [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	Revision to motor vehicle emission budgets.
* * *	*	* * *	* *

■ 3. Section 52.777 is amended by redesignating the existing paragraph (cc) as paragraph (cc)(1) and by adding paragraph (cc)(2) to read as follows:

§ 52.777 Control Strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(cc) * * *

(2) Approval—On August 17, 2012, Indiana submitted a request to revise the approved MOBILE6.2 motor vehicle emission budgets (budgets) in the 1997 8-hour ozone maintenance plan for the Delaware County (Muncie), Indiana area. The budgets are being revised with budgets developed with the MOVES2010a model. The 2015 budgets for Delaware County, Indiana are 2.53 tons per day volatile organic compounds (VOCs) and 7.02 tons per day nitrogen oxides (NO_X).

* * * * *

[FR Doc. 2012–30439 Filed 12–19–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0444; FRL–9760–9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects an error in the rule language of a final rule pertaining to EPA's approval of the revised motor vehicle emissions budgets (MVEBs) for the Fredericksburg 8-Hour Ozone Maintenance Area (Fredericksburg Area). The previous rulemaking updated the 2009 and 2015 MVEBs using EPA's Motor Vehicle Emissions Simulator emissions model (MOVES2010a).

DATES: This correcting amendment is effective December 20, 2012 and is applicable beginning November 28, 2012.

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

SUPPLEMENTARY INFORMATION: On October 29, 2012 (77 FR 65490), EPA published a final rulemaking action announcing approval of updated MVEBs for the Fredericksburg Area. The document inadvertently removed historical information in section 52.2420(e) concerning the underlying 8-Hour Ozone Maintenance Plan for the Fredericksburg Area. The document also listed incorrect emissions budgets in section 52.2424(c) for the Fredericksburg Area. This action corrects these oversights.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a significant regulatory action and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 Fed. Reg. 28355 (May 22, 2001)). Because the agency has made a good cause finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) 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. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of November 28, 2012. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to 40 CFR 52.2424 for the Commonwealth of Virginia is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

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

Accordingly, in 40 CFR part 52, the following correcting amendments are made:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart VV—Virginia

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

§ 52.2420 Identification of plan.

* * * * *

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

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	*	*	* *	*
8-Hour Ozone Maintenance Plan for the Fredericksburg Area.	City of Fredericksburg, Spotsylvania County, and Stafford County.	5/4/05	12/23/05, 70 FR 76165.	
	.....	9/26/11	12/20/12 [*Insert page number where the document begins*].	Revised 2009 and 2015 motor vehicle emission budgets for NO_X.
* *	*	*	* *	*

■ 3. Section 52.2424 paragraph (c) is revised to read as follows:

§ 52.2424 Motor vehicle emissions budgets.

* * * * *

(c) EPA approves the following revised 2009 and 2015 motor vehicle emissions budgets (MVEBs) for the Fredericksburg 8-Hour Ozone Maintenance Area submitted by the Virginia Department of Environmental Quality (VADEQ) on September 26, 2011:

Applicable geographic area	Year	Tons per day (TPD) NO_X
Fredericksburg Area (Spotsylvania and Stafford Counties and City of Fredericksburg)	2009	19.615
Fredericksburg Area (Spotsylvania and Stafford Counties and City of Fredericksburg)	2015	12.933

Dated: November 27, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–30103 Filed 12–19–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–0AR–2011–1004; FRL–9676–3]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Motor Vehicle Inspection and Maintenance Program—Deletion of Final Enhanced Inspection and Maintenance Emission Cutpoint Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision that was submitted by the State of Colorado on August 8, 2006. The August 8, 2006, revision updates Regulation Number 11, ''Motor Vehicle Emissions Inspection Program,'' by removing the light duty vehicle emission testing limits that went into effect on January 1, 2006, for 1996 and newer model year vehicles. This action is being taken under section 110 of the Clean Air Act.

DATES: *Effective Date:* This final rule is effective January 22, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2011–1004. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Rebecca Russo, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number (303) 312–6757, fax number (303) 312–6064, or email *russo.rebecca@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, the following definitions apply:

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

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

(iii) The initials *NAAQS* mean national ambient air quality standard.

(iv) The initials *ppb* mean parts per billion.

(v) The initials *SIP* mean or refer to State Implementation Plan.

(vi) The words *State* or *Colorado* mean the State of Colorado, unless the context indicates otherwise.

Table of Contents

I. Background

On January 12, 2012, EPA published a proposed rule in the **Federal Register** in which we proposed approval of a State Implementation Plan (SIP) revision that was submitted by the State of Colorado on August 8, 2006, and provided an opportunity for public comment through February 13, 2012 (see 77 FR 1892). The SIP revision updates Colorado's Regulation Number 11, ''Motor Vehicle Emissions Inspection Program,'' by removing the light duty vehicle emission testing

limits that went into effect on January 1, 2006, for 1996 and newer model year vehicles. We did not receive any comments in response to our January 12, 2012, proposed rule.

II. What is the purpose of this action?

In this action, EPA is approving a revision to Colorado's Regulation Number 11 (hereafter ''Regulation No. 11''), ''Motor Vehicle Emissions Inspection Program.'' This revision removes the light duty vehicle emission testing limits (or ''cutpoints'') that went into effect on January 1, 2006 (hereafter referred to as the ''2006 cutpoints''), for 1996 and newer model year vehicles.[1] The emission testing limits that went into effect on January 1, 2003, under Regulation No. 11 (hereafter referred to as the ''2003 cutpoints'') will continue to be federally enforceable. Under Regulation No. 11, a vehicle whose emissions exceed the applicable emissions cutpoints during an IM240 emissions test will fail the test and must be repaired and re-inspected.[2]

The 2006 cutpoints were 0.60 grams per mile for hydrocarbons (HC), 10.0 grams per mile for carbon monoxide (CO), and 1.5 grams per mile for oxides of nitrogen (NO_X). The 2003 cutpoints are 1.2 grams per mile for HC, 20 grams per mile for CO, and 3.0 grams per mile for NO_X. We have determined that it was reasonable for the State to remove the 2006 cutpoints from Regulation No. 11. Our rationale was provided in our proposed rule (see 77 FR 1892, January 12, 2012) and is also included below for the reader's convenience. This revision to Regulation No. 11 will be part of the federally enforceable SIP for Colorado under the Clean Air Act (CAA).

[1] We note that the State never implemented the 2006 cutpoints. However, EPA approved them as part of Regulation No. 11, and they have been federally enforceable.

[2] A motor vehicle inspection and maintenance (I/M) program is a control measure that is sometimes used in SIPs to reduce emissions of certain air pollutants. Today's cars are dependent on properly functioning emission control systems to keep pollution levels low. I/M programs can identify problem cars and ensure that cars are properly maintained. Through Regulation No. 11, the state of Colorado operates an enhanced I/M program, relying mainly on an IM240 inspection test. The IM240 test is a chassis dynamometer test used for emission testing of light duty vehicles. It is a short, 240 second test representing a 1.96 mile route. Under Regulation No. 11, a vehicle whose emissions exceed the applicable emissions cutpoints during an IM240 emissions test will fail the test and must be repaired and re-inspected. Colorado operates an enhanced, IM240 test program in the following counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson (Denver metropolitan area). In addition, the State operates an enhanced program in Larimer and Weld Counties, but as a State-only (not Federally enforceable) requirement.

III. What is the State's process to submit SIP revisions to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires states to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to us. The Colorado Air Quality Control Commission (AQCC) held a public hearing on the revision to Regulation No. 11 on November 17, 2005. The AQCC adopted the revision to Regulation No. 11 directly after the hearing. This SIP revision became State effective on January 30, 2006, and the Governor submitted it to us on August 8, 2006.

We have evaluated the Governor's submittal for Regulation No. 11 and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA.

IV. EPA's Evaluation of the State's August 8, 2006, Submittal

We have reviewed the revision to Regulation. No. 11 that the State submitted on August 8, 2006 and find that our approval is warranted. We note that we are only acting on the State's revision to Regulation No. 11, Part F ''Maximum Allowable Emissions Limits for Motor Vehicle Exhaust, Evaporative and Visible Emissions for Light-Duty and Heavy Duty Vehicles,'' section III.A.2. On August 17, 2007, EPA approved other revisions to Regulation No. 11 that the State had adopted on November 17, 2005 (see 72 FR 46148). We describe the basis for our approval below:

Basis for EPA's Approval: The State Did Not Need the 2006 Cutpoints To Attain the 1997 8-Hour (80 ppb) Ozone NAAQS

The metro-Denver/North Front Range (''NFR'') area was designated as nonattainment for the 1997 8-hour (80 ppb) ozone NAAQS on November 20, 2007 (see 72 FR 53952, September 21, 2007). As a result of this nonattainment designation, Colorado was required to submit a dispersion modeled attainment demonstration that demonstrated attainment of the ozone NAAQS by the end of the ozone season in 2010. The State submitted a dispersion modeled attainment demonstration SIP revision on June 18, 2009 that demonstrated attainment by the end of the 2010 ozone season. EPA approved the State's June 18, 2009, SIP revision on August 5, 2011 (see 76 FR 47443). In its attainment demonstration for the 80 ppb 8-hour ozone NAAQS, the State modeled the 2003 cutpoints, not the 2006 cutpoints. We also note that monitored ambient air quality data from 2008 through 2010 reflect that the metro-Denver/NFR area attained the 80 ppb 8-hour ozone NAAQS in 2010 without the implementation of the 2006 cutpoints.[3] In addition, based on preliminary 8-hour ozone data from 2011, the area continues to demonstrate attainment of the 80 ppb 8-hour ozone NAAQS.

Because the 2006 cutpoints have not been necessary for the area to attain the 80 ppb 8-hour ozone NAAQS, we are approving the State's removal of the 2006 cutpoints from Regulation No. 11.

V. Consideration of Section 110(l) of the Clean Air Act

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. EPA has concluded that the above-described revision to Regulation No. 11 will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA. This revision to Regulation No. 11 will not adversely affect the approved maintenance plans for Metro-Denver and Longmont for carbon monoxide (see 72 FR 46148, August 17, 2007), Metro-Denver for PM_{10} (see 72 FR 62571, November 6, 2007), or Greeley for carbon monoxide (see 70 FR 48650), or the approved attainment plan for Metro-Denver/NFR for the 1997 8-hour (80 ppb) ozone standard (see 76 FR 47443, August 5, 2011). For each of these areas and pollutants, the State demonstrated maintenance or attainment of the relevant NAAQS assuming either the complete absence of an I/M program or the implementation of the 2003 cutpoints.

VI. Final Action

EPA is approving the revision to Regulation No. 11 that the State of Colorado submitted on August 8, 2006. The revision removes from Regulation No. 11, part F, section III.A.2, the light duty vehicle emission testing limits that went into effect on January 1, 2006.

[3] The State never implemented the 2006 cutpoints.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 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 Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

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

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

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

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 19, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: April 30, 2012.

James B. Martin,

Regional Administrator, Region 8.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart G—Colorado

■ 2. Section 52.320 is amended by adding two sentences to the end of paragraph (c)(107)(i)(C) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(107) * * *

(i) * * *

(C) * * * On August 8, 2006, Colorado submitted revisions to Colorado's Regulation Number 11—Motor Vehicle Emissions Inspection Program, part F, section III.A.2, that EPA approved and that superseded the version of section III.A.2 that EPA incorporated by reference in this paragraph. See § 52.329(f).

* * * * *

■ 3. Add paragraph (f) to § 52.329 to read as follows:

§ 52.329 Rules and regulations.

* * * * *

(f) On August 8, 2006, Dennis E. Ellis, Executive Director of the Colorado Department of Public Health and Environment, and on behalf of the Governor, submitted revisions to 5 CCR 1001–13, Colorado's Regulation Number 11—Motor Vehicle Emissions Inspection Program, part F, section III.A.2. These revisions removed from Colorado's Regulation Number 11 the light duty vehicle emission testing limits that went into effect on January 1, 2006 for 1996 and newer model year vehicles. These revisions were adopted on November 17, 2005, and became state-effective on January 30, 2006. The revised version of section III.A.2, as approved by EPA, reads as follows:

(1) The following emissions standards shall apply to those tests performed on model year 1996 and newer vehicles, on and after January 1, of the dates specified:

Calendar year	HC	CO	NO_X
2002	1.2	20	3.0
2003	1.2	20	3.0

[FR Doc. 2012–30442 Filed 12–19–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2012–0842; FRL–9372–8]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under

the Toxic Substances Control Act (TSCA) for 9 chemical substances which were the subject of premanufacture notices (PMNs). This action requires persons who intend to manufacture, import, or process any of these 9 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This rule is effective on February 19, 2013. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on January 3, 2013.

Written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs must be received on or before January 22, 2013 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**). If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register**.

For additional information on related reporting requirement dates, see Units I.A., VI., and VII. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0842, 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–2012–0842. 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–2012–0842. 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: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers, importers, or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after January 22, 2013 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What action is the agency taking?

EPA is promulgating these SNURs using direct final procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs. Additional rationale and background to these rules are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** issue of April 24, 1990 (55 FR 17376) (April 24, 1990 SNUR). Consult that preamble for further information on the objectives, rationale, and procedures for SNURs and on the basis for significant new use designations, including provisions for developing test data.

B. What is the agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Persons who must report are described in § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the 9 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for 9 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the SNUR.
- Toxicity concerns.
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VIII. for more information).
- CFR citation assigned in the regulatory text section of this rule.

The regulatory text section of this rule specifies the activities designated as significant new uses. Certain new uses, including production volume limits (i.e., limits on manufacture and importation volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

This rule includes SNURs on 9 PMN substances that are not subject to consent orders under TSCA section 5(e). In these cases, for a variety of reasons, EPA did not find that the use scenario described in the PMN triggered the determinations set forth under TSCA section 5(e). However, EPA does believe that certain changes from the use scenario described in the PMN could result in increased exposures, thereby constituting a ''significant new use.'' These so-called ''non-5(e) SNURs'' are promulgated pursuant to § 721.170. EPA has determined that every activity designated as a ''significant new use'' in all non-5(e) SNURs issued under § 721.170 satisfies the two requirements stipulated in § 721.170(c)(2), i.e., these significant new use activities, ''(i) are

different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and (ii) may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified'' for the PMN substance.

PMN Number P–09–107

Chemical name: Fatty acids, tall-oil, reaction products with modified fatty acids and polyalkanolamines (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as an asphalt emulsifier. Based on test data on the PMN substance, and ecological structural activity relationships (EcoSAR) analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 110 parts per billion (ppb) of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations that exceed 110 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 110 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400) and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10629.

PMN Numbers P–11–619 and P–11–620

Chemical name: Amino acid, carboxyalkyl, alkylsulfonate, alkali salts (generic).

CAS number: Not available.

Basis for action: The consolidated PMN states that the generic (non-confidential) use of the substances will be as an industrial cleaning solution component. Based on test data on the PMN substances and EcoSAR analysis of test data on analogous polyanionic monomers, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 770 ppb for the aggregate of the PMN substances in surface waters. As described in the PMN, releases to surface waters are not expected to exceed 770 ppb for the aggregate of the PMN substances. Therefore, EPA has not determined that the proposed manufacturing or use of the substances may present an unreasonable risk. EPA has determined, however, that any use of the substances resulting in surface water concentrations exceeding 770 ppb for the aggregate of the PMN substances may cause significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substances.

CFR citation: 40 CFR 721.10630.

PMN Number P–12–64

Chemical name: Mixed metal borate (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an illuminating phosphor. Based on test data on analogous respirable, poorly soluble particulates, EPA identified concerns for lung overload and oncogenicity to workers exposed to the PMN substance. At the production volume described in the PMN, and because the uses described in the PMN do not use an application method that generates a vapor, mist, aerosol, or dust significant worker exposure is minimal. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance exceeding the confidential annual manufacture and import volume stated in the PMN or any use of the substance using an application method that generates a vapor, mist, aerosol, or dust may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(1)(i)(C) and (b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test (OPPTS Guidelines 870.3465) with a 60-day holding period; dry particle size distribution/counting by transmission electron microscope (TEM) or scanning electron microscopy (SEM) methods; and images of the powder for morphology would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10631.

PMN Number P–12–181

Chemical name: Benzamide, N-[(cyclohexylamino)thioxomethyl]-.

CAS number: 4921–92–0.

Basis for action: The PMN states that the use of the substance is as a cure initiator in adhesive formulations. Based on analysis of test data on analogous thioureas, EPA identified concerns for thyroid toxicity, developmental toxicity, and developmental neurotoxicity to the general population exposed to the PMN substance. Based on EcoSAR analysis of test data on analogous imides and thioureas, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb of the PMN substance in surface waters. For the uses described in the PMN, significant general population exposure is unlikely, as use in consumer product is not expected and releases of the PMN substance are not expected to result in surface water concentrations that exceed 2 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance in consumer products or use of the substance resulting in surface water concentrations exceeding 2 ppb may cause serious health effects or significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(1)(i)(C), (b)(3)(ii), and (b)(4)(ii).

Recommended testing: EPA has determined that the results of an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); algal toxicity test (OCSPP Test Guideline 850.4500); and a combined repeated dose toxicity with the reproduction/developmental toxicity screening test (OPPTS Test Guideline 870.3650) would help characterize the environmental and health effects of the PMN substance.

CFR citation: 40 CFR 721.10632.

PMN Number P–12–276

Chemical name: Aromatic sulfonic acid amino azo dye salts (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic use of the PMN substance will be in exhaust dyeing of cellulosic fabrics. Based on the alkylation potential of the PMN substance, there are concerns for skin and lung sensitization; mutagenicity; oncogenicity; and developmental, liver,

and kidney toxicities. In addition, there are concerns for mutagenicity and oncogenicity, based on the beta-aromatic azo reduction product, as this PMN substance is expected to undergo azo reduction in the GI tract with good absorption potential of the reduction products. As described in the PMN, EPA does not expect significant exposure to workers. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance without the use of a NIOSH-certified M100 respirator with an APF of 10 or any increase in the annual manufacture and import volume of 10,000 kilograms (kgs) of the substance, could change the potential for exposure correspondingly, and may result in serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(1)(i)(c) and (b)(3)(ii).

Recommended testing: EPA has determined that results of an Ames test with the Prival modification (OPPTS Test Guideline 870.5100), and an unscheduled DNA synthesis test in mammalian cells in culture (OPPTS Test Guideline 870.5550) would help characterize the health effects of the PMN substance. The test material for the unscheduled DNA synthesis test must be the specific sulfonated beta-aromatic amine that would result from the azo reduction of the PMN substance, rather than the intact PMN compound. It is necessary that the specific sulfonated-aromatic amine in question be isolated prior to testing. For both tests, the beta-aromatic amine is to serve as an additional positive control.

CFR citation: 40 CFR 721.10633.

PMN Number P–12–464

Chemical name: Iodonium, diphenyl-, 4,4′-di-C10-13-alkyl derivs., (OC-6-11)-hexafluoroantimonates(1-).

CAS number: 1370442–66–2.

Basis for action: The PMN states that the substance will be used as a photoinitiator used for ultraviolet release coatings. Based on the EcoSAR analysis of test data on analogous cationic surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 8 ppb of the PMN substance in surface waters for greater than 20 days per year. This 20-day criterion is derived from partial life cycle tests (daphnid chronic and fish early-life stage tests) that typically range from 21 to 28 days in duration. EPA predicts toxicity to aquatic organisms may occur if releases of the PMN substance to surface water exceed releases from the use described in the PMN. For the use described in the PMN, environmental releases did not exceed 8 ppb for more than 20 days per year. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance other than as described in the PMN could result in exposures which may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance. When testing the PMN substance, if difficulty is encountered in dissolving the chemical in the test media, the submitter may wish to consult the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000).

CFR citation: 40 CFR 721.10634.

PMN Number P–12–480

Chemical name: Alkyl maleimide substituted bicyclic olefin (generic).

CAS number: Not available.

Basis for action: The PMN states that substance will be used as a monomer in the manufacture of a specialty polymer. Based on EcoSAR analysis of test data on analogous imides, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance. When testing the PMN substance, if difficulty is encountered in dissolving the chemical in the test media, the submitter may wish to consult the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000).

CFR citation: 40 CFR 721.10635.

PMN Number P–12–501

Chemical name: Slimes and sludges, automotive coating, wastewater treatment, solid waste.

CAS number: 1392095–50–9.

Chemical substance definition: The waste solids produced from the treatment of wastewaters from automotive pretreatment processes, electro-deposition coating processes, surface coating processes and topcoat coating processes. It may contain oxides of iron, calcium, aluminum, zinc, nickel, and magnesium.

Basis for action: The PMN substance will be used as a feedstock replacement in cement kiln production. Based on analogous crystalline chemical substances, EPA identified concerns for potential oncogenicity. These concerns are for effects to workers from inhalation exposure to the PMN substance in powder form. For the uses described in the PMN, significant worker exposure is unlikely, as inhalation exposure is not expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that the manufacture, processing, or use of the substance in powder form may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(1)(i)(C).

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) would help characterize the human health effects of the PMN substance. Test should be conducted with special attention to histopathology (inflammation and cell proliferation) of the lung tissues and to various parameters of the bronchoalveolar lavage fluid (BALF), e.g., marker enzyme activities, total protein content, total cell count, cell differential, and cell viability. It is not necessary to look at internal organs. A recovery period of 60 days should be included to assess the progression or regression of any lesions. If the results of the 90-day inhalation toxicity test indicate that the PMN particles have carcinogenic potential, a 2-year

inhalation bioassay in rats may be warranted.

CFR citation: 40 CFR 721.10636.

V. Rationale and Objectives of the Rule

A. Rationale

In these 9 cases, EPA determined that one or more of the criteria of concern established at § 721.170 were met, as discussed in Unit IV.

B. Objectives

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this rule:

- EPA will receive notice of any person's intent to manufacture, import, or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for the described significant new use.
- EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule, as described in § 721.160(c)(3) and § 721.170(d)(4). In accordance with § 721.160(c)(3)(ii) and § 721.170(d)(4)(i)(B), the effective date of this rule is February 19, 2013 without further notice, unless EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments before January 22, 2013.

If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before January 22, 2013, EPA will withdraw the relevant sections of this direct final rule before its effective date. EPA will then issue a proposed SNUR for the chemical substance(s) on which adverse or critical comments were received, providing a 30-day period for public comment.

This rule establishes SNURs for a number of chemical substances. Any person who submits adverse or critical comments, or notice of intent to submit adverse or critical comments, must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in the comment.

VII. Applicability of Rule to Uses Occurring Before Effective Date of the Rule

Significant new use designations for a chemical substance are legally established as of the date of publication of this direct final rule, December 20, 2012.

To establish a significant ''new'' use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no other person may commence such activities without first submitting a PMN. For chemical substances for which an NOC has not been submitted at this time, EPA concludes that the uses are not ongoing. However, EPA recognizes that prior to the effective date of the rule, when chemical substances identified in this SNUR are added to the TSCA Inventory, other persons may engage in a significant new use as defined in this rule before the effective date of the rule. However, 6 of the 9 chemical substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions (per §§ 720.25 and 721.11), the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

As discussed in the April 24, 1990 SNUR, EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of this direct final rule rather than as of the effective date of the rule. If uses begun after publication were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notification requirements because a person could defeat the SNUR by initiating the significant new use before the rule became effective, and then argue that the use was ongoing before the effective date of the rule. Thus, persons who begin commercial manufacture, import, or processing of the chemical substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notification requirements and wait until the notice review period, including any extensions expires.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person meets the conditions of advance compliance under § 721.45(h), the person is considered exempt from the requirements of the SNUR.

VIII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists recommended testing for non-5(e) SNURs. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

The recommended tests specified in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at 40 CFR 721.1725(b)(1).

Under these procedures a manufacturer, importer, or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer, importer, or processor must show that it has a *bona fide* intent to manufacture, import, or process the chemical substance and must identify the specific use for which it intends to manufacture, import, or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture, import, or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers, importers, and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, i.e., the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture, import, or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in § 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in §§ 721.25 and 720.40. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2012–0842.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

This rule establishes SNURs for several new chemical substances that were the subject of PMNs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA (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 that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RAF)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
2. The SNUR submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this rule.

This rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit XI. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

• Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this rule. As such, EPA has determined that this rule does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action 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 responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This rule does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act

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

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 13, 2012.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following sections in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Significant New Uses of Chemical Substances	
* * * * *	
721.10629	2070–0012
721.10630	2070–0012
721.10631	2070–0012
721.10632	2070–0012
721.10633	2070–0012
721.10634	2070–0012
721.10635	2070–0012
721.10636	2070–0012
* * * * *	

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PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.10629 to subpart E to read as follows:

§ 721.10629 Fatty acids, tall-oil, reaction products with modified fatty acids and polyalkanolamines (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fatty acids, tall-oil, reaction products with modified fatty acids and polyalkanolamines (PMN P–09–107) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=110).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 5. Add § 721.10630 to subpart E to read as follows:

§ 721.10630 Amino acid, carboxyalkyl, alkylsulfonate, alkali salt (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as amino acid, carboxyalkyl, alkylsulfonate, alkali salts (PMNs P–11–619 and P–11–620) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 770 parts per billion (ppb) for the aggregate of the PMN substances, P–11–619 and P–11–620). When calculating the surface water concentrations according to the instructions in § 721.90(a)(4), (b)(4), and (c)(4), the statement that the amount of the substances that will be released will be calculated before the substances enter control technology does not apply. Instead, if the waste stream containing the substances will be treated before release, then the amount of the substances reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than 90 percent removal efficiency may be attributed to such treatment.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 6. Add § 721.10631 to subpart E to read as follows:

§ 721.10631 Mixed metal borate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as mixed metal borate (PMN P–12–64) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s), (y)(1), and (y)(2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

■ 7. Add § 721.10632 to subpart E to read as follows:

§ 721.10632 Benzamide, N-[(cyclohexylamino)thioxomethyl]-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzamide, N-[(cyclohexylamino)thioxomethyl]- (PMN P–12–181; CAS No. 4921–92–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N= 2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 8. Add § 721.10633 to subpart E to read as follows:

§ 721.10633 Aromatic sulfonic acid amino azo dye salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as aromatic sulfonic acid amino azo dye salts (PMN P–12–276) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4) (National Institute for Occupational Safety and Health (NIOSH)-certified M100 respirator with an assigned protection factor of at least 10), (a)(6), (b) (concentration set at 0.1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s) (10,000 kilograms).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 9. Add § 721.10634 to subpart E to read as follows:

§ 721.10634 Iodonium, diphenyl-, 4,4′-di-C10-13-alkyl derivs., (OC-6-11)-hexafluoroantimonates(1-).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as iodonium, diphenyl-, 4,4′-di-C10-13-alkyl derivs., (OC-6-11)-hexafluoroantimonates(1-) (PMN P–12–464; CAS No. 1370442–66–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (photoinitiator used for ultraviolet release coatings).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 10. Add § 721.10635 to subpart E to read as follows:

§ 721.10635 Alkyl maleimide substituted bicyclic olefin (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkyl maleimide

substituted bicyclic olefin (PMN P–12–480) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 11. Add § 721.10636 to subpart E to read as follows:

§ 721.10636 Slimes and sludges, automotive coating, wastewater treatment, solid waste.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as slimes and sludges, automotive coating, wastewater treatment, solid waste (PMN P–12–501; CAS No. 1392095–50–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2012–30695 Filed 12–19–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737–2141–02]

RIN 0648–XC405

Fisheries of the Exclusive Economic Zone Off Alaska; Big Skate in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of big skate in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2012 total allowable catch of big skate in the Central Regulatory Area of the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), December 17, 2012, through 2400 hrs, A.l.t., December 31, 2012.

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

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

The 2012 total allowable catch (TAC) of big skate in the Central Regulatory Area of the GOA is 1,793 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish of the GOA (77 FR 15194, March 14, 2012).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2012 TAC of big skate in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that big skate caught in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of big skate in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 14, 2012.

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

This action is required by § 679.20 and § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: December 17, 2012.

Emily H. Menashes,

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

[FR Doc. 2012–30693 Filed 12–17–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 245
Thursday, December 20, 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 ENERGY

10 CFR Part 431

[Docket No. EERE–2012–BT–NOA–0037]

RIN 1904–AC84

Labeling Requirements for Commercial and Industrial Equipment

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for Information (RFI).

SUMMARY: The Energy Policy and Conservation Act as amended prescribes energy conservation standards for certain commercial and industrial equipment, and requires the Department of Energy (DOE) to administer an energy conservation program for the equipment, including the development of labeling requirements. In this notice, DOE requests information from interested parties regarding the potential for establishing labeling requirements for covered commercial and industrial equipment, including information about the technical and economic feasibility of labeling such equipment, the extent to which labeling would assist consumers in making purchasing decisions, the potential for significant energy savings resulting from labeling, the potential content and format of prospective labels for each type of equipment, the ideal location of placement for any such labels, and prospective burdens on manufacturers associated with labeling of covered equipment. Additional input and suggestions relevant to labeling of commercial and industrial equipment are also welcome.

DATES: Written comments and information are requested by March 20, 2013.

ADDRESSES: Interested persons may submit comments in writing, identified by docket number EERE–2012–BT–NOA–0037, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov* Follow the instructions for submitting comments.
- *Email: Labeling-RFI-2012-NOA-0037@ee.doe.gov.* Include EERE–2012–BT–NOA–0037 and/or RIN 1904–AC84 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Request for Information for Commercial and Industrial Pumps, EERE–2012–BT–NOA–0037 and/or RIN 1904–AC84, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Phone:* (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Suite 600, 950 L'Enfant Plaza, SW., Washington, DC 20024. Phone: (202) 586–2945. Please submit one signed paper original.
- *Instructions:* All submissions received must include the agency name and docket number.

Docket: For access to the docket to read background documents or comments received, visit the U.S. Department of Energy, Resource Room of the Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC, 20024, (202) 586–2945, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1317. Email: *Lucas.Adin@ee.doe.gov.*

In the Office of General Counsel, Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Energy Policy and Conservation Act (EPCA) of 1975, as amended (42 U.S.C. 6291 *et seq.*), sets forth various provisions designed to improve energy efficiency. Part C of Title III includes measures to improve the energy efficiency of commercial and industrial equipment, the subject of this notice.[1] See 42 U.S.C. 6311–6316.

Covered Equipment

EPCA defines the types of commercial and industrial equipment that are ''covered equipment,'' which includes the following: Electric motors and pumps; commercial HVAC and water heating equipment (small, large, and very large commercial package air conditioning and heating equipment, packaged terminal air conditioners and packaged terminal heat pumps, warm air furnaces packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks); commercial refrigerators, freezers, and refrigerator-freezers; automatic commercial icemakers; commercial clothes washers; and walk-in coolers and walk-in freezers. (42 U.S.C. 6311(A)) The Energy Policy Act of 1992, which amended EPCA, added high-intensity discharge lamps, distribution transformers, and small electric motors as covered equipment. (42 U.S.C. 6317).

Evaluation of Labeling for Commercial and Industrial Equipment

EPCA requires DOE to prescribe labeling rules for any class of covered equipment for which DOE has prescribed test procedures under section 6314. 42 U.S.C. 6315(a). DOE cannot, however, prescribe a labeling rule unless it has determined that labeling would be technologically and economically feasible with respect to the class of covered equipment addressed by the rule, that significant energy savings would result from such labeling, and that labeling would be likely to assist consumers in making purchasing decisions. 42 U.S.C. 6315(h).

EPCA further specifies certain aspects of equipment labeling that DOE must consider in any rulemaking establishing labeling requirements for covered equipment. At a minimum, such labels must include the energy efficiency of the equipment to which the rulemaking applies, as tested under the prescribed DOE test procedure. Such rule may also require the disclosure of estimated annual operating costs and energy use determined in accordance with the prescribed DOE test procedure. In addition, the labeling rulemaking may

[1] Part C was re-designated Part A–1 on codification of the U.S. Code for editorial reasons.

consider the addition of other specifications for equipment labels if DOE determines that the information is likely to assist purchasers in making purchasing decisions. These specification include: Directions for the display of the label; a requirement to display on the label additional information related to energy efficiency or energy consumption, which may include instructions for maintenance and repair of the covered equipment, as necessary to provide adequate information to purchasers; and requirements that printed matter displayed or distributed with the equipment at the point of sale also include the information required by the labeling rule to be displayed on the label. 42 U.S.C. 6315(b), (c).

In addition to these general requirements, EPCA also has specific requirements that apply to any labeling rule prescribed for certain types of covered equipment. Specific requirements are established for electric motors, for which DOE has already prescribed labeling requirements, as well as for commercial HVAC and water heating equipment, commercial refrigerators, refrigerator-freezers, and freezers, automatic commercial ice makers, commercial clothes washers, and walk-in coolers and walk-in freezers. These equipment-specific provisions require that any labeling rule prescribed by DOE for covered equipment require labels to display the energy efficiency of the equipment on the permanent nameplate affixed to the product, require that the manufacturer prominently display the energy efficiency of the equipment in new equipment catalogues used to advertise the equipment, and include any other markings that DOE determines necessary solely to facilitate enforcement of the applicable energy conservation standards prescribed for the equipment. 42 U.S.C. 6315(d), (e).

To begin the process of considering labeling requirements for covered equipment, DOE is seeking information from manufacturers and other stakeholders regarding each of these items, as well as any other aspect of prospective labeling requirements that may affect equipment covered by such rules. Specific questions for stakeholders are listed in section II.2 of this notice. DOE understands that determining the specific impacts of a labeling requirement for a given type of covered equipment may be difficult in the absence of a specific proposal. In such cases, DOE requests that commenters consider, at a minimum, the prospective impacts if DOE were to prescribe labeling rules that comply with the most basic requirements set forth in 42 U.S.C. 6315. DOE is also interested in all aspects of prospective labeling requirements, including benefits that may be realized from extending requirements beyond the minimum EPCA requirements, with the understanding that such estimates may be speculative.

Interested parties will also have further opportunities to provide input on any specific labeling regulations proposed by DOE. EPCA requires that DOE provide a public comment period of at least 45 days and allow interested parties to present oral and written data, views and arguments on any proposed labeling rule. 42 U.S.C. 6315(g).

Other Regulatory Programs

The Federal Trade Commission (FTC) prescribes labeling requirements for certain covered consumer products. 42 U.S.C. 6294. While the FTC does not have any specific obligation under EPCA to set labeling requirements for covered commercial and industrial equipment, in the absence of a labeling rule prescribed by DOE for any such equipment, the FTC would retain authority to set such requirements. 42 U.S.C. 6315(k). In addition, as required by EPCA, DOE will consult with and obtain the written views of the FTC prior to prescribing a new labeling requirement for covered equipment. 42 U.S.C. 6315(f).

The Energy Policy Act of 2005 (EPACT 2005) added provisions to Part A of EPCA related to energy conservation standards and test procedures for refrigerated beverage vending machines, illuminated exit signs, low voltage dry-type distribution transformers, traffic signal modules and pedestrian modules, and commercial prerinse spray valves (42 U.S.C. 6295(v), (w), (y), (z), and (dd)) and definitions of these products (42 U.S.C. 6291). DOE or the FTC may establish labeling requirements for these products after a test procedure has been prescribed. 42 U.S.C. 6294(a)(5). DOE also seeks comment on appropriate labeling requirements for these products in section II.2. Similarly, the Energy Independence and Security Act of 2007 (EISA) added metal halide lamp fixtures to Part A of EPCA at 42 U.S.C. 6295(hh). The FTC establishes labeling requirements for metal halide lamp fixtures. 42 U.S.C. 6294(a)(2)(C).

Compliance

Any labeling rule that DOE prescribes for covered industrial equipment would not apply to equipment manufactured before the effective date of any final rule. Compliance with any final labeling rule would not be required until 3 months following the publication of any final rule. If DOE determines that additional time is needed for compliance with the prescribed rules, the compliance date may be extended to 6 months after the date of publication. 42 U.S.C. 6315(j) and 42 U.S.C. 6315(g)(2).

Public Participation

1. Submission of Information

DOE will accept information and data in response to this Request for Information as provided in the **DATES** section above. Information submitted to DOE by email should be provided in WordPerfect, Microsoft Word, PDF, or text file format. Those responding should avoid the use of special characters or any form of encryption, and wherever possible, comments should include the electronic signature of the author. Comments submitted to DOE by mail or hand delivery/courier should include one signed original paper copy. No telefacsimiles will be accepted. Comments submitted in response to this notice will become a matter of public record and will be made publicly available.

2. Issues on Which DOE Seeks Information

DOE welcomes comments on issues related to the labeling of commercial and industrial products. DOE is particularly interested in receiving comments from interested parties on the following issues:

(1) The economic and technological feasibility of prospective labeling requirements for each type of covered equipment;

(2) The extent to which labeling requirements for each type of covered equipment would assist consumers in making purchasing decisions;

(3) The likelihood that labeling requirements prescribed for each type of covered equipment would result in additional energy savings and the significance of any such prospective energy savings;

(4) Information that DOE should consider requiring for display on a prospective label for each type of covered equipment addressed in this notice, beyond that which would be required in order to meet the minimum requirements of EPCA;

(5) Factors that DOE should consider regarding size, format, and placement of labels for each type of covered equipment;

(6) Factors that DOE should consider regarding enforcement of any prospective labeling requirements for each type of covered equipment.

(7) Appropriate labeling requirements for refrigerated beverage vending machines, illuminated exit signs, low voltage dry-type distribution transformers, traffic signal modules and pedestrian modules, and commercial prerinse spray valves.

Issued in Washington, DC, December 14, 2012.

Kathleen B. Hogan,

Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2012–30681 Filed 12–19–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1229; Directorate Identifier 2012–NM–135–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 757 and Model 767 airplanes. This proposed AD was prompted by a standby power relay failure and subsequent illumination of the ''STANDBY BUS OFF'' light, which led the flightcrew to set the standby power switch to the ''BAT'' position, isolating the battery and standby buses, disabling the battery charger, and eventually causing the main battery to be depleted. This proposed AD would require doing wiring changes and installing a new air/ground relay to the battery charger system. We are proposing this AD to prevent discharge of the main battery, which could result in multiple system degradation, reduced airplane controllability, and runway excursion upon landing.

DATES: We must receive comments on this proposed AD by February 4, 2013.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Marie Hogestad, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6418; fax: 425–917–6590; email: *marie.hogestad@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1229; Directorate Identifier 2012–NM–135–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

During a flight on a Model 757 airplane, the ''STANDBY BUS OFF'' indication light illuminated due to failure of the standby power relay. Following the Quick Reference Handbook (QRH) instructions, the flightcrew set the standby power switch to the ''BAT'' position, and continued with the flight. By design, this action isolated the 28 volt direct current (VDC) hot battery bus, 28 VDC battery bus, 28 VDC standby bus, and 115 volt alternating current (VAC) standby bus; disabled the battery charger; and caused the main battery alone to power the standby buses (115 VAC and 28 VDC). The flight continued beyond the battery limit causing the main battery to be depleted with consequent loss of power to the battery/standby buses and the systems associated with them. On approach, the flightcrew found that the horizontal stabilizer trim was not available, and that the lateral control was degraded. Upon landing, the speedbrakes only partially deployed, reverse thrust was unavailable, one-half of the flight spoilers and all the ground spoilers were inoperative, and all four inboard tires blew due to the loss of inboard anti-skid. When the airplane stopped, the engines could not be powered off using standard procedures. We have determined that Model 767 airplanes are similar in design to Model 757 airplanes; therefore, this unsafe condition might also occur on certain Model 767 airplanes. This condition, if not corrected, could result in discharge of the main battery, which could result in multiple system degradation, reduced airplane controllability, and runway excursion upon landing.

Relevant Service Information

We reviewed Boeing Special Attention Service Bulletin 757–24–0132, Revision 1, dated June 19, 2012; and Boeing Special Attention Service Bulletin 767–24–0200, Revision 1, dated September 13, 2012. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2012–1229.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in

the service information described previously.

The phrase ''related investigative actions'' might be used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary action, and (2) are actions that further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

In addition, the phrase ''corrective actions'' might be used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this proposed AD affects 1,085 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Install new air/ground relay, 674 Model 757 airplanes.	23 work-hours × $85 per hour = $1,955.	Up to $733	Up to $2,688	Up to $1,811,712.
Install new air/ground relay, 411 Model 767 airplanes.	Up to 35 work-hours × $85 per hour = $2,975.	Up to $881	Up to $3,856	Up to $1,584,816.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2012–1229; Directorate Identifier 2012–NM–135–AD.

(a) Comments Due Date

We must receive comments by February 4, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model 757–200, –200PF, –200CB, and –300 series airplanes, as identified in Boeing Special Attention Service Bulletin 757–24–0132, Revision 1, dated June 19, 2012.

(2) Model 767–200, –300, –300F, and –400ER series airplanes, as identified in Boeing Special Attention Service Bulletin 767–24–0200, Revision 1, dated September 13, 2012.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a standby power relay failure and subsequent illumination of the ''STANDBY BUS OFF'' light, which led the flightcrew to set the standby power switch to the ''BAT'' position, isolating the battery and standby buses, disabling the battery charger, and eventually causing the main battery to be depleted. We are issuing this AD to prevent discharge of the main battery, which could result in multiple system degradation, reduced airplane controllability, and runway excursion upon landing.

(f) Compliance

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

(g) Installation

Within 60 months after the effective date of this AD: Do wiring changes and install a new air/ground relay to the battery charger system, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–24–0132, Revision 1, dated June 19, 2012; or Boeing Special Attention Service Bulletin 767–24–0200, Revision 1, dated September 13, 2012; as applicable.

(h) Credit for Previous Actions

(1) For Model 757 airplanes: This paragraph provides credit for the actions required by paragraph (g) of this AD if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 757–24–0132, dated April 14, 2011, which is not incorporated by reference in this AD.

(2) For Model 767 airplanes: This paragraph provides credit for the actions required by paragraph (g) of this AD if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 767–24–0200, dated April 14, 2011, which is not incorporated by reference, provided that a functional test of the battery charger system

is done, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–24–0200, Revision 1, dated September 13, 2012, within 60 months after the effective date of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

(1) For more information about this AD, contact Marie Hogestad, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6418; fax: 425–917–6590; email: *marie.hogestad@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, the FAA, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–30666 Filed 12–19–12; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[MB Docket No. 12–107; DA 12–1985]

Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: In this document, the Commission extends the deadline for filing reply comments on the Commission's Notice of Proposed Rulemaking (NPRM) in this proceeding, which was published in the **Federal Register**. The extension will facilitate the development of a full record given the importance of the issues in this proceeding.

DATES: The reply comment period for the proposed rule published November 28, 2012 (77 FR 70970) is extended. Submit reply comments on or before January 7, 2013.

ADDRESSES: You may submit reply comments, identified by MB Docket No. 12–107, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Electronic Comment Filing System (ECFS) Web site: http://www.fcc.gov/cgb/ecfs.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of the NPRM.

FOR FURTHER INFORMATION CONTACT: Diana Sokolow, *Diana.Sokolow@fcc.gov,* or Maria Mullarkey, *Maria.Mullarkey@fcc.gov,* of the Policy Division, Media Bureau, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in MB Docket No. 12–107, DA 12–1985, adopted and released on December 7, 2012, which extends the reply comment filing deadline established in the NPRM published under FCC No. 12–142 at 77 FR 70970, November 28, 2012. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Background

1. The NPRM in this proceeding established a comment deadline of December 18, 2012 and a reply comment deadline of December 28, 2012. On December 6, 2012, the Consumer Electronics Association (CEA), the National Association of Broadcasters (NAB), and the National Cable & Telecommunications Association (NCTA) jointly requested that the reply comment deadline be extended by ten days, due to the expected volume of comments, discussion, and data on the complex issues raised in this proceeding, as well as the groundbreaking nature of those issues. We grant the requested extension.

2. As set forth in Section 1.46 of the Commission's Rules, 47 CFR 1.46, the Commission's policy is that extensions of time for filing comments in rulemaking proceedings shall not be routinely granted. Given the importance of the issues in this proceeding and in the interest of encouraging thoughtful consideration of these issues, however, we believe that granting the joint request is warranted to provide commenters with sufficient time to prepare reply comments in response to the NPRM and to facilitate the development of a more complete record.

Ordering Clauses

Pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and Sections

0.61, 0.283, and 1.46 of the Commission's rules, 47 CFR 0.61, 0.283, and 1.46, the Joint Motion for Extension of Time filed by CEA, NAB, and NCTA is granted, and the deadline to file reply comments in this proceeding is extended to January 7, 2013.

Federal Communications Commission.

William T. Lake,

Chief, Media Bureau.

[FR Doc. 2012–30591 Filed 12–19–12; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 77, No. 245
Thursday, December 20, 2012

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

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: Bureau of Economic Analysis (BEA).

Title: Annual Survey of Foreign Direct Investment in the United States.

OMB Control Number: 0608–0034.

Form Number(s): BE–15.

Type of Request: Regular submission.

Number of Respondents: 4,000 annually.

Average Hours per Response: 19.5 hours is the average, but may vary considerably among respondents because of differences in company size and complexity.

Estimated Total Annual Burden Hours: 77,825.

Needs and Uses: The Annual Survey of Foreign Direct Investment in the United States (Form BE–15) obtains sample data on the financial structure and operations of U.S. affiliates of foreign investors. The data are needed to provide reliable, useful, and timely measures of foreign direct investment in the United States, assess its impact on the U.S. economy, and based upon this assessment, make informed policy decisions regarding foreign direct investment in the United States. The data are used to derive annual estimates of the operations of U.S. affiliates of foreign investors, including their balance sheets; income statements; property, plant, and equipment; employment and employee compensation; merchandise trade; sales of goods and services; taxes; and research and development activity. In addition, data covering employment are collected by state. The data are also used to update similar data for the universe of U.S. affiliates collected once every five years on the BE–12 benchmark survey.

The survey incorporates changes that were made to the 2012 BE–12, Benchmark Survey of Foreign Direct Investment in the United States. The exemption level for reporting on the survey is unchanged from the previous (2011) survey.

The BE–15 annual survey is sent to potential respondents in March of each year. A completed report covering a reporting company's fiscal year ending during the previous calendar year is due by May 31 (or by June 30 for reporting companies that use BEA's eFile system). Reports must be filed by every U.S. business enterprise that is owned 10 percent or more by a foreign investor and that has total assets, sales or gross operating revenues, or net income (or loss) of over $40 million.

As an alternative to filing paper forms, BEA offers its electronic filing option, the eFile system, for use in reporting on Form BE–15. For more information about eFile, go to *www.bea.gov/efile.*

Potential respondents are those U.S. business enterprises that reported in the 2012 benchmark survey, along with businesses that subsequently entered the direct investment universe. The BE–15 is a sample survey, as described; universe estimates are developed from the reported sample data.

Affected Public: Business or other for-profit organizations.

Frequency: Annual.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230, or via email 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 Paul Bugg, OMB Desk Officer, FAX number (202) 395–7245, or via email at *pbugg@omb.eop.gov.*

Dated: December 14, 2012.

Glenna Mickelson,

Management Analyst, Office of Chief Information Officer.

[FR Doc. 2012–30583 Filed 12–19–12; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–90–2012]

Foreign-Trade Zone 26—Atlanta, GA; Notification of Proposed Production Activity; Perkins Shibaura Engines LLC, (Diesel Engines), Griffin, GA

Perkins Shibaura Engines LLC (Perkins Shibaura), an operator of FTZ 26, submitted a notification of proposed production activity for its facility in Griffin, Georgia. The notification conforming to the requirements of the regulations of the Foreign-Trade Zones Board (15 CFR 400.22) was received on November 29, 2012.

The Perkins Shibaura facility is located within Site 6 of FTZ 26. The facility is used for the production of diesel engines used in off-road vehicles. Production under FTZ procedures could exempt Perkins Shibaura from customs duty payments on the foreign status components and materials used in export production. On its domestic sales, Perkins Shibaura would be able to choose the duty rate during customs entry procedures that applies to diesel engines (free) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

Components and materials sourced from abroad include: Plastic hoses, gaskets, copper washers/gaskets, sign plates, relief valves, hose assemblies, thermostat covers/cases, valve bodies, sensors, resistors, radiators, and electronic control units (duty rate ranges from free to 5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 29, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW.,

Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov,* or (202) 482–1378.

Dated: December 13, 2012.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2012–30578 Filed 12–19–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Interim Procedures for Considering Requests From the Public for Textile and Apparel Safeguard Actions on Imports From Panama

AGENCY: International Trade Administration.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 19, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Laurie Mease, Office of Textiles and Apparel, U.S. Department of Commerce, Telephone: 202–482–3400, Fax: 202–482–0858, Email: *Laurie.Mease@trade.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Title III, Subtitle B, Section 321 through Section 328 of the United States-Panama Trade Promotion Agreement Implementation Act (the ''Act'') [Pub. L. 112–43] implements the textile and apparel safeguard provisions, provided for in Article 3.24 of the United States-Panama Trade Promotion Agreement (the ''Agreement''). This safeguard mechanism applies when, as a result of the elimination of a customs duty under the Agreement, a Panamanian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In these circumstances, Article 3.24 permits the United States to increase duties on the imported article from Panama to a level that does not exceed the lesser of the prevailing U.S. normal trade relations (NTR)/most-favored-nation (MFN) duty rate for the article or the U.S. NTR/MFN duty rate in effect on the day the Agreement entered into force.

The Statement of Administrative Action accompanying the Act provides that the Committee for the Implementation of Textile Agreements (CITA) will issue procedures for requesting such safeguard measures, for making its determinations under Section 322(a) of the Act, and for providing relief under Section 322(b) of the Act.

In Proclamation No. 8894 (77 FR 66507, November 5, 2012), the President delegated to CITA his authority under Subtitle B of Title III of the Act with respect to textile and apparel safeguard measures.

CITA must collect information in order to determine whether a domestic textile or apparel industry is being adversely impacted by imports of these products from Panama, thereby allowing CITA to take corrective action to protect the viability of the domestic textile industry, subject to Section 322(b) of the Act.

Pursuant to Section 321(a) of the Act and Paragraph (7) of Presidential Proclamation 8894, an interested party in the U.S. domestic textile and apparel industry may file a request for a textile and apparel safeguard action with CITA. Consistent with longstanding CITA practice in considering textile safeguard actions, CITA will consider an interested party to be an entity (which may be a trade association, firm, certified or recognized union, or group of workers) that is representative of either: (A) A domestic producer or producers of an article that is like or directly competitive with the subject Panamanian textile or apparel article; or (B) a domestic producer or producers of a component used in the production of an article that is like or directly competitive with the subject Panamanian textile or apparel article.

In order for a request to be considered, the requestor must provide the following information in support of a claim that a textile or apparel article from Panama is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof, to a U.S. industry producing an article that is like, or directly competitive with, the imported article: (1) Name and description of the imported article concerned; (2) import data demonstrating that imports of an Panamanian origin textile or apparel article that are like or directly competitive with the articles produced by the domestic industry concerned are increasing in absolute terms or relative to the domestic market for that article; (3) U.S. domestic production of the like or directly competitive articles of U.S. origin indicating the nature and extent of the serious damage or actual threat thereof, along with an affirmation that to the best of the requestor's knowledge, the data represent substantially all of the domestic production of the like or directly competitive article(s) of U.S. origin; (4) imports from Panama as a percentage of the domestic market of the like or directly competitive article; and (5) all data available to the requestor showing changes in productivity, utilization of capacity, inventories, exports, wages, employment, domestic prices, profits, and investment, and any other information, relating to the existence of serious damage or actual threat thereof caused by imports from Panama to the industry producing the like or directly competitive article that is the subject of the request. To the extent that such information is not available, the requestor should provide best estimates and the basis therefore.

If CITA determines that the request provides the information necessary for it to be considered, CITA will publish a notice in the **Federal Register** seeking public comments regarding the request. The comment period shall be 30 calendar days. The notice will include a summary of the request. Any interested party may submit information to rebut, clarify, or correct public comments submitted by any interested party.

CITA will make a determination on any request it considers within 60 calendar days of the close of the comment period. If CITA is unable to make a determination within 60 calendar days, it will publish a notice in the **Federal Register**, including the date it will make a determination.

If a determination under Section 322(a) of the Act is affirmative, CITA may provide tariff relief to a U.S. industry to the extent necessary to remedy or prevent serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition. The import tariff relief is effective beginning on the date that CITA's affirmative determination is published in the **Federal Register**.

Entities submitting requests, responses or rebuttals to CITA may submit both a public and confidential version of their submissions. If the request is accepted, the public version will be posted on the dedicated U.S.-Panama Trade Promotion Agreement textile safeguards section of the Office of Textile and Apparel (OTEXA) Web site. The confidential version of the request, responses or rebuttals will not be shared with the public as it may contain business confidential information. Entities submitting responses or rebuttals may use the public version of the request as a basis for responses.

II. Method of Collection

When an interested party files a request for a textile and apparel safeguard action with CITA, ten copies of any such request must be provided in a paper format. If business confidential information is provided, two copies of a non-confidential version must also be provided. If CITA determines that the request provides the necessary information to be considered, it publishes a **Federal Register** notice seeking public comments on the request.

To the extent business confidential information is provided, a non-confidential version must also be provided. Any interested party may submit information to rebut, clarify, or correct public comments submitted by any interested party.

III. Data

OMB Control Number: None.

Form Number(s): None.

Type of Review: Regular submission (new information collection).

Affected Public: Individuals or households; business or other for-profit organizations.

Estimated Number of Respondents: 6 (1 for Request; 5 for Comments).

Estimated Time per Response: 4 hours for a Request; and 4 hours for each Comment.

Estimated Total Annual Burden Hours: 24.

Estimated Total Annual Cost to Public: $960.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 14, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–30642 Filed 12–19–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Economic Expenditure Survey of Wreckfish Fishermen in the U.S. South Atlantic Region

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 19, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Scott Crosson, (305) 361–4468 or *scott.crosson@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

The National Marine Fisheries Service (NMFS) proposes to collect economic information from wreckfish landing commercial fishermen in the United States (U.S.) South Atlantic region. The data gathered will be used to evaluate the likely economic impacts of management proposals. In addition, the information will be used to satisfy legal mandates under Executive Order 12898, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act, and other pertinent statutes.

II. Method of Collection

A standardized survey will be administered via in-person, telephone and/or mail to all fishermen participating in the fishery.

III. Data

OMB Control Number: None.

Form Number: None.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 9.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 9.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB

approval of this information collection; they also will become a matter of public record.

Dated: December 14, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–30644 Filed 12–19–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC406

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Council to convene public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a meeting of the Reef Fish Committee meeting.

DATES: The meeting will convene at 1:30 p.m. on Monday, January 7 and conclude by 5 p.m. on Tuesday, January 8, 2013.

ADDRESSES: The meeting will be held at the Hilton Tampa Airport Westshore Hotel located at 2225 North Lois Avenue, Tampa, FL 33607, 813–877–6688.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, Florida 33607.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Atran, Population Dynamics Statistician and Dr. Carrie Simmons, Deputy Executive Director; Gulf of Mexico Fishery Management Council; telephone: 813–348–1630.

SUPPLEMENTARY INFORMATION: The Reef Fish Committee will review several items related to management of red snapper. The Committee will review an analysis by the Scientific and Statistical Committee (SSC) of an estimated 1.6 million pound overharvest of red snapper in 2012, and its recommendation for an 8.46 million pound acceptable biological catch in 2013. This is an increase of 0.38 million pounds over the 2012 ABC. The Committee will also review an analysis on season length of a possible reduction in the recreational red snapper bag limit from 2 to 1 fish per person per day. Based on these analyses, the Committee will review a draft framework action to adjust the red snapper commercial and recreational quotas and the recreational bag limit, and will recommend preferred alternatives for consideration by the full Council. The Committee will also discuss the red snapper allocations, a 5-year review of the red snapper individual fishing quota (IFQ) program, and a scoping document on red snapper regional management issues. The agenda also includes an item for an open discussion of red snapper management issues. The recommendations of the Committee will be presented to the full Council at its February 5–8, 2013 meeting in Mobile, Alabama.

Copies of the agenda and other related materials can be obtained by calling 813–348–1630 or can be downloaded from the Council's ftp site, *ftp.gulfcouncil.org.*

Although other non-emergency issues not on the agenda may come before the Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council (see **ADDRESSES**) at least five working days prior to the meeting.

Dated: December 17, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–30664 Filed 12–19–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Multistakeholder Meetings To Develop Consumer Data Privacy Code of Conduct Concerning Mobile Application Transparency

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meetings.

SUMMARY: The National Telecommunications and Information Administration (NTIA) will convene meetings of a privacy multistakeholder process concerning mobile application transparency.

DATES: The meetings will be held on January 17, 2013; January 31, 2013; February 21, 2013; March 14, 2013; and April 4, 2013 from 1:00 p.m. to 5:00 p.m., Eastern Time. See **SUPPLEMENTARY INFORMATION** for details.

ADDRESSES: The meetings will be held in the Boardroom at the American Institute of Architects, 1735 New York Avenue NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: John Verdi, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone (202) 482–8238; email *jverdi@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION:

Background: On February 23, 2012, the White House released *Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy* (the ''Privacy Blueprint'').[1] The Privacy Blueprint directs NTIA to convene multistakeholder processes to develop legally enforceable codes of conduct that specify how the Consumer Privacy Bill of Rights applies in specific business contexts.[2] On June 15, 2012, NTIA announced that the goal of the first multistakeholder process is to develop a code of conduct to provide transparency in how companies providing applications and interactive services for mobile devices handle personal data.[3] On July 12, 2012, NTIA convened the first meeting of the first privacy multistakeholder process, followed by additional meetings through the end of 2012.

Matters to Be Considered: The January 17, 2013; January 31, 2013; February 21, 2013; March 14, 2013; and April 4, 2013, meetings are part of a series of NTIA-convened multistakeholder discussions concerning mobile application transparency. Stakeholders will engage in an open, transparent, consensus-driven process to develop a code of conduct regarding mobile

[1] The Privacy Blueprint is available at *http://www.whitehouse.gov/sites/default/files/privacy-final.pdf.*

[2] *Id.*

[3] NTIA, *First Privacy Multistakeholder Meeting: July 12, 2012, http://www.ntia.doc.gov/other-publication/2012/first-privacy-multistakeholder-meeting-july-12-2012.*

application transparency. The January 17, 2013; January 31, 2013; February 21, 2013; March 14, 2013; and April 4, 2013, meetings will build on stakeholders' previous work. More information about stakeholders' work is available at: *http://www.ntia.doc.gov/other-publication/2012/privacy-multistakeholder-process-mobile-application-transparency.*

Time and Date: NTIA will convene meetings of the privacy multistakeholder process on January 17, 2013; January 31, 2013; February 21, 2013; March 14, 2013; and April 4, 2013, from 1:00 p.m. to 5:00 p.m., Eastern Time. The meeting times are subject to change. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2012/privacy-multistakeholder-process-mobile-application-transparency,* for the most current information.

Place: The meetings will be held in the Boardroom at the American Institute of Architects, 1735 New York Avenue NW., Washington, DC 20006. The location of the meetings is subject to change. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2012/privacy-multistakeholder-process-mobile-application-transparency,* for the most current information.

Other Information: The meetings are open to the public and the press. The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to John Verdi at (202) 482–8238 or *jverdi@ntia.doc.gov* at least seven (7) business days prior to each meeting. The meetings will also be webcast. Requests for real-time captioning of the webcast or other auxiliary aids should be directed to John Verdi at (202) 482–8238 or *jverdi@ntia.doc.gov* at least seven (7) business days prior to each meeting. There will be an opportunity for stakeholders viewing the webcast to participate remotely in the meetings through a moderated conference bridge, including polling functionality. Access details for the meetings are subject to change. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2012/privacy-multistakeholder-process-mobile-application-transparency,* for the most current information.

Dated: December 17, 2012.

Kathy Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2012–30684 Filed 12–19–12; 8:45 am]

BILLING CODE 3510–60–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2012–0048]

Request for Information Regarding Credit Card Market

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for information.

SUMMARY: Section 502(a) of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act or Act) requires the Bureau of Consumer Financial Protection (Bureau) to conduct a review (Review) of the consumer credit card market, within the limits of its existing resources available for reporting purposes. In connection with conducting that Review, and in accordance with Section 502(b) of the CARD Act, the Bureau is soliciting information from the public about a number of aspects of the consumer credit card market, which are described further below.

DATES: Comments must be submitted on or before February 19, 2013 to be assured of consideration.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. *CFPB–2012–0048,* by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

Instructions: The Bureau encourages the early submission of information and other comments. All submissions must include the agency name and docket number. In general, all submissions received will be posted without change to *http://www.regulations.gov.* In addition, submissions will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Wei Zhang, Division of Research, Markets and Regulations, Consumer Financial Protection Bureau, at (202) 435–7700, or *wei.zhang@cfpb.gov.*

Authority: 15 U.S.C. 1616(a), (b).

SUPPLEMENTARY INFORMATION: Section 502(a) of the CARD Act [1] requires the Bureau to conduct a review of the consumer credit card market. To inform that review, Section 502(b) [2] instructs the Bureau to seek public comment. Accordingly, the Bureau hereby invites members of the public, including consumers, credit card issuers, industry analysts, consumer advocates, and other interested persons to submit information and other comments relevant to the issued expressly identified in Section 2 below, as well as any information they believe is relevant to assessing the impact of the CARD Act on the consumer credit card market.

1. Background: The CARD Act

The CARD Act was signed into law in May 2009.[3] Passage of the Act was expressly intended to ''establish fair and transparent practices related to the extension of credit'' in the credit card market.[4] To achieve these agreed-upon purposes, the Act changed the requirements applicable to credit card pricing in a number of significant respects. Prior to the CARD Act, the applicable provisions of the Truth in Lending Act (TILA) and its implementing regulation (Regulation Z) focused principally on how companies needed to disclose product pricing terms to consumers, and otherwise placed few substantive limits on industry practice.[5] After the CARD Act, however, TILA and Regulation Z also imposed direct limits on a number of pricing practices that Congress deemed unfair or unclear to consumers. The following is a high-level summary of CARD Act changes. Further information about the CARD Act is available on the Bureau's Web site at *www.consumerfinance.gov/credit-cards.*

(a) Interest Rate Increases

The Act limits the circumstances under which credit card issuers can increase interest rates on existing and new balances. For new balances, the

[1] *See* 15 U.S.C. 1616(a).

[2] *See* 15 U.S.C. 1616(b).

[3] The CARD Act's provisions took effect in three stages: August 2009, February 2010, and October 2011.

[4] Text of H.R. 627 (111th), available at *www.govtrack.us/congress/bills/111/hr627/text.*

[5] The Federal Reserve Board promulgated several substantive rules shortly before passage of the CARD Act, but they had not taken effect before the Act was signed into law.

card issuer must give the consumer 45 days written notice of a rate increase, and most increases are barred during the first year after the account is opened. For existing balances, the card issuer generally cannot increase rates unless the consumer has missed two consecutive monthly payments and the requisite written notice has been provided.[6]

(b) Penalty Fee Restrictions

Penalty fees, such as late fees or overlimit fees, must now be ''reasonable and proportional'' to the relevant violation of account terms. The implementing rules establish a safe harbor benchmark for reasonable and proportional late fees of $25 for a first late payment, and $35 for a second violation within the next six months.[7]

(c) Overlimit Fee Opt-In

There are additional restrictions on the overlimit fees assessed when a consumer exceeds his or her assigned credit line. Following the Act, issuers may only charge such fees if the consumer expressly opts in to permit overlimit transactions.[8]

(d) Payment Timing

Payments must now be due on the same day of each month. In addition, the Act and implementing regulations contain a set of rules as to when payments must be treated as timely. There are also rules about how much notice cardholders must receive before a bill is due.[9]

(e) Payment Allocation

Subject to certain exceptions, when a consumer makes a payment on the account, issuers are now required to allocate that payment first to balances that are subject to higher interest rates.[10]

(f) Monthly Statements

Monthly statements must describe how long it would take the consumer—and how much it would cost—to pay the full balance on the card by paying only the required minimum monthly payment. For comparison, the statement must also show how much it would cost the consumer each month to pay off his or her current balance in three years. Regulations issued by the Federal Reserve Board and inherited by the Bureau, which took effect along with the CARD Act implementing rules, require each monthly statement to include the total amount of interest charged year to date, and a similar disclosure relating to the total amount of fees.[11]

(g) Ability to Repay

Card issuers cannot provide or increase a credit line on a card until they have taken reasonable steps to consider the ability of the consumer to make payments on the amount of that line.[12]

(h) Student Cardholders

The Act imposed new restrictions related to on-campus marketing of credit cards. In addition, any credit card applicant under 21 years of age must demonstrate his or her ability to make payments on the account.[13]

2. Issues on Which the Bureau Seeks Public Comment for Its Review

In connection with its pending Review, the Bureau seeks information from members of the public about how the credit card market is functioning following the implementation of the CARD Act. Thus, the Bureau seeks comments about any of the subjects addressed in (a) through (g) below, which are identified in Section 502(a) of the CARD Act. In addition, the Bureau wants to be alerted to and understand the information that consumers, credit card issuers, consumer groups, and others believe is most relevant to assessing the impact of the Act on the consumer credit card market, so this list of subjects should not be viewed as exhaustive.

Please feel free to comment generally and/or respond to any or all of the questions below but please be sure to indicate in your comments on which topic areas or questions you are commenting:

(a) The Terms of Credit Card Agreements and the Practices of Credit Card Issuers

How have the substantive terms and conditions of credit card agreements changed following the CARD Act? How have issuers changed their pricing, marketing, underwriting or other practices? What changes have benefited consumers? Are there changes that have harmed consumers? If there are such harms, how have they been caused, and how could they be mitigated, and at what cost?

(b) The Effectiveness of Disclosure of Terms, Fees, and Other Expenses of Credit Card Plans

How effective are post-CARD Act disclosures of rates, fees, and other cost terms of credit card accounts? Do consumers better understand the true cost of credit card use in light of the CARD Act? To what extent and in what ways do consumers use the new information that is now available to them about credit card costs? What further improvements in disclosure would benefit consumer cardholders at this point, and what costs would be incurred in providing such disclosures?

(c) The Adequacy of Protections Against Unfair or Deceptive Acts or Practices Relating to Credit Card Plans

Do unfair or deceptive acts and practices still exist in the credit card market, and if so, in what form and with what frequency and effect? How might those acts and practices be prevented and at what cost? Have issuers circumvented, or tried to circumvent, any CARD Act protections against unfair or deceptive acts or practices?

(d) Whether implementation of the CARD Act has affected the cost and availability of credit, particularly with respect to non-prime borrowers?

Controlling for risk, has the upfront interest rate or the overall, all-in cost of credit changed as a result of the CARD Act? Are there particular segments of the credit card market for which the Act has impacted the cost or access to credit? Has the CARD Act had any non-price impacts on access to credit, particularly for consumers who do not have prime credit scores?

(e) Has the CARD Act impacted the safety and soundness of any credit card issuers?

Has the Act impacted the quality of issuer assets or issuers' return on equity? Are there ways to mitigate any adverse consequences and, if so, at what cost to consumer protections?

(f) Has the CARD Act affected the use of risk-based pricing?

To what extent are card issuers still engaged in risk-based pricing? What practices have issuers adopted in the wake of rules that restrict account repricing, and how have these practices affected consumers?

[6] CARD Act § 101; *see also* 12 CFR 1026.9(c) and 55.

[7] CARD Act § 102(b); *see also* 12 CFR 1026.52(b).

[8] CARD Act § 102(a); *see also* 12 CFR 1026.56.

[9] CARD Act § 106; *see also* 12 CFR 1026.5(b)(2)(ii), 10, 7(b)(11)(A). The Act also barred so-called ''double-cycle billing,'' a practice that enabled an issuer to charge interest on purchases for a billing cycle prior to the cycle for which the consumer paid late. CARD Act § 102(a); see 12 CFR 1026.54.

[10] CARD Act § 104; *see also* 12 CFR 1026.53.

[11] 12 CFR 1026.7(b).

[12] CARD Act § 109; *see also* 12 CFR 1026.51(a).

[13] CARD Act §§ 301, 303, 304; *see also* 12 CFR 1026.51(b), 57.

(g) Has implementation of the CARD Act had any effect on credit card product innovation?

To what extent and in what ways has the Act spurred or hampered product innovation in the credit card market? If the Act has impacted innovation, what have been the follow-on impacts on consumers and other market participants?

Dated: December 14, 2012.

Garry Reeder,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2012–30609 Filed 12–19–12; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2012–OS–0016]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by January 22, 2013.

Title and OMB Number: Joint Personnel Adjudication System; OMB Control Number 0704–TBD.

Type of Request: New.

Number of Respondents: 22,225.

Responses per Respondent: 95.

Annual Responses: 2,111,375.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 703,792 hours.

Needs and Uses: JPAS requires personal data collection to facilitate the initiation, investigation and adjudication of information relevant to DoD security clearances and employment suitability determinations for active duty military, civilian employees and contractors requiring such credentials. As a Personnel Security System it is the authoritative source for clearance information resulting in accesses determinations to sensitive/classified information and facilities.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 21, 2012.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–30662 Filed 12–19–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2010–OS–0111]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by January 22, 2013.

Title, Associated Forms and OMB Number: Department of Defense Education Activity Student Registration; DoDEA Form 600; OMB Control Number 0704–TBD.

Type of Request: New.

Number of Respondents: 3,392.

Responses per Respondent: 1.

Annual Responses: 3,392.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 1,696 hours.

Needs and Uses: This information collection is necessary to obtain information about Department of Defense military and civilian sponsors and the dependents they wish to enroll in a Department of Defense Education Activity (DoDEA) school. The information gathered on the sponsors is used to determine their dependents' enrollment eligibility to attend the DoDEA schools and their enrollment category, (*i.e.,* whether the sponsors' dependents are authorized to enroll on a tuition-free or tuition-paying and space-required or space-available basis).

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; Federal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 23, 2012.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–30661 Filed 12–19–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2009–HA–0159]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by January 22, 2013.

Title and OMB Number: TRICARE Prime Enrollment, Disenrollment, and Primary Care Manager (PCM) Change Form; DD Form 2876; OMB Control Number 0720–0008.

Type of Request: Revision.

Number of Respondents: 72,905.

Responses per Respondent: 1.

Annual Responses: 72,905.

Average Burden per Response: 18.367 minutes.

Annual Burden Hours: 22,317.

Needs and Uses: This collection instrument serves as applications for the Enrollment, Primary Care Manager (PCM) Change and Disenrollment for the Department of Defense's TRICARE Prime program established in accordance with title 10 U.S.C. 1099 (which calls for a healthcare enrollment system). Monthly payment options for retiree enrollment fees for TRICARE Prime are established in accordance with title 10 U.S.C. 1097a(c).

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 21, 2012.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–30663 Filed 12–19–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2012–OS–0005]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by January 22, 2013.

Title and OMB Number: Department of Defense Education Activity (DoDEA) Sure Start Parent Questionnaire; OMB Control Number 0704–0456.

Type of Request: Reinstatement.

Number of Respondents: 1100.

Responses per Respondent: 2.

Annual Responses: 2200.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 367 hours.

Needs and Uses: The Sure Start Parent Questionnaire is an instrument to measure the overall satisfaction level of parents of students enrolled in DoDEA Sure Start programs. This collection is necessary to meet the Government Performance and Results Act of 1993, Public Law 103–62; 107 Stat. 285, that requires agencies to have strategic plans and to consult with affected persons. A major purpose of the regulation is to improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction. The parent survey is also a required component of the annual evaluation of the Sure Start program as required by DoDEA.

Affected Public: Individuals or households.

Frequency: Semi-annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 23, 2012.

Patricia L. Toppings,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2012–30659 Filed 12–19–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2009–OS–0190]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by January 22, 2013.

Title, Associated Forms and OMB Number: Application for a Review by the Physical Disability Board of Review (PDBR) of the Rating Awarded Accompanying a Medical Separation

from the Armed Forces of the United States; DD Form 294; OMB Control Number 0704–0453.

Type of Request: Reinstatement.

Number of Respondents: 1800.

Responses per Respondent: 1.

Annual Responses: 1800.

Average Burden per Response: 45 Minutes.

Annual Burden Hours: 1350 Hours.

Needs and Uses: The information collection requirement is necessary to have former members who were separated from the armed forces from between September 11, 2001 and December 31, 2009 due to unfitness for duty due to a medical condition with a disability rating of 20 percent disabled or less; and were found to be not eligible for retirement request a review of that determinations in accordance with the provisions of 10 United States Code Section 1554a.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 23, 2012.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–30658 Filed 12–19–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2012–OS–0003]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by January 22, 2013.

Title, Associated Forms and OMB Number: Department of Defense Education Activity (DoDEA) Non-Sponsored Research Program; DoDEA Form 2071.3–F1; OMB control number 0704–0457.

Type of Request: Reinstatement.

Number of Respondents: 30.

Responses per Respondent: 1.

Annual Responses: 30.

Average Burden per Response: 1 hour.

Annual Burden Hours: 30 hours.

Needs and Uses: DoDEA receives requests from researchers to conduct non-DoDEA sponsored research studies in DoDEA schools, districts, and/or areas. The DoDEA Form 2071.3–F1, ''Research Study Request'' collects information about the researcher, the research project, audience, timeline, and the statistical analyses that will be conducted during the proposed research study.

Affected Public: Individuals or households; Federal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 23, 2012.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–30660 Filed 12–19–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Establishment of Federal Advisory Committee.

SUMMARY: Under the provisions of section 2852(b), of the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year 2011 (Pub. L. 111–383), the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) (''the Sunshine Act), and 41 CFR 102–3.50(a), the DoD gives notice that it is establishing the charter for the Independent Review Panel on Military Medical Construction Standards (''the Panel'').

The Panel, pursuant to section 2852(b), of the Ike Skelton NDAA for Fiscal Year 2011 (Pub. L. 111–383), is a non-discretionary Federal advisory committee established to provide the Secretary of Defense independent advice and recommendations regarding a construction standard for military medical centers to provide a single standard of care, as set forth below:

a. Reviewing the unified military medical construction standards to determine the standards consistency with industry practices and benchmarks for world class medical construction;

b. Reviewing ongoing construction programs within the DoD to ensure medical construction standards are uniformly applied across applicable military centers;

c. Assessing the DoD approach to planning and programming facility improvements with specific emphasis on facility selection criteria and

proportional assessment system; and facility programming responsibilities between the Assistant Secretary of Defense for Health Affairs and the Secretaries of the Military Departments;

d. Assessing whether the Comprehensive Master Plan for the National Capital Region Medical (''the Master Plan''), dated April 2010, is adequate to fulfill statutory requirements, as required by section 2714 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Pub. L. 111–84; 123 Stat. 2656), to ensure that the facilities and organizational structure described in the Master Plan result in world class military medical centers in the National Capital Region; and

e. Making recommendations regarding any adjustments of the Master Plan that are needed to ensure the provision of world class military medical centers and delivery system in the National Capital Region.

The Panel, not later than 120 days after the first meeting, shall submit to the Secretary of Defense a written report containing an assessment of the adequacy of the plan to address the above items relating to the purpose of the Panel and the recommendations of the Panel to improve the Master Plan.

Additional Reports—Each year until the Panel terminates, it shall submit, no later than February 1, an annual report to the Secretary of Defense on the Panel's findings and recommendations to address any identified deficiencies.

The Panel or its members, with the Department's approval, may visit military treatment centers and military headquarters in connection with the official duties of the Panel. Such visits shall be undertaken through the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) and in coordination with the appropriate Military Departments and installation commanders.

The Panel is not established to provide advice on individual DoD procurements. No matter shall be assigned to the Panel for its consideration that would require any Panel members to participate personally and substantially in the conduct of any specific procurement or place him or her in the position of acting as a contracting or procurement official. The Panel reports to the Secretary of Defense. The USD(P&R), pursuant to DoD policy, may act upon the Panel's advice and recommendations.

The Panel shall be comprised of no more than 14 members appointed by the Secretary of Defense.

The Secretary of Defense shall appoint 10 members. Those members shall include medical facility design experts; military healthcare professionals; representatives of premier health care centers in the United States; and former retired senior military officers with joint operational and budgetary experience.

The Chairman and ranking members of the Committees on the Armed Services of the Senate and the House of Representatives may each designate one member of the Panel, for a total of four members. Individuals designated by the Chairman and ranking members of the Committees on the Armed Services of the Senate and the House of Representatives shall be appointed by the Secretary of Defense.

Panel members appointed by the Secretary of Defense shall be appointed for the duration of the Panel, with annual renewals of appointments. Panel members, who are not full-time or permanent part-time Federal officers or employees, shall be appointed to serve as experts or consultants under the authority of 5 U.S.C. 3109 and serve as special Government employee (SGE) member. Each member of the Panel is appointed to provide advice on behalf of the Government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest. With the exception of travel and per diem for travel related to the Panel, members of the Panel shall serve without compensation. Under the provisions of Public Law 111–383 § 2852(b)(2)(D), any additional experts or consultants adviser called in for consultation on behalf of the Panel shall also be reimbursed for necessary travel expenses.

The Secretary of Defense may appoint additional experts and consultants, with relevant expertise, to assist the Panel on an ad-hoc basis. These non-member experts and consultants, who do not count toward the Panel's total membership, shall be appointed to serve as SGEs under the authority of 5 U.S.C. 3109; however, these experts and consultants have no voting rights on the Panel and are prohibited from engaging in Panel deliberations.

The Department, when necessary and consistent with the Panel's mission and DoD policies/procedures, may establish subcommittees, task groups, and working groups to support the Panel. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(P&R).

Such subcommittees shall not work independently of the Panel and shall report all of their recommendations and advice solely to the Panel for full deliberation and discussion. Subcommittees have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Panel; nor can any subcommittee or its members update or report directly to DoD or any Federal officers or employees.

All subcommittee members shall be appointed in the same manner as the Panel members; that is, the Secretary of Defense shall appoint subcommittee members even if the member in question is already a Panel member. Subcommittee members, with the approval of the Secretary of Defense, may serve a term of service for the life of the Panel with annual renewals; however, no member shall serve more than two consecutive terms of service on the subcommittee. Subcommittee members, if not full-time or part-time Government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109, and serve as SGEs, whose appointments must be renewed by the Secretary of Defense on an annual basis. With the exception of travel and per diem for official travel related to the Panel or its subcommittees, subcommittee members shall serve without compensation.

Each subcommittee operates under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and governing DoD policies/procedures.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Panel shall meet at the call of the Panel's Designated Federal Officer (DFO), in consultation with the Panel's Chairperson(s). The estimated number of meetings by the Panel is four per year.

The Panel's DFO, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies/procedures. In addition, the Panel's DFO is required to be in attendance at all meetings of the Panel and its subcommittees for the entire duration of each and every meeting. However, in the absence of the Panel's DFO, a properly approved Alternate DFO, duly appointed to the Panel according to DoD policies/procedures, shall attend the entire duration of meetings of the Panel or subcommittees. The DFO, or the Alternate DFO, shall call all of the Panel's and subcommittees' meetings;

prepare and approve all meeting agendas; adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies/procedures; and chair meetings when directed to do so by the official to whom the Panel reports.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Panel membership about the Panel's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Panel.

All written statements shall be submitted to the DFO for the Panel, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Panel's DFO can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Panel. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: December 17, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–30653 Filed 12–19–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Department of Defense Military Family Readiness Council (MFRC); Cancellation of Meeting and Rescheduling of Meeting

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Notice of meeting cancellation; rescheduling of meeting.

SUMMARY: On November 27, 2012 (77 FR 70740), the Department of Defense Military Family Readiness Council (MFRC) announced a meeting to be held on Thursday, January 31, 2013, from 1:00 p.m. to 3:00 p.m. at Pentagon Conference Center B6. The meeting on January 31, 2013 has been cancelled. The meeting is rescheduled for Tuesday, January 22, 2013, from 2:00 p.m. to 4:00 p.m. at Pentagon Conference Center B6.

DATES: The meeting is rescheduled for January 22, 2013, from 2:00 p.m. to 4:00 p.m.

ADDRESSES: Pentagon Conference Center B6.

FOR FURTHER INFORMATION CONTACT: Ms. Melody McDonald or Ms. Betsy Graham, Office of the Deputy Under Secretary (Military Community & Family Policy), 4800 Mark Center Drive, Alexandria, VA 22350–2300, Room 3G15. Telephones (571) 372–0880; (571) 372–0881 and/or email: *FamilyReadinessCouncil@osd.mil.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a), Public Law 92–463, as amended, the Department of Defense announces that this meeting is rescheduled to occur on January 22, 2013, due to scheduling issues. The purpose of the Council meeting is to review the military family programs and finalize the Council recommendations that will appear in the Council's Annual Report.

The meeting is open to the public, subject to the availability of space. Persons desiring to attend may contact Ms. Melody McDonald at 571–372–0880 or email *FamilyReadinessCouncil@osd.mil* no later than 5:00 p.m. on Thursday, January 10, 2013 to arrange for parking and escort into the conference room inside the Pentagon. Interested persons may submit a written statement for consideration by the Council. Persons desiring to submit a written statement to the Council must notify the point of contact listed in **FOR FURTHER INFORMATION CONTACT** no later than 5:00 p.m., Thursday, January 3, 2013.

Dated: December 17, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–30652 Filed 12–19–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of 10 U.S.C. 1114, the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) (''the Sunshine Act''), and 41 CFR 102–3.50(a), the Department of Defense (DoD) gives notice that it is renewing the charter for the Department of Defense Medicare-Eligible Retiree Health Care Board of Actuaries (''the Board'').

The Board is a non-discretionary Federal advisory committee that shall provide the Secretary of Defense with independent advice and recommendations related to actuarial matters associated with the Department of Defense Medicare-Eligible Retiree Health Care Fund (''the Fund'').

The Board, under the authority of FACA, shall provide independent advice and recommendations related to actuarial matters associated with the Fund and on matters referred by the Secretary of Defense, including those regarding: (a) Valuation of the Fund under 10 U.S.C. 1115(c); (b) Recommendations for such changes as in the Board's judgment are necessary to protect the public interest and maintain the Fund on a sound actuarial basis; and (c) Advise the Secretary of Defense on all actuarial matters necessary to make determinations in order to finance liabilities of the Fund on an actuarially sound basis.

The Board shall report to the Secretary of Defense. The Board shall report annually on the actuarial status of the Fund, and the Board shall furnish its advice and opinion on matters referred to it by the Secretary. The Board shall report periodically, but not less than once every four years, to the President and the Congress on the status of the Fund and shall include recommendations for such changes as in the Board's judgment are necessary to protect the public interest and maintain the Fund on a sound actuarial basis.

The Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), may act upon the Board's advice and recommendations.

The Board shall be composed of three members who are appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries. The Board members shall serve for a term of 15 years; except those Board members appointed to fill a vacancy occurring before the end of the term for which the predecessor was appointed, shall serve only until the end of such term. Board members may serve after the end of the term until a successor has taken office.

Members of the Board shall be appointed by the Secretary of Defense and their appointments shall be renewed on an annual basis according to DoD policies/procedures. Members of the Board who are not full-time or permanent part-time Federal employees shall be appointed to serve as experts and consultants under the authority of

5 U.S.C. 3109 and serve as special Government employees (SGEs) and shall, under the authority of 10 U.S.C. 1114(a)(3), serve with compensation, to include travel and per diem for official travel, in accordance with 5 U.S.C. 5703. Each member of the Board is appointed to provide advice on behalf of the Government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

A member of the Board may be removed by the Secretary of Defense for misconduct or failure to perform functions vested in the Board and for no other reason. The chairperson of the Board shall be designated by the USD (P&R), on behalf of the Secretary of Defense.

The Department, when necessary, and consistent with the Board's mission and DoD policies/procedures, may establish subcommittees, task groups, and working groups to support the Board. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense or the USD(P&R). Such subcommittees shall not work independently of the chartered Board, and shall report all of their recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees have no authority to make decisions and recommendations, verbally, or in writing, on behalf of the Board; nor can any subcommittee or its members update or report directly to the DoD or any Federal officer or employees.

The Secretary or the Deputy Secretary of Defense may approve the appointment of subcommittee members for one-to-four year terms of service; however, no member, unless authorized by the Secretary, may serve more than two consecutive terms of service. These individuals may come from the parent committee or may be new nominees, as recommended by the USD(P&R) and based upon the subject matters under consideration.

Subcommittee members, if not full-time or part-time Government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109, and shall serve as SGEs, whose appointments must be renewed by the Secretary of Defense on an annual basis. With the exception of travel and per diem for official travel related to the Board or its subcommittees, subcommittee members shall serve without compensation.

Each subcommittee member is appointed to provide advice on behalf of the Government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and governing DoD policies/procedures.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for DoD, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board shall meet at the call of the Board's Designated Federal Officer (DFO), in consultation with Board's Chairperson. The estimated number of meetings by the Board is one per year.

The Board's DFO, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies/procedures.

The Board's DFO is required to be in attendance at all meetings of the Board and its subcommittees for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to DoD policies/procedures, shall attend the entire duration of the meetings of the Board or subcommittee.

The DFO, or the Alternate DFO, shall call all meetings of the Board and its subcommittees; prepare and approve all meeting agendas; adjourn any meeting when the DFO or Alternate DFO determines adjournment to be in the public interest or required by governing regulations or DoD policies/procedures; and chair meetings when directed to do so by the official to whom the Board reports.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Board.

All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Board's DFO can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Board. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: December 17, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–30654 Filed 12–19–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Veterans' Advisory Board on Dose Reconstruction

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.50(a), the Department of Defense gives notice that it is renewing the charter for the Veterans' Advisory Board on Dose Reconstruction (hereinafter referred to as ''the Board''). The Board has been determined to be in the public interest.

The Board is a non-discretionary federal advisory committee that shall provide review and oversight of the Radiation Dose Reconstruction Program and make such recommendations on modifications in the mission, procedures, and administration of the Radiation Dose Reconstruction Program as it considers appropriate as a result of the audits conducted under the authority of Section 601(c)(3)(A) of Title VI of Public Law 108–183. The Board shall:

a. Conduct periodic, random audits of dose reconstructions under the Radiation Dose Reconstruction Program and of decisions by the Department of Veterans Affairs on claims for service connection of radiogenic diseases;

b. Assist the Department of Veterans Affairs and the Defense Threat Reduction Agency in communicating to veterans information on the mission, procedures, and evidentiary requirements of the Radiation Dose Reconstruction Program;

c. Carry out such other activities with respect to the review and oversight of the Radiation Dose Reconstruction Program as the Secretary of Defense and Secretary of Veterans Affairs shall jointly specify;

d. Make recommendations on modifications to the mission and procedures of the Dose Reconstruction Program as the Board considers

appropriate as a result of the audits conducted pursuant to paragraph (a) above;

e. Any additional actions the Secretary of Defense and the Secretary of Veterans Affairs jointly determine are required to ensure that the quality assurance and quality control mechanisms of the Radiation Dose Reconstruction Program are adequate and sufficient for purpose of the program; and

f. Any additional actions the Secretary of Defense and the Secretary of Veterans Affairs jointly determine are required to ensure that the mechanisms of the Radiation Dose Reconstruction Program for communication and interaction with veterans are adequate and sufficient for the program.

The Board, pursuant to Section 601(c)(2) of Title VI of Public Law 108–183, shall be comprised of:

a. At least one expert in historical dose reconstruction of the type conducted under the Radiation Dose Reconstruction Program.

b. At least one expert in radiation health matters.

c. At least one expert in risk communications matters.

d. A representative of the Defense Threat Reduction Agency and a representative of the Department of Veterans Affairs.

e. At least three veterans, including at least one Veteran who is a member of an atomic veterans group.

The Secretary of Defense and the Secretary of Veterans Affairs will jointly approve the appointment of Board members, and according to DoD policy the appointments will be renewed on an annual basis. Board members, who are not full-time or permanent part-time federal officers or employees shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109 and serve as special Government employees members. Each member of the Board is appointed to provide advice on behalf of the Government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest. With the exception of travel and per diem for official travel, Board members shall serve without compensation.

Board members, with the approval of the Secretary of Defense and the Secretary of Veteran Affairs, may serve a term of service on the Board of one-to-four years; however, no member, unless authorized by the Secretary of Defense, may serve more than two consecutive terms of service on the Board, to include its subcommittees.

The Department, when necessary and consistent with the Board's mission and DoD policies/procedures, may establish subcommittees, task forces, or working groups to support the Board. Establishment of subcommittees will be based upon written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Board's sponsor.

Such subcommittees or work groups shall not work independently of the Board, and shall report all their recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the chartered Board; nor can any subcommittee or its members update or report, verbally or in writing, on behalf of the Board; nor can any subcommittee or its members update or report directly to the DoD or any Federal officers or employees.

All subcommittee members shall be jointly appointed by the Secretary of Defense and the Secretary of Veterans Affairs according to governing DoD policies/procedures, even if the member in question is already a Board member.

Subcommittee members, if not full-time or part-time Government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109, and serve as special Government employee members, whose appointments must be renewed by the Secretary of Defense and Secretary of Veteran Affairs on an annual basis. Subcommittee members, with the approval of the Secretary of Defense and the Secretary of Veteran Affairs, may serve a term of service on the subcommittee of one-to-four years; however, no member shall serve more than two consecutive terms of service on the subcommittee, unless authorized by the Secretary of Defense and the Secretary of Veterans Affairs. With the exception of travel and per diem, subcommittee members shall serve without compensation.

Each subcommittee member is appointed to provide advice on behalf of the Government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

All subcommittees, task forces, working groups shall operate under the provisions of the FACA, the Government in the Sunshine Act, governing Federal statutes and regulations, and governing DoD policies/procedures.

Currently, DoD has approved the following permanent subcommittees to the Board to meet the requirements of Public Law 108–163.

a. The Subcommittee on DTRA Dose Reconstruction Procedures shall be composed of no more than four members and is responsible for reviewing and recommending improvements to the dose reconstruction process. The estimated number of meetings is two per year.

b. The Subcommittee on Veterans Affairs (VA) Claims Adjudication Procedures shall be composed of no more than four members and deals directly with the Department of Veterans Affairs to improve the process for handling Atomic Veterans claims. The estimated number of meetings is two per year.

c. The Subcommittee on Quality Management and VA Process Integration with DTRA Nuclear Test Personnel Review Program shall be composed of no more than four members and deals with quality issues with DTRA's nuclear test personnel review and VA in its claims adjudication process for Atomic Veterans. The estimate number of meetings is two per year.

d. The Subcommittee on Communication and Outreach shall be composed of no more than four members and deals with veteran outreach and communication programs. The estimated number of meetings is two per year.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies/procedures.

In addition, the DFO is required to be in attendance at all Board and subcommittee meetings for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to the DoD policies/procedures, shall attend the entire duration of the Board or subcommittee meeting. The DFO, or the Alternate DFO, shall call all meetings of the Board and its subcommittees; prepare and approve all meeting agendas; adjourn any meeting, when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies/procedures; and chair meetings

when directed to do so by the official to whom the Board reports.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Veterans' Advisory Board on Dose Reconstruction's membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Veterans' Advisory Board on Dose Reconstruction.

All written statements shall be submitted to the Designated Federal Officer for the Veterans' Advisory Board on Dose Reconstruction, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Veterans' Advisory Board on Dose Reconstruction's Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Veterans' Advisory Board on Dose Reconstruction. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: December 17, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–30655 Filed 12–19–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2012–IES–0038]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2012/14 Beginning Postsecondary Students Longitudinal Study: (BPS:12/14) Field Test

AGENCY: Department of Education (ED), IES.NCES.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before January 22, 2013.

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–IES–0038 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: 2012/14 Beginning Postsecondary Students Longitudinal Study: (BPS:12/14) Field Test.

OMB Control Number: 1850–0631.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 13,975.

Total Estimated Number of Annual Burden Hours: 2,260.

Abstract: The 2012/14 Beginning Postsecondary Students Longitudinal Study (BPS:12/14), conducted by the National Center for Education Statistics (NCES), is designed to follow a cohort of students who enroll in postsecondary education for the first time during the 2011–2012 academic year, irrespective of date of high school completion. The study collects data on student persistence in, and completion of, postsecondary education programs; their transition to employment; demographic characteristics; and changes over time in their goals, marital status, income, and debt, among other measures. Data from BPS are used to help researchers and policymakers better understand how financial aid influences persistence and completion, what percentages of students complete various degree programs, what early employment and wage outcomes are for certificate and degree attainers, and why students leave school. This request is to conduct the BPS:12/14 first follow-up field test, including panel maintenance, student interviews and reinterviews, and administrative record matching. Following the field test study in 2013, NCES will submit a request for clearance of the BPS:12/14 full scale data collection to be conducted in spring 2014. Because only minimal changes are expected after the field test, NCES is requesting a waiver of the 60-day **Federal Register** Notice for the full-scale collection clearance submission.

Dated: December 14, 2012.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–30633 Filed 12–19–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2012–ICCD–0070]

Agency Information Collection Activities; Comment Request; School Attendance Boundary Survey (SABS) 2013 and 2015

AGENCY: Department of Education (ED), IES/NCES.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before February 19, 2013.

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–0070 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: School Attendance Boundary Survey (SABS) 2013 and 2015.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 13,600.

Total Estimated Number of Annual Burden Hours: 13,600.

Abstract: The National Center for Education Statistics (NCES), of the Institute of Education Sciences (IES), within the U.S. Department of Education, is requesting clearance to collect the boundaries for all public school service areas in the 50 states and the District of Columbia (approximately 14,000 school districts and 100,000 schools) in 2013 and 2015. The School Attendance Boundary Survey (SABS), to be collected on a two year cycle, will assign geographic school attendance boundaries for the public elementary and secondary schools included in the Common Core of Data (CCD) universe. NCES will then disseminate data from sources such as the American Community Survey (e.g. demographics and poverty information) mapped against the school boundaries. The NCES mapping system is the only system in the United States to nationally visually link school exact geographic locations to their demographic and economic information.

Dated: December 14, 2012.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–30632 Filed 12–19–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Indian Education—Demonstration Grants for Indian Children

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information: Indian Education—Demonstration Grants for Indian Children Notice inviting applications for new awards for fiscal year (FY) 2013.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.299A.

Dates:

Applications Available: December 20, 2012.

Deadline for Transmittal of Applications: February 19, 2013.

Deadline for Intergovernmental Review: April 19, 2013.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Demonstration Grants for Indian Children program is to provide financial assistance to projects that develop, test, and demonstrate the effectiveness of services and programs to improve the educational opportunities and achievement of preschool, elementary, and secondary Indian students.

Priorities: This competition contains two absolute priorities and two competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(ii), the absolute priorities are from the regulations for this program (34 CFR 263.21(c)(1) and (3)). In accordance with 34 CFR 75.105(b)(2)(iv), the competitive preference priorities are from sections 7121(d)(1)(B) and 7143 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7441(d)(1)(B) and 7473).

Absolute Priorities: For FY 2013 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet one or both of the following priorities.

These priorities are:

Absolute Priority One

School readiness projects that provide age-appropriate educational programs and language skills to three- and four-year-old Indian students to prepare them for successful entry into school at the kindergarten school level.

Absolute Priority Two

College preparatory programs for secondary school students designed to increase competency and skills in challenging subject matters, including math and science, to enable Indian students to transition successfully to postsecondary education.

Competitive Preference Priorities: For FY 2013 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application, depending on whether the application meets one or both of these priorities.

These priorities are:

Competitive Preference Priority One

We award five competitive preference priority points to an applicant that presents a plan for combining two or more of the activities described in

section 7121(c) of the ESEA over a period of more than one year.

Note: For *Competitive Preference Priority One,* the combination of activities is limited to the activities described in the *Absolute Priorities* section of this notice.

Competitive Preference Priority Two

We award five competitive preference priority points to an application submitted by an eligible Indian tribe, Indian organization, or Indian institution of higher education, including a consortium of any of these entities with other eligible entities. An application from a consortium of eligible entities that meets the requirements of 34 CFR 75.127 through 75.129 and includes an Indian tribe, Indian organization, or Indian institution of higher education will be considered eligible to receive the five competitive preference points. These competitive preference points are in addition to the five competitive preference points that may be given under *Competitive Preference Priority One*.

Note: A consortium agreement, signed by all parties, must be submitted with the application in order for the application to be considered a consortium application. Letters of support do not meet the requirement for a consortium agreement. We will reject any application from a consortium that does not meet this requirement.

Program Authority: 20 U.S.C. 7441(c).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 263.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $2,347,789 for new awards for this program for FY 2013. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2014 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $250,000–$300,000.

Estimated Average Size of Awards: $290,000.

Maximum Award: We will reject any application that proposes a budget exceeding $300,000 for a single budget period of 12 months. The Assistant Secretary for the Office of Elementary and Secondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 8.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Eligible applicants for this program are State educational agencies (SEAs); local educational agencies (LEAs), including charter schools that are considered LEAs under State law; Indian tribes; Indian organizations; federally supported elementary or secondary schools for Indian students (including Department of the Interior/Bureau of Indian Education-funded schools); Indian institutions (including Indian institutions of higher education); or a consortium of any of these entities.

An application from a consortium of eligible entities must meet the requirements of 34 CFR 75.127 through 75.129. An application from a consortium of eligible entities must include a signed consortium agreement with the application. Letters of support do not meet the requirement for a consortium agreement.

Applicants applying in a consortium with or as an Indian organization must demonstrate that they meet the definition of ''Indian organization'' in 34 CFR 263.20.

The term ''Indian institution of higher education'' means an accredited college or university within the United States cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note), any other institution that qualifies for funding under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.), and Dine College (formerly Navajo Community College) authorized in the Navajo Community College Assistance Act of 1978 (25 U.S.C. 640a et seq.).

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html*. To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–567–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.299A.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. The suggested page limit for the application narrative is no more than 35 pages. The suggested standards for the narrative include:

- A page is 8.5″ x 11″ , on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is 12 point or larger but no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The suggested page limit does not apply to the cover sheet; the budget section, including the budget narrative justification; the consortium agreement, if applicable; the assurances and certifications; or the abstract, the resumes, the bibliography, or the letters of support.

b. *Submission of Proprietary Information:*

Given the types of projects that may be proposed in applications for the Demonstration Grant for Indian Children, an application may include business information that the applicant considers proprietary. The Department's regulations define ''business information'' in 34 CFR 5.11.

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachment Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

Applications Available: December 20, 2012.

Deadline for Transmittal of Applications: February 19, 2013.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice. Deadline for Intergovernmental Review: April 19, 2013.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, Central Contractor Registry, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR)—and, after July 24, 2012, with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR or SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR or SAM registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days to complete. Information about SAM is available at SAM.gov.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp*.

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications*.

Applications for grants under the Indian Education—Demonstration Grants for Indian Children program, CFDA number 84.299A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the Indian Education—Demonstration Grants for Indian Children program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.299, not 84.299A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors,

including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov*.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues With the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Lana Shaughnessy, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E231, Washington, DC 20202–6335. FAX: (202) 260–7779.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.299A) LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline

date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.299A) 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR part 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also. If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Grant Administration:* Projects funded under this competition are encouraged to budget for a two-day Project Directors' meeting in Washington, DC during each year of the project period.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR 170 should you receive funding under this competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has developed the following performance measures for measuring the overall effectiveness of the Demonstration Grants for Indian Children program: (1) The percentage of three- and four-year-old American Indian and Alaska Native children achieving gains of a predetermined magnitude, at a minimum, on an approved assessment of language and communication development as evidenced by a pre- and post-test each project year; (2) the percentage of three- and four-year-old American Indian and Alaska Native children achieving gains of a predetermined magnitude, at a minimum, on an approved assessment of cognitive skills and conceptual knowledge as evidenced by a pre- and post-test each project year; (3) the percentage of three- and four-year-old American Indian and Alaska Native children achieving gains of a predetermined magnitude, on an approved assessment of social development as evidenced by a pre- and post-test each project year; (4) the percentage of high school American Indian and Alaska Native students successfully completing (as defined by a passing grade of C or better) at least three years of challenging core courses (English, mathematics, science, and social studies) by the end of their fourth year in high school; and (5) the percentage of American Indian and Alaska Native students who graduate with their incoming ninth-grade cohort (not counting those who transfer to another school).

We encourage applicants to demonstrate a strong capacity to provide reliable data on these measures in their responses to the selection criteria ''Quality of project services'' and ''Quality of the project evaluation.'' All grantees will be expected to submit, as part of their performance report, information with respect to these performance measures.

6. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Lana Shaughnessy, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E231, Washington, DC 20202–6335. Telephone: (202) 205–2528 or by email: *Lana.Shaughnessy@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: December 17, 2012.

Deborah Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2012–30703 Filed 12–19–12; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Publication of State Plan Pursuant to the Help America Vote Act

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: Pursuant to Sections 254(a)(11)(A) and 255(b) of the Help America Vote Act (HAVA), Public Law 107–252, as amended by Section 622 of the Consolidated Appropriations Act, 2012, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** this notice in reference to the changes made to the HAVA State plan previously submitted by American Samoa. The revised State plan will be posted on the EAC Web site at *www.eac.gov.*

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone 202–566–3100 or 1–866–747–1471 (toll-free).

Submit Comments: Any comments regarding the plans published herewith should be made in writing to the chief election official of the individual State at the address listed below.

SUPPLEMENTARY INFORMATION: On March 24, 2004, the U.S. Election Assistance Commission published in the **Federal Register** the original HAVA State plans filed by the fifty States, the District of Columbia and the territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. HAVA anticipated that States, territories and the District of Columbia would change or update their plans from time to time pursuant to HAVA Section 254(a)(11) through (13). HAVA Sections 254(a)(11)(A) and 255 require EAC to publish such updates. This is the second revision to the State plan for American Samoa. This revision is a partial revision updating six (6) sections of the State Plan.

The amendments to American Samoa's State plan provide for compliance with Title III and with the Military and Overseas Voter Empowerment Act (MOVE Act). In accordance with HAVA Section 254(a)(12), all the State plans submitted for publication provide information on how the respective State succeeded in carrying out its previous State plan. American Samoa confirms that its amendments to the State plan were developed and submitted to public comment in accordance with HAVA Sections 254(a)(11), 255, and 256.

Upon the expiration of thirty days from December 20, 2012, the State is eligible to implement the changes addressed in the plan that is published herein, in accordance with HAVA Section 254(a)(11)(C). EAC wishes to acknowledge the effort that went into revising this State plan and encourages further public comment, in writing, to the State election official listed below.

Chief State Election Official

Mr. Soliai T. Fuimaono, Chief Election Officer, Election Office, American Samoa Government, (684) 699–3570 Fax: (684) 699–3574.

Thank you for your interest in improving the voting process in America.

Dated: December 17, 2012.

Alice Miller,

Chief Operating Officer & Acting Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2012–30685 Filed 12–19–12; 8:45 am]

BILLING CODE 4810–71–P

DEPARTMENT OF ENERGY

Interagency Working Group on Plant Genomics (IWGPG): The National Plant Genome Initiative—What's Next?

AGENCY: Office of Science, Office of Biological and Environmental Research, Department of Energy (DOE).

ACTION: Notice of Open Workshop.

SUMMARY: This notice announces a workshop organized by the Interagency Working Group on Plant Genomics (IWGPG).

DATES: Saturday, January 12, 2013, 1:30 p.m. to 3:40 p.m.

ADDRESSES: Town and Country Resort and Conference Center, 500 Hotel Circle North, San Diego, CA 92108 (*https://pag.confex.com/pag/xxi/webprogram/Session1711.html*).

FOR FURTHER INFORMATION CONTACT: Dr. Catherine Ronning, U.S. Department of Energy, Office of Science, Office of Biological and Environmental Research, SC–23–2/Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290. Phone 301–903–9549, fax (301) 903–5051, email: *catherine.ronning@science.doe.gov;* Dr. Jane Silverthorne, National Science Foundation, Division of Integrative Organismal Systems, 4201 Wilson Boulevard, Arlington, Virginia 22230. Phone (703) 292–7171, fax (703) 292–9153, email: *jsilvert@nsf.gov.* The most current information concerning this workshop can be found on the Web site: *https://extwiki.nsf.gov/x/DQAOAQ.*

SUPPLEMENTARY INFORMATION:

Purpose of the Workshop: To seek input into the identification of strategic research needs and resource gaps for the development of sustainable systems for food, bioenergy, and industrial feedstock production, with a specific focus on the management of plant genomics data, metadata, and data standardization.

Summary: The National Plant Genome Initiative (NPGI) was established in 1998 as a coordinated national research program by the Interagency Working Group on Plant Genomes (IWGPG) under the Committee on Science of the National Science and Technology Council. The goal of the

NPGI is to develop a basic knowledge of the structures and functions of plant genomes and to translate this knowledge to a comprehensive understanding of all aspects of economically important plants and plant processes of potential economic value. By bridging basic research and plant performance in the field, the NPGI seeks to accelerate basic discovery and innovation in economically important plants and enable enhanced management of agriculture, natural resources, and the environment to meet societal needs.

The activities of the NPGI have been coordinated through three Five Year Plans covering 1998–2001, 2002–2008, and 2009–2013. The IWGPG was re-established in November 2012 under the Life Sciences Subcommittee of the Committee on Science to engage the plant community in prioritizing genomics tools and resources, define new strategies that will meet community needs and priorities sustainably, advance biological innovation and breakthrough discovery, and improve coordination among Federal agencies and international plant genomics partners. This new working group is composed of representatives from DOE, NSF, the U.S. Dept. of Agriculture (USDA), the Environmental Protection Agency (EPA), the U.S. Agency for International Development (USAID), the Smithsonian Institution, the U.S. Dept. of Interior (DOI), and the National Institutes of Health (NIH). As part of its activities, the IWGPG has been charged with seeking input from the broader research community, including the public and private sectors as well as the international community, towards the development of the NPGI 2014–2018 Strategic Plan. In this workshop consideration will be given to:

- Minimization of inputs such as water, energy, pesticides, and fertilizer;
- Effects of climate change and increasing agricultural productivity;
- Minimization of environmental impacts using plant genomics;
- Opportunities for Federal agency coordination, cooperation, public/private partnerships;
- Associated opportunities to enhance training, education, and public outreach.

Short presentations will be given on potential priorities as a starting point for discussion.

Public Participation: The workshop is open to the public. Public comment will be accepted before and after the workshop through the Web site: *https://extwiki.nsf.gov/x/DQAOAQ.*

Workshop Report: The report produced by this workshop will be available to the public within 60 days at the Web site: *https://extwiki.nsf.gov/x/DQAOAQ.*

Issued in Washington, DC, on December 13, 2012.

Sharlene C. Weatherwax,

Associate Director of Science for Biological and Environmental Research, U.S. Department of Energy.

[FR Doc. 2012–30630 Filed 12–19–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–023]

Decision and Order Granting a Waiver to GE Appliances From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. RF–023) that grants to GE Appliances (GE) a waiver from the DOE electric refrigerator and refrigerator-freezer test procedures for the basic models set forth in its petition for waiver in Case RF–023. In its petition, GE provides an alternate test procedure that is the same as the test procedure DOE published in a final rule dated January 25, 2012 (77 FR 3559). Under today's decision and order, GE shall be required to test and rate these refrigerator-freezers using an alternate test procedure as adopted in DOE's final rule dated January 25, 2012 (77 FR 3559) that takes multiple defrost cycles into account when measuring energy consumption.

DATES: This Decision and Order is effective December 20, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371, Email: *Bryan.Berringer@ee.doe.gov*.

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0103, (202) 586–7796, Email: *Elizabeth.Kohl@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants GE a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures in 10 CFR part 430, subpart B, appendix A1 for certain basic models of refrigerator-freezers with multiple defrost cycles, provided that GE tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits GE from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results.

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on November 19, 2012.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: GE Appliances (Case No. RF–023).

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential electric refrigerators and refrigerator-freezers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential electric refrigerators and refrigerator-freezers is set forth in 10 CFR part 430, subpart B, appendix A1.

DOE's regulations for covered products contain provisions allowing a

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

person to seek a waiver from the test procedure requirements for a particular basic model for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics.

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

II. GE's Petition for Waiver: Assertions and Determinations

On January 26, 2012, GE submitted a petition for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR Part 430, Subpart B, Appendix A1. GE is designing new refrigerator-freezers that incorporate multiple defrost cycles. In its petition, GE seeks a waiver from the procedure provided in Appendix A1 because that test procedure does not account for products that use multiple defrost cycles. Therefore, GE has asked to use an alternate test procedure that is the same as the test procedure provisions for products with long time or variable defrost DOE published in an interim final rule (75 FR 78810, December 16, 2010). On January 27 and July 19, 2011, Samsung submitted similar petitions for waiver and requests for interim waiver for basic models of refrigerator-freezers that incorporate multiple defrost cycles. After initially granting these interim waiver requests, DOE ultimately granted Samsung with a waiver for the products specified in those petitions through a final decision and order that adopted a modified version of the interim final rule's procedure. 77 FR 1474 (Jan. 10, 2012). That modified procedure was also adopted by DOE as part of a recently published rule that finalized the test procedures that electric refrigerator and refrigerator-freezer manufacturers must use starting in 2014. *See* 77 FR 3559 (Jan. 25, 2012) (finalizing refrigerator and refrigerator-freezer test procedures for 2014 in 10 CFR Part 430, Appendix A).

GE's petition included an alternate test procedure to account for the energy consumption of its refrigerator-freezer models with multiple defrost cycles. The alternate test procedure requested by GE is the same as the test procedure published in the interim final rule referenced above. As noted above, DOE recently published a final test procedure for refrigerators, refrigerator-freezers, and freezers (77 FR 3559 (Jan. 25, 2012)). The alternate test procedure sought by GE is identical to the interim final rule test procedure provisions for products with long-time or variable defrost adopted in the final test procedure rule. Because DOE has finalized a test procedure that accounts for products that employ these long-time or variable defrost control strategies, DOE is granting GE's request but requiring that the company use the more recently finalized procedure in order to ensure testing consistency for all manufacturers when measuring the energy consumption of these types of products.

Because the current applicable test procedure cannot be used to test the basic models at issue or would otherwise lead to materially inaccurate results, DOE previously granted a waiver to Samsung for other basic models incorporating multiple defrost technology (77 FR 1474, Jan. 10, 2012). DOE has determined that it is desirable to have similar basic models, such as those addressed by the GE petition, tested in a consistent manner and is adopting the same approach laid out in its prior decision by permitting GE to use the alternate test procedure specified in this Decision and Order.

III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the GE petition for waiver. The FTC staff did not have any objections to granting a waiver to GE.

IV. Conclusion

After careful consideration of all the material that was submitted by GE and consultation with FTC staff, it is ordered that:

(1) The petitions for waiver submitted by the GE Appliances (Case No. RF–023) are hereby granted as set forth in paragraphs.

(2) GE shall be required to test and rate the following GE models according to the alternate test procedure set forth in paragraph (3) of this section.

CYE24T******
CFE29T******
DFE29J******
GNE26G******
GFE27G******
GFE27H******
GFE29H******
PWE23K******
PYE24K******
PYE24P******
PFE27K******
PFE29P******
PFH29P******

(3) GE shall be required to test the products listed in paragraph (2) of this section according to the alternate test procedure as adopted in DOE's final rule, dated January 25, 2012 (77 FR 3559), amending 10 CFR Part 430, Appendix A.

(4) Representations. GE may make representations about the energy use of its refrigerator-freezer products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(7) This waiver applies only to those basic models set out in GE's January 26, 2012 petition for waiver. Grant of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Issued in Washington, DC, on November 19, 2012.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2012–30676 Filed 12–19–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–021]

Decision and Order Granting a Waiver to Samsung From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. RF–021) that grants to Samsung Electronics America, Inc. (Samsung) a waiver from the DOE electric refrigerator and refrigerator-freezer test procedures for the basic models set forth in its petition for waiver in Case RF–021. In its petition, Samsung provides an alternate test procedure that is the same as the test procedure DOE published in a final rule dated January 25, 2012 (77 FR 3559). Under today's decision and order, Samsung shall be required to test and rate these refrigerator-freezers using an alternate test procedure as adopted in DOE's final rule dated January 25, 2012 (77 FR 3559) that takes multiple defrost cycles into account when measuring energy consumption.

DATES: This Decision and Order is effective December 20, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371, Email: *Bryan.Berringer@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0103, (202) 586–7796, Email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Samsung a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures in 10 CFR part 430, subpart B, appendix A1 for certain basic models of refrigerator-freezers with multiple defrost cycles, provided that Samsung tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Samsung from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results.

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on November 19, 2012.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Samsung Electronics America, Inc. (Case No. RF–021).

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential electric refrigerators and refrigerator-freezers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential electric refrigerators and refrigerator-freezers is set forth in 10 CFR part 430, subpart B, appendix A1.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver from the test procedure requirements for a particular basic model for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics.

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

II. Samsung's Petition for Waiver: Assertions and Determinations

On December 14, 2011, Samsung submitted a petition for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR part 430, subpart B, appendix A1. Samsung is designing new refrigerator-freezers that incorporate multiple defrost cycles. In its petition, Samsung seeks a waiver from the existing DOE test procedure applicable to refrigerators and refrigerator-freezers under 10 CFR part 430 because the existing test procedure does not account for multiple defrost cycles. Therefore, Samsung has asked to use an alternate test procedure that is the same as the test procedure provisions for products with long time or variable defrost DOE published in a final rule (77 FR 3559, January 25, 2012). On January 27 and July 19, 2011, Samsung had submitted similar petitions for waiver and requests for interim waiver for other basic models of

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

refrigerator-freezers that incorporate multiple defrost cycles. DOE subsequently granted a waiver for the products specified in these petitions. 77 FR 1474 (Jan. 10, 2012).

Samsung's petition included an alternate test procedure to account for the energy consumption of its refrigerator-freezer models with multiple defrost cycles. The alternate test procedure specified by Samsung is the same as the test procedure published in the interim final rule referenced above. DOE recently issued a final test procedure for refrigerators, refrigerator-freezers, and freezers (77 FR 3559, Jan. 25, 2012). The final test procedure addresses comments received on the Samsung petitions that were the subject of the previous waiver, as well as on the interim final rule. The alternate test procedure specified in this interim waiver (as well as the previous waiver granted to Samsung) is identical to the test procedure provisions for products with long time or variable defrost adopted in the final test procedure rule.

Because the current applicable test procedure cannot be used to test the basic models at issue or would otherwise lead to materially inaccurate results, DOE previously granted a waiver to Samsung for other basic models incorporating multiple defrost technology (77 FR 1474, Jan. 10, 2012). DOE has determined that it is desirable to have similar basic models, such as those addressed by this most recent Samsung petition, tested in a consistent manner and is adopting the same approach laid out in its prior decision by permitting Samsung to use the alternate test procedure specified in this Decision and Order.

III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Samsung petition for waiver. The FTC staff did not have any objections to granting a waiver to Samsung.

IV. Conclusion

After careful consideration of all the material that was submitted by Samsung and consultation with the FTC staff, it is ordered that:

(1) The petitions for waiver submitted by the Samsung Electronics America, Inc. (Case No. RF–021) are hereby granted as set forth in the paragraphs below.

(2) Samsung shall be required to test and rate the following Samsung models according to the alternate test procedure set forth in paragraph (3) of this section.

PFSS6SMX****

PSB42******

RF323T*DB**

RF263B*AE**

RF263N*AE**

592 656**

GSE4820SS

RF323B*DB**

RF261B*AE**

RF263S*AE**

PSB48******

E42BS75E**

RF263T*AE**

RF260B*AE**

(3) Samsung shall be required to test the products listed in paragraph (2) of this section according to the alternate test procedure as adopted in DOE's final rule dated January 25, 2012 (77 FR 3559).

(4) Representations. Samsung may make representations about the energy use of its refrigerator-freezer products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(7) This waiver applies only to those basic models set out in Samsung's December 14, 2011 petition for waiver. Grant of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Issued in Washington, DC, on November 19, 2012.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2012–30675 Filed 12–19–12; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9762–3]

Notice of Availability of Proposed National Pollutant Discharge Elimination System (NPDES) General Permit for Offshore Oil and Gas Exploration, Development and Production Operations off Southern California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of proposed NPDES general permit (reissuance).

SUMMARY: EPA Region 9 is proposing to reissue its general NPDES permit (permit No. CAG280000) for discharges from offshore oil and gas exploration, development and production facilities located in Federal waters off the coast of Southern California. This permit was issued on September 22, 2004, and modified on November 30, 2009.

This notice announces the availability of the proposed general permit and fact sheet for public comment. For the most part, the proposed permit is very similar to the 2004 permit. The major changes from the 2004 permit include the following: (1) Reduced geographic area of coverage reflecting a reduction in the number of lease blocks considered active by the Bureau of Ocean Energy Management (BOEM); (2) revised effluent limits and monitoring requirements for produced water based on an updated reasonable potential analysis; (3) revised whole effluent toxicity (WET) requirements for produced water; (4) study requirement for cooling water intake structures; and (5) new requirements for an on-line oil and grease monitor for produced water. These changes are discussed in more detail below, and in the fact sheet accompanying the proposed general permit.

DATES: Comments on the proposed permit must be received or postmarked no later than February 4, 2013.

ADDRESSES: Public comments on the proposed permit may be submitted by U.S. Mail to: Environmental Protection Agency, Region 9, Attn: Eugene Bromley, NPDES Permits Office (WTR–5), 75 Hawthorne Street, San Francisco, California 94105–3901, or by email to: *bromley.eugene@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Eugene Bromley, EPA Region 9, NPDES Permits Office (WTR–5), 75 Hawthorne Street, San Francisco, California 94105–3901, or telephone (415) 972–3510. A copy of the proposed permit and fact

sheet will be provided upon request and are also available on Region 9's Web site at: *http://www.epa.gov/region09/water/npdes/pubnotices.html.* The 2004 general permit and fact sheet are available on Region 9's Web site at *http://www.epa.gov/region09/water/.*

Administrative Record: The proposed permit and other related documents in the administrative record are on file and may be inspected any time between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays, at the following address: U.S. EPA Region 9, NPDES Permits Office (WTR–5), 75 Hawthorne Street, San Francisco, CA 94105–3901.

SUPPLEMENTARY INFORMATION:

A. Summary of Proposed Changes From the 2004 General Permit

1. Facility Coverage. Like the 2004 general permit, the proposed general permit would apply to existing development and production platforms, and new exploratory drilling operations in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, located in and discharging to specified lease blocks in Federal waters on the Pacific Outer-Continental Shelf (OCS), offshore Southern California.

There are currently 23 production platforms which are authorized to discharge by the 2004 permit, and the proposed permit would continue to authorize discharges from these 23 platforms; discharges from any new platforms would require separate individual permits. The geographic area of coverage for the proposed permit would be the 49 lease blocks currently considered active by the Bureau of Ocean Energy Management (BOEM) off Southern California; this would be a reduction from the 83 lease blocks considered active in 2004 and included in the 2004 general permit.

2. Updated Reasonable Potential Analysis for Produced Water Discharges. On November 30, 2009 (74 FR 64074) Region 9 modified the 2004 general permit to incorporate additional effluent limits and monitoring requirements based on a study submitted in 2006 by permittees of the reasonable potential of the discharges to cause or contribute to exceedances of marine water quality criteria. For the new proposed permit, Region 9 re-evaluated this matter using monitoring data collected in 2009–2012. The new analysis showed that many of the previous effluent limits in the 2009 modification are no longer needed and would not be included in the 2012 proposed permit. For such constituents, however, Region 9 is proposing an annual monitoring requirement to ensure no unreasonable degradation of the marine environment pursuant to section 403 of the Clean Water Act (CWA).

3. Whole Effluent Toxicity (WET). The 2004 permit required monthly WET testing for produced water discharges (for the first year of the permit) using the red abalone (*Haliotis rufescens*) larval development test, and then annual screening with a plant (giant kelp, *Macrocystis pyrifera*), a vertebrate (topsmelt, *Atherinops affinis*) and an invertebrate (red abalone). In 2010, EPA published a new guidance manual [1] which Region 9 believes improves regulatory decision-making with regards to WET test results. For the proposed 2012 general permit, Region 9 is proposing WET effluent limits for certain platforms based on the WET test results collected during the term of the 2004 permit. Region 9 is also proposing continuation of chronic toxicity testing for all platforms to ensure no unreasonable degradation of the marine environment, using the three above species, and the 2010 protocol for analysis of the results.

4. Cooling Water Intake Structure Requirements. Section 316(b) of the CWA requires that the location, design, construction and capacity of cooling water intake structures (CWISs) reflect the application of the best technology available to minimize adverse environmental impacts. On June 16, 2006 (71 FR 35006), EPA promulgated final regulations for new offshore oil and gas facilities. Region 9 believes that all facilities potentially covered by the proposed permit (including new exploratory operations) would not be considered ''new facilities'' as defined in the 2006 regulations and therefore are not categorically subject to the 2006 regulations.

Although the 2006 regulations did not include specific requirements for existing offshore oil and gas facilities, the preamble notes that requirements for existing facilities may be developed on a case-by-case basis using best professional judgment (71 FR 35006). Region 9 is proposing a study requirement (due within one year) for the 2012 general permit which would require the following for all platforms with cooling water discharges: (1) Description of current CWIS and existing measures to minimize entrainment/impingement; (2) assessment of the environmental impacts from entrainment/impingement given current practices; and (3) practicality of additional measures to reduce environmental impacts from entrainment/impingement.

5. On-Line Oil and Grease Monitors. The 2004 general permit required each permittee (jointly or separately) to investigate and submit a report evaluating the availability and practicality of on-line monitoring devices for oil and grease in produced water discharges. The practicality of such devices for produced water was unclear at the time of the 2004 general permit issuance, but it was Region 9's intent to re-evaluate this matter when the permit was reissued. These devices have the potential to provide more timely information concerning upset conditions and potential exceedances of permit limits, and thereby provide improved protection of the marine environment.

The permittees submitted three different reports evaluating this matter, and Region 9 believes they show the technology is now available and practical for use at California offshore platforms. Furthermore, in discussions with operators and as noted in the reports, some platforms have already installed devices of this nature. As such, the proposed 2012 general permit would require within one year of the permit's effective date that operators do either of the following: (1) Install on-line monitoring equipment capable of providing the operator with rapid information concerning potential noncompliance with the effluent limits for oil and grease for produced water in the permit, or (2) provide information to Region 9 demonstrating that the operator has already installed monitoring equipment which meets the above objective.

B. Ocean Discharge Criteria

Section 403 of the CWA requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas be issued in accordance with guidelines for determining the potential degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR part 125, subpart M) and section 403 of the CWA are intended to ''prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal'' (45 FR 65942, October 3, 1980).

To support the issuance of the 2004 general permit, Region 9 prepared an Ocean Discharge Criteria Evaluation

[1] U.S. EPA. 2010. National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document, EPA 833–R–10–003, June 2010.

(ODCE)[2] which evaluated the proposed discharges in relation to the requirements of the Ocean Discharge Criteria regulations. After review of the ODCE, and numerous other studies and data in the administrative record for the 2004 permit, Region 9 concluded that the discharges authorized by the permit would not cause unreasonable degradation of the marine environment. For the proposed 2012 permit reissuance, Region 9 re-evaluated this conclusion through a review of new study results that have become available subsequent to the 2004 permit issuance, such as new reports from the environmental studies program conducted by the Pacific OCS Office of BOEM. After considering such new information, Region 9 again concludes that the proposed discharges from the platforms would not cause unreasonable degradation of the marine environment. As stated above, the proposed permit has water quality and toxicity monitoring to ensure compliance with CWA Section 403.

C. Endangered Species Act

The Endangered Species Act (ESA) allocates authority to and administers requirements upon Federal agencies regarding threatened or endangered species of fish, wildlife, or plants and habitat of such species that have been designated as critical. Its implementing regulations (50 CFR part 402) require EPA to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized, funded or carried out by EPA is not likely to jeopardize the continued existence of any threatened or endangered species or adversely affect its critical habitat (40 CFR 122.49(c)). Implementing regulations for the ESA establish a process by which Federal agencies consult with one another to ensure that the concerns of both the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) (collectively ''Services'') are addressed. EPA prepared separate biological assessments (BAs)[3] [4] to assess the potential impacts of the 2004 permit issuance on listed species under the jurisdiction of the USFWS and NMFS. Both BAs concluded that there would be no effect on listed species. The BAs were provided to the Services for review but no comments were received.

For the 2012 general permit reissuance, Region 9 reconsidered the potential effects of the discharges on listed species and critical habitat. Both NMFS and the USFWS maintain current information and lists of threatened and endangered species and critical habitat for these species at: *http://www.nmfs.noaa.gov/pr/species/esa/* and *http://ecos.fws.gov/tess_public/.* After reconsidering this matter, Region 9 believes the proposed discharges would not affect these species.[5] However, we will forward the draft permit and fact sheet to the Services to solicit comments on this tentative conclusion.

D. Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) provides that a Federal license or permit for activities affecting the coastal zone of a state may not be granted until a state with an approved Coastal Management Plan (CMP) concurs that the activities authorized by the permit are consistent with the CMP (CZMA section 307(c)(3)(A)). In California, the CZMA authority is the California Coastal Commission (CCC).

Since Region 9 issued the general permit in 2004, the CZMA regulations specifying Federal agencies' obligations under CZMA sections (c)(1) and (c)(3) have been revised. In accordance with the revised regulations (71 FR 788, January 5, 2006), the issuance of a general NPDES permit by EPA is considered a ''Federal agency activity'' subject to the consistency determination requirements of CZMA section 307(c)(1). 15 CFR 930.31(d). Region 9 believes the permit would be consistent with the CMP, and will be submitting the required determination to the CCC pursuant to CZMA section 307(c)(1) prior to final permit issuance. If the relevant state agency's conditions are not incorporated into the general permit or the state agency objects to the general permit, then the general permit is not available for use in that state unless the applicant or person who wants to use the general permit provides the state agency with a consistency determination and the state agency concurs. Essentially, if EPA does not include a state agency's conditions or if the state agency objects, then the applicable CZMA consistency determination requirements shift from those in CZMA section 307(c)(1) into those in CZMA section 307(c)(3).

E. Marine Protection, Research, and Sanctuaries Act

The Channel Islands National Marine Sanctuary was designated in 1980 and encompasses approximately 4,296 km^2 in the Southern California Bight. Sanctuary regulations (15 CFR 922.71) provide a list of activities that are prohibited and thus unlawful for any person to conduct or to cause to be conducted within the Sanctuary. No operations authorized by this proposed permit are within the Sanctuary boundaries.

F. Magnuson-Stevens Fishery Conservation and Management Act

The 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act set forth a number of new mandates for NMFS, regional fishery management councils, and Federal agencies to identify and protect important marine and anadromous fish habitat. Regional fishery management councils, with assistance from NMFS, are required to delineate essential fish habitat (EFH).

The Magnuson-Stevens Act requires that Federal agencies consult with NMFS on all actions undertaken by the agency which may adversely affect EFH. In accordance with these requirements, for the 2004 general permit, EPA prepared an assessment[6] of the effects of the proposed discharges on EFH in the area covered by the permit. The assessment concluded that while there may be effects on EFH from certain discharges near an outfall, these effects should be minor overall. Region 9 also initiated a consultation with NMFS in 2000 which led to a requirement for a 2005 study[7] to address certain concerns which NMFS raised regarding produced water discharges.

For the 2012 permit reissuance, Region 9 reconsidered the effects of the discharges on EFH. NMFS provides updated information concerning EFH in Southern California ocean waters on its Web site at *http://swr.nmfs.noaa.gov/hcd/HCD_webContent/EFH/index_EFH.htm.* After review of the

[2] Science Applications International Corporation. 2000. Ocean Discharge Criteria Evaluation South and Central California for NPDES Permit No. CAG28000, Submitted to U.S. EPA Region 9, September 29, 2000.

[3] Science Applications International Corporation. 2000. Biological Assessment for Endangered Species in Outer Continental Shelf Waters of South and Central California for Consultation with the National Marine Fisheries Service, Submitted to EPA, February 10, 2000.

[4] Science Applications International Corporation. 2000. Biological Assessment for Endangered Species in Outer Continental Shelf Waters of South and Central California for Consultation with the Unites States Fish and Wildlife Service, Submitted to EPA, February 10, 2000.

[5] In letters dated August 29, 2012, Region 9 also requested species lists from the Services to ensure that appropriate species are considered for reissuance of the final general permit.

[6] Science Applications International Corporation. 2000. Essential Fish Habitat Assessment for NPDES Permit No. CAG280000, Submitted to EPA Region 9. October 2, 2000.

[7] Western States Petroleum Association. 2005. The Effects of Produced Water Discharges on Federally Managed Fish Species along the California Outer Continental Shelf, Submitted to EPA Region 9, June 2005.

information on the NMFS Web site, Region 9 believes the previous conclusion is still valid that the discharges would not have a significant adverse effect on EFH. However, Region 9 will forward the draft permit and fact sheet to NMFS for any comments on Region 9's tentative conclusion concerning the potential effects on EFH.

G. Permit Appeal Procedures

Within 120 days following notice of EPA's final decision for the general permit under 40 CFR 124.15, any interested person may appeal the permit decision in the Federal Court of Appeals in accordance with Section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 (and authorized at 40 CFR 122.28), and then petition the Environmental Appeals Board to review any condition of the individual permit (40 CFR 124.19).

H. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. The permit renewal proposed today is not a ''rule'' subject to the Regulatory Flexibility Act. EPA prepared a regulatory flexibility analysis, however, on the promulgation of the Offshore Subcategory guidelines on which many of the permit's effluent limitations are based. That analysis has shown that issuance of this permit would not have a significant impact on a substantial number of small entities.

I. Paperwork Reduction Act

The information collection required by this proposed permit has been approved by Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* in submissions made for the NPDES permit program and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: December 6, 2012.

John Kemmerer,

Acting Director, Water Division, EPA Region 9.

[FR Doc. 2012–30696 Filed 12–19–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning 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; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 19, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0009.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License, FCC Form 316.

Form Number: FCC Form 316.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or tribal government.

Number of Respondents and Responses: 750 respondents, 750 responses.

Estimated Time per Response: 1.5–4.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain benefits. Statutory authority for this collection of information is contained in Sections 154(i) and 310(d) of the Communications Act of 1934, as amended.

Total Annual Burden: 1,231 hours.

Total Annual Costs: $711,150.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Confidentiality is not required with this collection of information.

Needs and Uses: FCC Form 316 is required when applying for authority for assignment of a broadcast station construction permit or license, or for consent to transfer control of a corporation holding a broadcast station construction permit or license where there is little change in the relative interest or disposition of its interests; where transfer of interest is not a controlling one; there is no substantial change in the beneficial ownership of the corporation; where the assignment is less than a controlling interest in a partnership; where there is an appointment of an entity qualified to succeed to the interest of a deceased or legally incapacitated individual permittee, licensee or controlling stockholder; and, in the case of LPFM stations, where there is a voluntary transfer of a controlling interest in the licensee or permittee entity. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated.

OMB Control Number: 3060–1053.

Title: 47 CFR 64.604—Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; IP Captioned Telephone Service, Declaratory Ruling, CG Docket No. 03–123.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 8 respondents; 16 responses.

Estimated Time per Response: 8 hours.

Frequency of Response: Annual reporting requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirement is found at Sec. 225 [47 U.S.C. 225] Telecommunications Services for Hearing-Impaired Individuals; The Americans with Disabilities Act of 1990, (ADA), Public Law 101–336, 104 Stat. 327, 366–69, was enacted on July 26, 1990.

Total Annual Burden: 128 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On August 1, 2003, the Commission released the *Declaratory Ruling,* In the Matter of Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67, published at 68 FR 55898, September 28, 2003. In the *Declaratory Ruling,* the Commission clarified that one-line captioned telephone voice carry over (VCO) service is a type of telecommunications relay service (TRS) and that eligible providers of such services are eligible to recover their costs in accordance with section 225 of the Communications Act. The Commission also clarified that certain TRS mandatory minimum standards does not apply to one-line captioned telephone VCO service, and waived 47 CFR 64.604(a)(1) and (a)(3) of the Commission's rules for all current and future captioned telephone VCO service providers, for the same period of time beginning August 1, 2003. The waivers were contingent on the filing of annual reports, for a period of three years, with the Commission. Sections 64.604(a)(1) and (a)(3) of the Commission's rules, which contained information collection requirements under the PRA became effective on March 26, 2004.

On July 19, 2005, the Commission released a *Order,* In the Matter of Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67 and CG Docket No. 03–123, published at 70 FR 54294, September 14, 2005, that clarified two-line captioned telephone VCO service, like one-line captioned telephone VCO service, is a type of TRS eligible for compensation from the Interstate TRS Fund. Also, the Commission clarified that certain TRS mandatory minimum standards do not apply to two-line captioned VCO service, and waived 47 CFR 64.604(a)(1) and (a)(3) of the Commission's rules, for providers who offers two-line captioned VCO service. This clarification increased the number of providers who will be providing one-line and two-line captioned telephone VCO services.

On January 11, 2007, the Commission released a *Declaratory Ruling,* In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03–123, published at 72 FR 6960, February 14, 2007, granting a request for clarification that Internet Protocol (IP) captioned telephone relay service (IP CTS) is a type of TRS eligible for compensation from the Interstate TRS Fund when offered in compliance with the applicable TRS mandatory minimum standards.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2012–30601 Filed 12–19–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning 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; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 19, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0748.

Title: Section 64.104, 64.1509, 64.1510 Pay-Per-Call and Other Information Services.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 5,125 respondents; 5,175 responses.

Estimated Time per Response: 2 to 260 hours.

Frequency of Response: Annual and on occasion reporting requirements; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority(s) for the information collection are found at 47 U.S.C. 228(c)(7)–(10); Public Law 192–556, 106 stat. 4181 (1992), codified at 47 U.S.C. 228 (The Telephone Disclosure and Dispute Resolution Act of 1992).

Total Annual Burden: 47,750 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the

collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 64.1504 of the Commission's rules incorporates the requirements of Sections 228(c)(7)–(10) of the Communications Act restricting the manner in which toll-free numbers may be used to charge telephone subscribers for information services. Common carriers may not charge a calling party for information conveyed on a toll-free number call, unless the calling party: (1) Has executed a written agreement that specifies the material terms and conditions under which the information is provided, or (2) pays for the information by means of a prepaid account, credit, debit, charge, or calling card and the information service provider gives the calling party an introductory message disclosing the cost and other terms and conditions for the service. The disclosure requirements are intended to ensure that consumers know when charges will be levied for calls to toll-free numbers and are able to obtain information necessary to make informed choices about whether to purchase toll-free information services.

47 CFR 64.1509 of the Commission rules incorporates the requirements of 47 U.S.C. (c)(2) and 228 (d)(2)–(3) of the Communications Act. Common carriers that assign telephone numbers to pay-per-call services must disclose to all interested parties, upon request, a list of all assigned pay-per-call numbers. For each assigned number, carriers must also make available: (1) A description of the pay-per-call services; (2) the total cost per minute or other fees associated with the service; and (3) the service provider's name, business address, and telephone number. In addition, carriers handling pay-per-call services must establish a toll-free number that consumers may call to receive information about pay-per-call services. Finally, the Commission requires carriers to provide statements of pay-per-call rights and responsibilities to new telephone subscribers at the time service is established and, although not required by statute, to all subscribers annually.

Under 47 CFR 64.1510 of the Commission's rules, telephone bills containing charges for interstate pay-per-call and other information services must include information detailing consumers' rights and responsibilities with respect to these charges. Specifically, telephone bills carrying pay-per-call charges must include a consumer notification stating that: (1) The charges are for non-communication services; (2) local and long distance telephone services may not be disconnected for failure to pay per-call charges; (3) pay-per-call (900 number) blocking is available upon request; and (4) access to pay-per-call services may be involuntarily blocked for failure to pay per-call charges. In addition, each call billed must show the type of services, the amount of the charge, and the date, time, and duration of the call. Finally, the bill must display a toll-free number which subscribers may call to obtain information about pay-per-call services. Similar billing disclosure requirements apply to charges for information services either billed to subscribers on a collect basis or accessed by subscribers through a toll-free number. The billing disclosure requirements are intended to ensure that telephone subscribers billed for pay-per-call or other information services can understand the charges levied and are informed of their rights and responsibilities with respect to payment of such charges.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2012–30596 Filed 12–19–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: CHEHALIS VALLEY EDUCATIONAL FOUNDATION, Station KACS, Facility ID 10685, BPED–20121009ABE, From RAINIER, WA, To CHEHALIS, WA; CHRISTOPHER FALLETTI, Station NEW, Facility ID 190424, BMPH–20121018ABU, From PHILLIPSBURG, KS, To WAKEENEY, KS; GULF SOUTH COMMUNICATIONS, INC., Station WDJR, Facility ID 25575, BPH–20121119AOD, From ENTERPRISE, AL, To HARTFORD, AL; GULF SOUTH COMMUNICATIONS, INC., Station WDBT, Facility ID 62206, BPH–20121119AOG, From HARTFORD, AL, To HOPE HULL, AL; HUNT COUNTY RADIO, LLC, Station KIKT, Facility ID 21597, BPH–20121126ABU, From GREENVILLE, TX, To COOPER, TX; JER LICENSES, LLC, Station NEW, Facility ID 190381, BNPH–20120529ALI, From PEACH SPRINGS, AZ, To SPRINGDALE, UT; MCC RADIO, LLC, Station KWOK, Facility ID 68057, BP–20121114AGE, From HOQUIAM, WA, To ABERDEEN, WA; MCC RADIO, LLC, Station KDUX–FM, Facility ID 52676, BPH–20121114AGF, From ABERDEEN, WA, To HOQUIAM, WA; TRUTH BROADCASTING CORPORATION, Station KTIA–FM, Facility ID 6417, BPH–20121113AMW, From BOONE, IA, To HUXLEY, IA.

DATES: The agency must receive comments on or before February 19, 2013.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm*. A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com*.

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2012–30594 Filed 12–19–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission,

supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before February 19, 2013

ADDRESSES: You may submit comments, identified by *FR Y–14A/Q/M,* by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Ayouch-Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection 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.

Proposal To Revise Under OMB Delegated Authority the Following Report

Report title: Capital Assessments and Stress Testing information collection.

Agency form number: FR Y–14A/Q/M.

OMB control number: 7100–0341.

Frequency: Annually, semi-annual, quarterly, and monthly.

Reporters: Large banking organizations that meet an annual threshold of $50 billion or more in total consolidated assets (large Bank Holding Companies or large BHCs), as defined by the Capital Plan rule (12 CFR 225.8).[1]

Estimated annual reporting hours: FR Y–14A: Summary, 50,160 hours; Macro scenario, 1,860 hours; Counterparty credit risk (CCR), 2,292 hours; Basel III/Dodd-Frank, 600 hours; and Regulatory capital, 600 hours. FR Y–14 Q: Securities risk, 1,200 hours; Retail risk, 1,920 hours; Pre-provision net revenue (PPNR), 75,000 hours; Wholesale corporate loans, 6,720 hours; Wholesale commercial real estate (CRE) loans, 6,480 hours; Trading risk, 41,280 hours; Basel III/Dodd-Frank, 2,400 hours; Regulatory capital, 4,800 hours; and Operational risk, 3,360 hours; and Mortgage Servicing Rights (MSR) Valuation, 864 hours; Supplemental, 960 hours; and Retail Fair Value Option/Held for Sale (Retail FVO/HFS), 1,216 hours. FR Y–14M: Retail 1st lien mortgage, 153,000 hours; Retail home equity, 146,880 hours; and Retail credit card, 91,800 hours. FR Y–14 Implementation and On-Going Automation: Start-up for new respondents, 79,200 hours; and On-going revisions for existing respondents, 9,120 hours.

Estimated average hours per response: FR Y–14A: Summary, 836 hours; Macro scenario, 31 hours; CCR, 382 hours; Basel III/Dodd-Frank, 20 hours; and Regulatory capital, 20 hours. FR Y–14Q: Securities risk, 10 hours; Retail risk, 16 hours; PPNR, 625 hours; Wholesale corporate loans, 60 hours; Wholesale CRE loans, 60 hours; Trading risk, 1,720 hours; Basel III/Dodd-Frank, 20 hours; Regulatory capital, 40 hours; Operational risk, 28 hours, MSR Valuation, 24 hours; Supplemental, 8 hours; and Retail FVO/HFS, 16 hours. FR Y–14M: Retail 1st lien mortgage, 510 hours; Retail home equity, 510 hours; and Retail credit card, 510 hours. FR Y–14 Implementation and On-Going Automation: Start-up for new respondents, 7,200 hours; and On-going revisions for existing respondents, 480 hours.

Number of respondents: 30.

General description of report: The FR Y–14 series of reports are authorized by section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), which requires the Federal Reserve to ensure that certain BHCs and nonbank financial companies supervised by the Federal Reserve are subject to enhanced risk-based and leverage standards in order to mitigate risks to the financial stability of the United States (12 U.S.C. 5365). Additionally, section 5 of the BHC Act authorizes the Board to issue regulations and conduct information collections

[1] The Capital Plan rule applies to every top-tier large BHC. This asset threshold is consistent with the threshold established by section 165 of the Dodd-Frank Act relating to enhanced supervision and prudential standards for certain BHCs.

with regard to the supervision of BHCs (12 U.S.C. 1844).

As these data are collected as part of the supervisory process, they are subject to confidential treatment under exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(8)). In addition, commercial and financial information contained in these information collections may be exempt from disclosure under FOIA exemption 4 (5 U.S.C. 552(b)(4)). Such exemptions would be made on a case-by-case basis.

Abstract: The data collected through the FR Y–14A/Q/M schedules provide the Federal Reserve with the additional information and perspective needed to help ensure that large BHCs have strong, firm-wide risk measurement and management processes supporting their internal assessments of capital adequacy and that their capital resources are sufficient given their business focus, activities, and resulting risk exposures. The annual Comprehensive Capital Analysis and Review (CCAR) exercise is also complemented by other Federal Reserve supervisory efforts aimed at enhancing the continued viability of large BHCs, including (1) continuous monitoring of BHCs' planning and management of liquidity and funding resources and (2) regular assessments of credit, market and operational risks, and associated risk management practices. Information gathered in this data collection is also used in the supervision and regulation of these financial institutions. In order to fully evaluate the data submissions, the Federal Reserve may conduct follow up discussions with or request responses to follow up questions from respondents, as needed.

The annual FR Y–14A collects large BHCs' quantitative projections of balance sheet, income, losses, and capital across a range of macroeconomic scenarios and qualitative information on methodologies used to develop internal projections of capital across scenarios.[2] The quarterly FR Y–14Q collects granular data on BHCs' various asset classes and PPNR for the reporting period, which are used to support supervisory stress test models and for continuous monitoring efforts. The monthly FR Y–14M comprises three loan- and portfolio-level collections, and one detailed address matching collection to supplement the two loan-level collections for first lien mortgages and home equity mortgages.

On October 12, 2012, the Federal Reserve published two final rules in the **Federal Register** (77 FR 62409) with stress testing requirements for certain bank holding companies, state member banks, and savings and loan holding companies. The final rules implement sections 165(i)(1) and (i)(2) of the Dodd-Frank Act. Section 165(i)(1) of the Dodd-Frank Act requires the Board to conduct an annual stress test of each covered company [3] to evaluate whether the covered company has sufficient capital, on a total consolidated basis, to absorb losses as a result of adverse economic conditions (supervisory stress tests). Section 165 (i)(2) requires the Board to issue regulations that require covered companies to conduct stress tests semi-annually and require financial companies with total consolidated assets of more than $10 billion that are not covered companies and for which the Federal Reserve is the primary federal financial regulatory agency to conduct stress tests on an annual basis (collectively, company-run stress tests).

Current Actions: The Federal Reserve proposes to revise the monthly FR Y–14M schedules and modify the frequency for certain FR Y–14A and FR Y–14Q schedules, effective March 31, 2013. Revisions to the FR Y–14M schedules include: (1) Adding data items to all three loan- and portfolio-level collections, and the address matching collection, (2) clarifying several data items currently collected, and (3) deleting data items that are no longer needed. A summary of the proposed revisions is provided below.

Proposed revisions to the FR Y–14A (annual collection)—Effective November 15, 2012, sections 252.145 (Mid-cycle stress test) and 252.147(a)(2) (Reports of stress test results) of Regulation YY (12 CFR 252) Supervisory and Company-Run Stress Test Requirements for Covered Companies, requires that, in addition to the stress test required under section 252.144, a covered company must conduct a stress test and report the results by July 5th during each stress test cycle based on data as of March 31st of that calendar year, unless the time or the as-of date is extended by the Board in writing.[4] Therefore, the Federal Reserve proposes revising the reporting frequency from annual to semi-annual for the Summary and Macro scenario schedules. In the mid-cycle summary schedules, trading and counterparty worksheets would be used if a market shock is included in one of the BHC stress scenarios. In the mid-cycle macro scenario schedule, BHCs would not be required to provide items related to supervisory scenarios.

Proposed revisions to the FR Y–14Q (quarterly collection)—The Federal Reserve proposes revising the FR Y–14Q Basel III/Dodd-Frank schedule and Regulatory Capital Instruments schedule to increase the reporting frequency from three times to four times a year effective beginning with the September 30, 2013 report date. The Federal Reserve needs these data to be provided quarterly, consistent with the data provided in other FR Y–14Q schedules. The previous frequency of three times a year reflected the fact that these schedules were implemented in the fourth quarter 2011 and were reported only three quarters during the first year of implementation.

Proposed revisions to the FR Y–14M (monthly collection)—The proposed revisions to the FR Y–14M (monthly collection) consist of adding data items, clarifying instructions, and clarifying current data items on four schedules. The proposed changes to the FR Y–14M monthly data collections would (1) Provide additional information to support supervisory models used during CCAR and Dodd-Frank Act Stress Testing (DFAST) as well as continuous supervisory monitoring of BHCs' portfolios, (2) be responsive to industry comments, (3) create greater uniformity in the information collected across respondents, (4) create greater consistency in field definitions across related FR Y–14 schedules, (5) account for developments in the market for loan products, (6) clarify ambiguity in existing variable definitions, and (7) create efficiencies in the processing of the data. In addition, the Federal Reserve believes that because many of the proposed new data items request information that large servicers of these loans currently collect in the regular course of business, the incremental burden of adding such fields would be low. Some of the proposed changes are also intended to facilitate increased data sharing across regulatory agencies that should reduce the overall burden of data submissions on reporters. In addition, some fields will have the added benefit of facilitating the review Basel II implementation at certain BHCs.

Domestic First Lien Closed-End 1–4 Family Residential Loan Schedule

The Federal Reserve proposes adding 40 data items to the Domestic First Lien Closed-End 1–4 Family Residential Loan schedule to collect information on loans before and after modification, loan

[2] BHCs that must re-submit their capital plan generally also must provide a revised FR Y–14A in connection with their resubmission.

[3] See 12 U.S.C. 5365(a). A ''covered company'' includes any bank holding company with total consolidated assets of $50 billion or more and each nonbank financial company that the Council has designated for supervision by the Board.

[4] Published October 12, 2012 (77 FR 62378)

performance and status indicators, risk analysis and loss information, Basel II parameters and identifier variables (such as customer and co-borrower ID). Also, the Federal Reserve proposes to remove three data items from the loan level table that can be derived from other data items.

The Federal Reserve specifically requests comment on an institution's ability to report data related to Loss Given Default (LGD) on first Lien and home equity loans in cases of involuntary termination. The Federal Reserve specifically requests comment on what information, in addition to total debt at time of any involuntary termination, net recovery amount, and sales price of property, would be appropriate to collect in order to estimate LGD.

Domestic Home Equity Loan and Home Equity Line Schedule

The Federal Reserve proposes adding 27 data items to the Domestic Home Equity Loan and Home Equity Line schedule and deleting one data item. The Federal Reserve proposes adding the data items to provide more information on loan performance, including loss, default, modification, foreclosure and recovery variables, and Basel II parameters, and to be consistent with the proposed revisions to the Domestic First Lien Closed End 1–4 Family Residential Loan schedule, as discussed above. The Federal Reserve proposes to delete the Paid-in-Full Coding data item (Field 52), as this information is sufficiently captured in the Liquidation Status data item (Field 54).

Address Matching Loan Level Data Collection

The Federal Reserve proposes to add one data item to the Address Matching Loan Level Data Collection schedule to indicate whether the loan is included in the FR Y–14M First Lien Closed-End or Home Equity Loan and Home Equity Line schedule for that month.

Domestic Credit Card Data Collection Data Dictionary

The Federal Reserve proposes to add 65 data items to the Domestic Credit Card Data Collection Data Dictionary schedule. 46 data items would be added at the account level to collect information surrounding identifier variables (including corporation and borrower IDs, address, entity type, and trade key), purchase and payment rate variables, status and performance data, various fees incurred, workout program descriptors, and credit scores and limits. In addition, the Federal Reserve proposes to revise the current reporting of 11 account level data items from optional to mandatory, in order to create greater uniformity in the reporting of balance, cycle and account dates and amounts. At the portfolio level, 19 data items would be added to collect information on interest and non-interest expenses, interest and noninterest income, various types of fee income, and taxes.

Copies of the draft reporting forms and instructions and additional details on the proposed data items are available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx.*

Board of Governors of the Federal Reserve System, December 14, 2012.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2012–30636 Filed 12–19–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Health Profession Opportunity Grants (HPOG) program.

OMB No.: 0970–0394.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) is proposing data collection activities as part of the Health Profession Opportunity Grants (HPOG) program. ACF has developed a multi-pronged research and evaluation approach for the HPOG program to better understand and assess the activities conducted and their results. The proposed data collection activities described in this notice will provide data for three evaluation components, the National Implementation Evaluation of the Health Profession Opportunity Grants to Serve TANF Recipients and Other Low-Income Individuals (HPOG–NIE) and the Impact Studies of the Health Profession Opportunity Grants (HPOG-Impact), and the Innovative Strategies for Increasing Self Sufficiency (ISIS) evaluation.

Two data collection efforts related to HPOG research were approved by OMB, including approval of a Performance Reporting System (PRS) (approved September 2011) and for collection of additional baseline data for the HPOG-Impact study (approved October 2012). One data collection of ISIS was approved (November 2011) and follow up data collection instruments are currently under review.

This 60-day notice describes the remaining data collection efforts for both HPOG–NIE and HPOG-Impact. Two of the proposed instruments will collect data from all of the ISIS sites. Information collection described under 1 through 9 will be included in the next OMB submission for review. Information collections 10 through 14 will be submitted in a future information collection clearance request.

The goal of HPOG–NIE is to describe and assess the implementation, systems change, and outcomes and other important information about the operations of the 27 HPOG grantees focused on TANF recipients and other low-income individuals. To achieve these goals, it is necessary to collect data about the HPOG program designs and implementation, HPOG partner and program networks and indicators of systems change, employers' perceptions of HPOG programs, the composition and intensity of HPOG services received, participant characteristics and HPOG experiences, and participant outputs and outcomes.

The goal of HPOG-Impact is to evaluate the effectiveness of approaches used by 20 of the HPOG grantees to provide TANF recipients and other low-income individuals with opportunities for education, training and advancement within the health care field. HPOG-Impact also is intended to evaluate variation in participant impact that may be attributable to different HPOG program components and models. The impact study design is a classic experiment in which eligible applicants will be randomly assigned to a treatment group that is offered participation in HPOG and a control group that is not permitted to enroll in HPOG. Data collected from the HPOG participants served by these 20 grantees will also be used for the HPOG–NIE study.

The goal of ISIS is to test a range of promising career pathways strategies to promote education, employment, and self-sufficiency. Three HPOG grantees are in the ISIS evaluation along with 6 additional non-HPOG sites.

The information collection activities to be submitted in the next request package include:

(1) *The HPOG–NIE sample frame questionnaire* will ask respondents from each of the 27 TANF and low-income HPOG grantees to identify and provide contact information for potential respondents to the surveys described in items 2–4.

(2) *The HPOG–NIE grantee survey* will be administered to staff of the 27 TANF and low-income HPOG grantees and their major collaborators. The survey will collect information about the HPOG program context and about program administration, activities and services.

(3) *The HPOG–NIE survey of HPOG program management and staff* will collect information from HPOG staff in the 27 TANF and low-income HPOG grantee sites about their approaches to delivering key program services and activities, as well as beliefs and attitudes about the HPOG program and mission and priorities in serving its target population.

(4) *The HPOG–NIE stakeholder/network survey* will collect information about partner organizations' and stakeholders' roles, responsibilities, levels of investment, and perceptions of the viability and productivity of the program and stakeholder network in all 27 TANF and low-income HPOG grantee sites and the 6 additional non-HPOG ISIS sites.

(5) *The HPOG–NIE employer survey* will collect information about employers' perceptions of the overall healthcare labor market, firm-specific conditions and hiring practices, and their perceptions of and experience with the program in all 27 TANF and low-income HPOG grantee sites and the 6 additional non-HPOG ISIS sites.

(6) *HPOG-Impact in-person implementation interviews with HPOG personnel* will collect information about the grantees' rationale for applying for HPOG funding, administrative challenges, and challenges implementing programs as planned, as well as information about staff roles and responsibilities and perceptions of the program. The study will use the interviews to supplement and validate sections of the HPOG–NIE grantee survey (described above) in the 27 TANF and low-income HPOG grantee sites.

(7) *HPOG-Impact additional in-person implementation interviews with HPOG personnel at systematic variation grantees* will collect information about the implementation of HPOG program components that may be associated with variation in participant impacts in the 27 TANF and low-income HPOG grantee sites.

(8) *The HPOG-Impact follow-up survey of both treatment and control group members* will be administered approximately 15 months after baseline data collection and random assignment. The survey will collect data about outcomes of interest, including certifications and educational achievements, job placement, wages, and benefits. It also will collect some information about HPOG participants' tenure and experience in HPOG programming in all 20 HPOG Impact sites.

(9) *The HPOG–NIE supplemental participant follow-up survey* will be the same as the instrument developed for the HPOG-Impact follow-up survey but will be administered to participants from the four HPOG grantees focused on TANF recipients and other low-income individuals that are not included in the HPOG-Impact study or the Innovative Strategies for Increasing Self-Sufficiency (ISIS) project.

Data collection activities to submit in a future information collection request include: (10) *The HPOG–NIE follow-up stakeholder/network survey;* (11) *the HPOG-Impact second follow-up survey of both treatment and control group members;* (12) *the HPOG–NIE second supplemental participant follow-up survey;* (13) *HPOG-Impact follow-up data collection on children of HPOG-Impact study participants;* and (14) *the HPOG–NIE in-person interviews with HPOG managers and staff.*

Respondents: Individuals enrolled in HPOG interventions; control group members; HPOG program managers; HPOG program staff, including instructors and case managers; representatives of partner agencies and stakeholders, including support service providers, education and vocational training providers, Workforce Investment Boards, TANF agencies, and local health care employers.

ANNUAL RESPONSE BURDEN ESTIMATES

[This information collection request is for a two-year period]

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
1. HPOG–NIE sample frame questionnaire	54	1	4	216	108
2. HPOG–NIE grantee survey	135	1	0.67	90	45
3. HPOG–NIE survey of HPOG program management and staff	540	1	0.5	270	135
4. HPOG–NIE stakeholder/network survey	610	1	0.5	305	153
5. HPOG–NIE employer survey	244	1	0.5	122	61
6. HPOG-Impact in-person implementation interviews with HPOG personnel	216	1	1	216	108
7. HPOG-Impact additional in-person implementation interviews with HPOG personnel at systematic variation grantees	100	1	1	100	50
8a. HPOG-Impact follow-up survey of HPOG participants	3,416	1	.75	2562	1281
8b. HPOG-Impact follow-up survey of control group members	1708	1	0.5	854	427
9. HPOG–NIE supplemental participant follow-up survey	600	1	0.75	450	225

Estimated Annual Response Burden Hours: 2,593.

In compliance with the requirement of section 3506 (c) (2) (A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families (ACF), Department of Health and Human Services, is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded in writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed

collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

ACF Reports Clearance Officer.

[FR Doc. 2012–30686 Filed 12–19–12; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0482]

Guidances for Industry and Investigators on Safety Reporting Requirements for Investigational New Drug Applications and Bioavailability/Bioequivalence Studies, and a Small Entity Compliance Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of two guidances for industry and investigators entitled ''Safety Reporting Requirements for INDs and BA/BE Studies'' and ''Safety Reporting Requirements for INDs and BA/BE Studies—Small Entity Compliance Guide.'' These guidances are intended to help sponsors and investigators comply with the requirements in the final rule entitled ''Investigational New Drug Safety Reporting Requirements for Human Drug and Biological Products and Safety Reporting Requirements for Bioavailability and Bioequivalence Studies in Humans,'' published in the **Federal Register** on September 29, 2010 (75 FR 59935). FDA has prepared the Small Entity Compliance Guide in accordance with the Small Business Regulatory Enforcement Fairness Act. It is intended to help small businesses understand and comply with the regulations issued by FDA concerning safety reporting requirements for investigational new drug applications (IND) and bioavailability (BA) and bioequivalence (BE) studies.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidances to the Office of Communications, Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance documents.

Submit electronic comments on the guidances to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Stephanie Shapley, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6352, Silver Spring, MD 20993–0002, 301–796–4836; or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of two guidances for industry and investigators entitled ''Safety Reporting Requirements for INDs and BA/BE Studies'' and ''Safety Reporting Requirements for INDs and BA/BE Studies—Small Entity Compliance Guide.'' These guidances are intended to help sponsors and investigators comply with the requirements for IND safety reporting and safety reporting for BA and BE studies. In addition, the Small Entity Compliance Guide is intended to help small businesses understand and comply with the regulations issued by FDA concerning the safety reporting requirements for INDs and BA/BE studies. FDA has prepared the Small Entity Compliance Guide in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act.

On September 29, 2010, FDA published a final rule amending the IND safety reporting requirements under 21 CFR part 312 and adding safety reporting requirements for persons conducting BA and BE studies under 21 CFR part 320. The requirements in the final rule are intended to improve the utility and quality of safety reports, expedite and strengthen FDA's ability to review critical safety information, and better protect human subjects enrolled in clinical trials. FDA also published a draft guidance entitled ''Safety Reporting Requirements for INDs and BA/BE Studies'' on September 29, 2010 (75 FR 60129), and the public was provided with an opportunity to comment on it until December 28, 2010. FDA carefully considered all of the comments received in developing the final guidance. The final guidance includes clarifications and additional detail regarding the draft guidance topics as well additional information on safety reporting issues raised in the comments.

The final guidance entitled ''Safety Reporting Requirements for INDs and BA/BE Studies'' contains the definitions used for IND safety reporting, makes recommendations on when and how to submit a safety report, and provides advice on other safety reporting issues that have generated questions from sponsors and investigators.

The Small Entity Compliance Guide provides answers to many frequently asked questions FDA has received from investigators and sponsors regarding the safety reporting requirements that are applicable to small entities.

In addition, on June 7, 2011, the Agency published a guidance describing enforcement discretion with the reporting requirements until September 28, 2011, to allow sponsors additional time to make process changes to implement the final rule (76 FR 32863; June 7, 2011). At this time, the Agency is withdrawing this guidance.

These guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidances represent the Agency's current thinking on safety reporting requirements for IND and BA/BE studies. They do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either written comments regarding these documents to the Division of Dockets

Management (see **ADDRESSES**) or electronic comments to *http://www.regulations.gov.* It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Paperwork Reduction Act of 1995

These guidances refer to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in these guidances have been approved under OMB control number 0910–0672.

IV. Electronic Access

Persons with access to the Internet may obtain the documents at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *http://www.regulations.gov.*

Dated: December 13, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–30651 Filed 12–19–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review and Approval; Public Comment Request

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: National Health Service Corps Travel Request Worksheet (OMB No. 0915–0278)—Revision

Abstract: Clinicians participating in the HRSA National Health Service Corps (NHSC) Scholarship Program use the online Travel Request Worksheet to request travel funds from the Federal Government to perform pre-employment interviews at sites on the NHSC's Opportunities List. The travel approval process is initiated when a scholar notifies the NHSC of an impending interview at one or more NHSC approved practice sites. The Travel Request Worksheet is also used to initiate the relocation process after a NHSC scholar has successfully been matched to an approved practice site. Upon receipt of the Travel Request Worksheet, the NHSC will review and approve or disapprove the request and promptly notify the scholar and the NHSC logistics contractor regarding travel arrangements and authorization of the funding for the site visit or relocation.

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 Information Collection Request 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
Scholar Travel Request Worksheet	180	2	360	.0667	24
Total	180	2	360	.0667	24

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: December 14, 2012.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2012–30690 Filed 12–19–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0052]

Agency Information Collection Activities: Application for Naturalization, Form Number N–400; Revision of a Currently Approved Collection

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for sixty days until February 19, 2013.

ADDRESSES: Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to DHS using one of the following methods: (1) Via the Federal eRulemaking Portal Web site at *www.Regulations.gov* under e-Docket ID number USCIS–2008–0025; (2) by email to *USCISFRComment@uscis.dhs.gov;* or (3) by mail to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140. All submissions received must include the OMB Control Number 1615–0052 in the subject box, the agency name and Docket ID 2008–0025.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov*.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

USCIS continually reviews its information collection tools for accuracy, completeness, and utility and, as a result, the agency is proposing the addition of a number of questions to Form N–400. These additional questions will allow USCIS to make more informed decisions on the eligibility of respondents to the form. Form N–400 is the final information collection activity that occurs before an eligibility determination for naturalization is made. Even if the applicant for naturalization has received a previous immigration benefit from USCIS, the length of time that may have transpired between the initial interaction that the respondent had with USCIS on another immigration benefit request and the filing of the N–400 requires USCIS to verify that actions taken by the respondent during the intervening years do not affect his or her eligibility for naturalization. The form is also updated to examine the inadmissibility grounds that were added by the Intelligence Reform and Terrorism Prevention Act of 2004. Public Law 108–458 (Dec. 17, 2004). USCIS added these questions as required by the agreement reached through a working group comprised of representatives of affected agencies, including the Departments of Justice and State, and U.S. Immigration and Customs Enforcement of DHS. These additional questions are necessary for USCIS to meet the statutory requirements and the President's directive to make a determination that a person is ineligible to naturalize because of his or her past involvement with terrorism, persecution, torture, or genocide. *See,* Presidential Proclamation—Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Participate in Serious Human Rights and Humanitarian Law Violations and Other Abuses, at *http://www.whitehouse.gov/the-press-office/2011/08/04/presidential-proclamation-suspension-entry-immigrants-and-nonimmigrants.* Because Form N–400 has changed significantly, the burden estimate in this notice is not based on the experience and observations of actual public usage. USCIS would appreciate and encourages the public's input on the burden estimate so as to provide the most accurate estimate possible.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Naturalization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–400; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information gathered on Form N–400 to make a determination as to a respondent's eligibility to naturalize and become a United States citizen.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 764,450 respondents with an estimated response per respondent of 6 hours and 55 minutes for the form N–400 and 1 hour and 17 minutes for the biometric processing.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 7,076,514 Hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov*. We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: December 17, 2012.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–30673 Filed 12–19–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–93]

Healthy Home and Lead Hazard Control Grant Programs Data Collection; Progress Reporting

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below

has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This data collection is designed to provide HUD timely information on progress of Healthy Homes Demonstration Program, Healthy Homes Technical Studies Program, Lead Base paint Hazard Control program, Lead Hazard Reduction Demonstration Program, Lead Outreach Program, Lead Technical Studies Program, and Operation Lead Elimination Action Program grant activities. HUD will provide Congress with status report as required by statute.

DATES: *Comments Due Date:* January 22, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2539–0008) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov.* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Healthy Home and Lead Hazard Control Grant Programs Data Collection—Progress Reporting.

OMB Approval Number: 2539–0008.

Form Numbers: HUD–96006.

Description of the need for the information and proposed use: This data collection is designed to provide HUD timely information on progress of Healthy Homes Demonstration Program, Healthy Homes Technical Studies Program, Lead Base paint Hazard Control program, Lead Hazard Reduction Demonstration Program, Lead Outreach Program, Lead Technical Studies Program, and Operation Lead Elimination Action Program grant activities. HUD will provide Congress with status report as required by statute.

	Number of respondents	Annual responses	×	Hours per response	×	Burden hours
Reporting Burden	300		4		9	10,800

Total estimated burden hours: 10,800.

Status: Reinstatement with change of a previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: December 14, 2012.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–30704 Filed 12–19–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Land Buy-Back Program for Tribal Nations

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Tribal Consultations.

SUMMARY: The Cobell Class Action Settlement Agreement established a Trust Land Consolidation Fund to be used for acquiring fractional interests in trust and restricted fee lands. Based on tribal consultation in the spring and summer of 2011, the Department issued a draft plan dated January 2012. The Department has developed this Initial Implementation Plan for the Land Buy-Back Program for Tribal Nations incorporating input received through subsequent consultations and public input. This notice announces consultation with Indian tribes on the Initial Implementation Plan and the Land Buy-Back Program for Tribal Nations (Buy-Back Program).

DATES: Written input/suggestions are due Monday, March 4, 2013. Please see the **SUPPLEMENTARY INFORMATION** section of this notice for dates of tribal consultation sessions.

ADDRESSES: See the **SUPPLMENTARY INFORMATION** section of this notice for the location of the tribal consultation sessions. The Initial Implementation Plan for the Buy-Back Program is available at: *www.doi.gov/cobell.* Submit comments by email to: *buybackprogram@ios.doi.gov* or by mail to U.S. Department of the Interior, MS–7323–MIB, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Anthony Walters, Office of the Land Buy-Back Program for Tribal Nations; *Anthony.Walters@bia.gov;* (202) 513–0897.

SUPPLEMENTARY INFORMATION: The Cobell Settlement Agreement (as confirmed by the Claims Resolution Act of 2010 (Pub. L. 11–291) and approved with finality after appeals to the U.S. Supreme Court were exhausted (Settlement)), provides, in part, for a $1.9 billion Trust Land Consolidation Fund (Fund). The Settlement charges the Department of the Interior (Department) with the responsibility to expend the Fund within a 10-year period to acquire, at fair market value, fractional interests in trust or restricted fee land that individuals are willing to sell to the Department. The Secretary has established the Buy-Back Program to implement this aspect of the Settlement.

There are approximately 150 reservations with 2.9 million purchasable fractional interests that are owned by more than 218,000 unique individuals. The overall goal of the Buy-Back Program is to reduce the number of those fractional interests through voluntary land purchases, which will create consolidated trust land bases for beneficial use by tribal communities.

The Department has prepared an Initial Implementation Plan based on preliminary planning and tribal consultation. The Plan has the following purposes:

- Recognize and address comments received on the Draft Plan dated January 31, 2012, and during the public comment period through March 15, 2012;
- Outline initial goals and priorities;
- Summarize key parameters and operational concepts for the Buy-Back Program;
- Outline ways in which tribes might participate in the Buy-Back Program through cooperative agreements;
- Describe the primary land consolidation processes—outreach, land research, valuation, and acquisition; and
- Describe next steps for additional tribal consultation, public comment, and continued program planning and implementation, including pilot efforts that will allow for improvement of the Buy-Back Program.

The Plan also provides additional data concerning fractionation to provide context for planning efforts and to respond to tribes' requests for more complete information. This Initial Implementation Plan is not a final plan. The Department expects to continually update its plans to reflect tribal feedback, lessons learned, and best practices.

Tribal consultation sessions on the Plan and Buy-Back Program will be held at the following dates and cities. Information about the specific venue or location of the consultation can be found at www.doi.gov/cobell once they are confirmed.

Date	Time	Venue
January 31, 2013	9 a.m.–4 p.m.	Minneapolis, Minnesota.
February 6, 2013	9 a.m.–4 p.m.	Rapid City, South Dakota.
February 14, 2013	9 a.m.–4 p.m.	Seattle, Washington.

Dated: December 14, 2012.

David Hayes,

Deputy Secretary.

[FR Doc. 2012–30622 Filed 12–19–12; 8:45 am]

BILLING CODE 4310–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2012–0017]

Draft Safety Culture Policy Statement: Request for Public Comments

AGENCY: Bureau of Safety and Environmental Enforcement (BSEE), Interior.

ACTION: Notice.

SUMMARY: The Bureau of Safety and Environmental Enforcement (BSEE) is issuing this Draft Statement of Policy to announce its expectation that individuals and organizations performing or overseeing activities regulated by BSEE establish and maintain a positive safety culture commensurate with the significance of their activities and the nature and complexity of their organizations and functions. The BSEE defines safety culture as the core values and behaviors resulting from a collective commitment by leaders and individuals to emphasize safety, over competing goals, to ensure protection of people and the environment. This draft policy statement would apply to all lessees, the owners or holders of operating rights, designated operators or agents of the lessee(s), pipeline right-of-way holders, State lessees granted a right-of-use and easement, and contractors. The BSEE is requesting comments on the Draft Safety Culture Policy Statement and associated questions.

DATES: Submit comments by March 20, 2013. The BSEE may not fully consider comments received after this date.

ADDRESSES: You may submit comments on this notice by any of the following methods. Please use *Draft Safety Culture Policy Statement* as an identifier in your message. See also Public Availability of Comments below.

- *Federal eRulemaking Portal: http://www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter BSEE–2012–0017 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this notice. The BSEE will post all comments.
- *Email: Keith.Petka@bsee.gov.*
- Mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Attention: Regulations and Standards Branch (RSB); 381 Elden Street, HE–3313, Herndon, Virginia 20170–4817. Please reference, *Draft Safety Culture Policy Statement* in your comments and include your name and return address.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Keith Petka, Safety and Environmental Management Systems Branch at (703) 787–1762 to request additional information.

SUPPLEMENTARY INFORMATION:

I. Background

A major component of each report that has followed the *Deepwater Horizon* explosion and resulting oil spill is the recommendation to improve the safety culture upon the Outer Continental Shelf (OCS). The Department of the Interior Outer Continental Shelf Safety Oversight Board's Report to Secretary Ken Salazar (2010) advocated a program that would ''create and maintain industry, worker, and regulator awareness of, and commitment to, measures that will achieve human safety and environmental protection'' that would also rely heavily on the industry to ''make a widespread, forceful and long-term commitment to cultivating a serious approach to safety that sets the highest safety standards and consistently meets them.''

The National Commission on the Deepwater Horizon Oil Spill and Offshore Drilling (2011) observed, ''Government oversight must be accompanied by the oil and gas industry's internal reinvention: Sweeping reforms that accomplish no less than a fundamental transformation of its safety culture.'' The National Commission recommended looking at the nuclear industry for an example of drastic improvement in safety culture. Following the partial meltdown in 1979 of the radioactive core in Unit Two at the Three Mile Island Nuclear Generating Station, the Nuclear Regulatory Commission (NRC), the U.S. government's regulatory agency for the nuclear industry, began initiatives to help influence the safety culture of the

nuclear energy industry toward continuous improvement. One of these initiatives was to work with the nuclear industry and public to develop a formal policy on the NRC's expectations for a strong and effective safety culture.

The BSEE has reviewed the NRC's safety culture policy and believes it provides a strong foundation for a similar approach for oil and gas operations on the OCS, with the ultimate goal of facilitating the continued development of a robust safety culture for all persons working on the OCS.

II. Statement of Policy

It is BSEE's policy that a strong safety culture is an essential element for individuals, both internal to the BSEE and external, performing or overseeing regulated activities. As such, BSEE will include appropriate means to monitor safety culture in its oversight programs and internal management processes. The BSEE defines safety culture as the core values and behaviors resulting from a collective commitment by leaders and individuals to emphasize safety over competing goals to ensure protection of people and the environment. Further, it is important for all lessees, the owners or holders of operating rights, designated operators or agents of the lessee(s), pipeline right-of-way holders, State lessees granted a right-of-use and easement, and contractors to foster in personnel an appreciation for the importance of safety, emphasizing the need for its integration and balance with competing performance objectives to achieve optimal protection without compromising production goals.

Individuals and organizations performing regulated activities bear the primary responsibility for safety.

Experience has shown that certain personal and organizational characteristics are present in a positive safety culture. A characteristic, in this case, is a pattern of thinking, feeling, and behaving that emphasizes safety, particularly in goal conflict situations (*e.g.,* production, schedule, and the cost of the effort versus safety).

The following are characteristics of a robust safety culture:

(1) Leadership Safety Values and Actions—Leaders demonstrate a commitment to safety in their decisions and behaviors;

(2) Problem Identification and Resolution—Issues potentially impacting safety are promptly identified, fully evaluated, and promptly addressed and corrected commensurate with their significance;

(3) Personal Accountability—All individuals take personal responsibility for safety;

(4) Work Processes—The process of planning and controlling work activities is implemented so that safety is maintained;

(5) Continuous Learning—Opportunities to learn about ways to ensure safety are sought out and implemented;

(6) Environment for Raising Concerns—A safety conscious work environment is maintained where personnel feel free to raise safety concerns without fear of retaliation, intimidation, harassment, or discrimination;

(7) Effective Safety Communication—Communications maintain a focus on safety;

(8) Respectful Work Environment—Trust and respect permeate the organization; and

(9) Inquiring Attitude—Individuals avoid complacency and continuously consider and review existing conditions and activities in order to identify discrepancies that might result in error or inappropriate action.

There may be traits not included in this Draft Safety Culture Policy Statement that are also important in a positive safety culture. It should be noted that these traits were not developed to be used for inspection purposes.

III. Questions for Which BSEE Is Seeking Input

The previous discussion addressed BSEE's approach to safety culture policy going forward and we would like your input. We will consider any comments that you feel would be beneficial to this policy. We welcome your input, your experiences, and your knowledge. The BSEE welcomes any comments on all content in this notice, but we specifically welcome your input on the following items.

(1) The draft Safety Culture Policy Statement provides a description of attributes that are important to safety culture, (*i.e.,* safety culture characteristics). What characteristics relevant to a particular type of OCS activity do not appear to be addressed in this notice?

(2) What safety culture characteristics, described in the draft Safety Culture Policy Statement, do not contribute to safety culture on the OCS and, therefore, should not be included?

(3) The draft Safety Culture Policy Statement defines safety culture as: ''The core values and behaviors resulting from a collective commitment by leaders and individuals to emphasize safety over competing goals to ensure protection of people and the environment.'' Please comment on any parts of this definition that need further clarification to be useful for operations on the OCS.

(4) The draft policy statement states, ''[I]t is important for all lessees, the owners or holders of operating rights, designated operators or agents of the lessee(s), pipeline right-of-way holders, State lessees granted a right-of-use and easement, and contractors to foster in personnel an appreciation for the importance of safety, emphasizing the need for its integration and balance with competing performance objectives to achieve optimal protection without compromising production goals.'' Given the diversity among OCS activities regulated by BSEE, please comment on the need to provide further clarification on this statement.

(5) How well does the draft Safety Culture Policy Statement enhance organization's understanding of BSEE's expectations that they maintain a safety culture?

(6) In addition to issuing a Safety Culture Policy Statement, what might BSEE consider doing, or doing differently, to increase OCS attention to safety culture?

(7) How can BSEE better involve stakeholders to address safety culture?

To ensure efficient consideration of your comments, please identify the specific question numbers with your comments when applicable.

Dated: December 13, 2012.

James A. Watson,

Director, Bureau of Safety and Environmental Enforcement.

[FR Doc. 2012–30670 Filed 12–19–12; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

Ocean Energy Safety Advisory Committee (OESC); Notice of Meeting

AGENCY: Bureau of Safety and Environmental Enforcement (BSEE), Interior.

ACTION: Notice of meeting.

SUMMARY: OESC will meet at the Department of the Interior's South Interior Building in Washington, DC.

DATES: Wednesday, January 9, 2013, from 8:00 a.m. to 5:00 p.m. and Thursday, January 10, 2013, from 8:00 a.m. to 1:00 p.m.

ADDRESSES: South Interior Building Auditorium, 1951 Constitution Avenue NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Levine at the Bureau of Safety and Environmental Enforcement, 381 Elden Street, Herndon, Virginia 20170–4187. He can be reached by telephone at (703) 787–1033 or by electronic mail at *joseph.levine@bsee.gov*.

SUPPLEMENTARY INFORMATION: OESC consists of representatives from industry, Federal Government agencies, non-governmental organizations, and the academic community. It provides policy advice to the Secretary of the Interior through the Director of BSEE on matters relating to ocean energy safety, including, but not limited to drilling and workplace safety, well intervention and containment, and oil spill response.

The agenda for Wednesday, January 9, 2013, will address the OESC Subcommittees' activities to date on oil spill prevention, spill containment, spill response and safety management systems, the arctic and proposed ocean energy safety institute.

The agenda for Thursday, January 10, 2013, will address interim recommendations presented to the OESC from its' six subcommittees for consideration and action, including lessons learned and next steps forward.

The meeting is open to the public. Approximately 100 visitors can be accommodated on a first-come-first-served basis. Members of the public will have the opportunity to comment on the activities of OESC and related topics on a first-come-first-served basis during the time allotted for public comment and may submit written comments to the OESC during the meeting or by email to the Committee at *OESC@bsee.gov*.

Minutes of the Ocean Energy Safety Advisory Committee meeting will be available for public inspection on the Committee's Web site at: *http://www.bsee.gov/About-BSEE/Public-Engagement/OESC/Index.aspx*.

Authority: Federal Advisory Committee Act, Pub. L. No. 92–463, 5 U.S.C. Appendix 1, and the Office of Management and Budget's Circular No. A–63, Revised.

Dated: December 14, 2012.

James A. Watson,

Director, Bureau of Safety and Environmental Enforcement.

[FR Doc. 2012–30671 Filed 12–19–12; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV912000 L10100000.PH0000 LXSS0006F0000; 13–08807; MO#4500046713; TAS: 14X1109]

Notice of Public Meeting: Resource Advisory Councils, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM) Nevada will hold a joint meeting of its three Resource Advisory Councils (RACs), the Sierra Front-Northwestern Great Basin RAC, the Northeastern Great Basin RAC, and the Mojave-Southern Great Basin RAC in Las Vegas, Nevada. The meeting is open to the public and a public comment period will be available.

DATES AND TIMES: The three RACs will meet on Thursday, January 31, 2013, from 8 a.m. to 4:30 p.m. and Friday, February 1, 2013, from 7:00 a.m. to 1:00 p.m. A public comment period will be held in the morning on Friday, February 1. The specific time for public comment will be included in the agenda, which will be available two weeks prior to the meetings at *www.blm.gov/nv.*

FOR FURTHER INFORMATION CONTACT: Chris Rose, telephone: (775) 861–6480, email: *crose@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 three 15-member Nevada RACs advise the Secretary of the Interior, through the BLM Nevada State Director, on a variety of planning and management issues associated with public land management in Nevada. The meeting will be held at John Ascuaga's Nugget, 1100 Nugget Avenue, Sparks, Nevada. Agenda topics include a presentation and discussion of accomplishments during 2012; closeout reports of the three RACs; the year ahead for the BLM in Nevada; breakout meetings of the three RACs; discussion of subgroups; and scheduling meetings of the individual RACs for the upcoming year. The public may provide written comments to the three RAC groups or to an individual RAC. Individuals who plan to attend and need further information about the meeting or need special assistance such as sign language interpretation or other reasonable accommodations may contact Chris Rose at the phone number or email address above.

Erica Haspiel-Szlosek,

Chief, Office of Communications.

[FR Doc. 2012–30667 Filed 12–19–12; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTL00000.L10200000.PG0000]

Notice of Public Meeting; Central Montana Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act Land the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Central Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting will be January 9–10, 2013. The January 9 meeting will begin at 10 a.m. with a 30-minute public comment period and will adjourn at 5:30 p.m. The January 10 meeting will begin at 8 a.m. with a 30-minute public comment period beginning at 10 a.m. and will adjourn at 12 p.m.

ADDRESSES: The meetings will be in the Lewistown Field Office Conference Room at 920 NE Main, Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Gary L. ''Stan'' Benes, Central Montana District Manager, Lewistown Field Office, 920 NE Main, Lewistown, MT 59457, (406) 538–1900, *gbenes@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This 15-member council advises the Secretary of the Interior on a variety of management issues associated with public land

management in Montana. During these meetings the council will participate in/discuss/act upon these topics/activities: a roundtable discussion among council members and the BLM; decisions of the Riparian Assessment Report; drought and the boat ramp at Coal Banks; updates on the Limekiln project and Greater Sage Grouse Plan amendments and process; updates on the Memorandum of Understanding regarding water use in the tributary watersheds to the C.M. Russell National Wildlife Refuge; and election of new officers. All RAC meetings are open to the public. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Gary L. ''Stan'' Benes,

Central Montana District Manager.

[FR Doc. 2012–30668 Filed 12–19–12; 8:45 am]

BILLING CODE 4310–DN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–784]

Certain Light-Emitting Diodes and Products Containing the Same; Commission Determination To Grant the Joint Motion To Terminate the Investigation on the Basis of Settlement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant the joint motion to terminate the above-referenced investigation based upon settlement.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930 as amended, 19 U.S.C. 1337, on July 11, 2011, based on two complaints filed by OSRAM GmbH of Munich, Germany (''OSRAM''), alleging, *inter alia,* a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain light-emitting diodes and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 6,849,881 (''the '881 patent''); 6,975,011 (''the '011 patent''); 7,106,090 (''the '090 patent''); 7,151,283 (''the '283 patent''); and 7,271,425 (''the '425 patent''). 76 FR 40746 (Jul. 11, 2011). Subsequently, the '881, the '090, and the '011, as well as certain claims of the '283 and '425 patents, were terminated from the investigation. The respondents are LG Electronics and LG Innotek Co., Ltd., both of Seoul, Republic of Korea; LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey; and LG Innotek U.S.A., Inc. of San Diego, California (collectively, ''LG''). *Id.* The Office of Unfair Import Investigations was not named as a party to the investigation.

The evidentiary hearing in this investigation was held from April 26 through May 2, 2012. On July 9, 2012, the ALJ issued the final initial determination (''ID'') finding a violation of section 337. The ALJ issued his recommended determination on remedy and bonding on July 23, 2012. Respondent LG filed a timely petition for review of various portions of the final ID, and complainant OSRAM filed a timely response to the petition.

On November 4, 2012, both parties to the investigation filed a ''Joint Motion To Terminate the Investigation and Extend the Target Date, If Necessary.'' On November 7, 2012, the Commission extended the target date in this investigation by two months, to January 9, 2013.

Having examined the joint motion, the settlement agreement, and the record of this investigation, the Commission has determined to grant the joint motion to terminate the investigation. The Commission finds, pursuant to Commission rule 210.50(b)(2), that this termination will not prejudice the public interest.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.42 of the Commission's Rules of Practice and Procedure, 19 CFR 210.42.

By order of the Commission.

Issued: December 14, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–30629 Filed 12–19–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On December 13, 2012, the Department of Justice lodged a proposed a consent decree with the United States District Court for the Middle District of Pennsylvania in the lawsuit entitled *United States* v. *Sewer Authority of the City of Scranton,* Civil Action No. 3:09-cv-1873.

The United States filed this lawsuit under the Clean Water Act. The United States' complaint seeks injunctive relief and civil penalties for violations of the Clean Water Act and certain terms of the National Discharge Elimination System (NPDES) permit issued to the SSA pursuant to the CWA, relating to the municipal wastewater treatment plant and collection system owned and operated by the SSA. The consent decree requires the defendant to implement a long term control plan to address combined sewer overflows by December 1, 2037 and to pay a $340,000 civil penalty, 50% to the United States and 50% to the Pennsylvania Department of Environmental Protection.

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. *Scranton Sewer Authority,* D.J. Ref. No. 90–5–1–1–08778. 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.*

To submit comments:	Send them to:
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 $20.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–30669 Filed 12–19–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Judgment Under the Resource Conservation and Recovery Act and Clean Air Act

On December 11, 2012 the Department of Justice lodged a proposed Consent Judgment with the United States District Court for the Eastern District of New York in the lawsuit entitled *United States* v. *KTN Cleaners, Inc. d/b/a Enterprise Cleaners Inc.,* Civil Action No. 12–CV–6064 (FB)(LB).

Defendant KTN Cleaners, Inc. (''KTN'') owns and operates a large dry-cleaning facility in Long Island City, NY. The complaint seeks civil penalties and injunctive relief for KTN's violations of (a) Resource Conservation and Recovery Act regulations, (b) federally enforceable New York State hazardous waste regulations, and (c) Clean Air Act regulations applicable to dry cleaners. KTN violated these regulations in connection with the management at its facility of waste perchloroethylene, used fluorescent light bulbs, and the associated recordkeeping requirements. The Consent Judgment provides for KTN to implement injunctive relief, comprising continued compliance with the applicable regulations, and the submission of regular reports to EPA to document its compliance. The Consent Judgment also requires KTN to pay a civil penalty of $5,000, which is based upon a financial analysis indicating KTN's limited ability-to-pay.

The publication of this notice opens a period for public comment on the Consent Judgment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *KTN Cleaners, Inc. d/b/a Enterprise Cleaners Inc.,* D.J. Ref. No. 90–7–1–09323. 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 Judgment 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 Judgment 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 $5.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–30603 Filed 12–19–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,445; TA–W–81,445A]

Worley Parsons, Accounts Payable, a Subsidiary of Worley Parsons Corporation, Including On-Site Leased Workers From GAS Unlimited, the Mergis Group And Tatum LLC Pasadena, TX; Worley Parsons, Accounts Payable, a Subsidiary of Worley Parsons Corporation, Including On-Site Leased Workers From GAS Unlimited, the Mergis Group and Tatum LLC Bellair, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 30, 2012, applicable to workers of Worley Parsons, Accounts Payable, a subsidiary of Worley Parsons Corporation, including on-site leased workers from GAS Unlimited and The Mergis Group, Pasadena, Texas. The workers firm provides engineering and design services. The Account Payable Group provides financial services. The notice was published in the **Federal Register** on October 17, 2012 (77 FR 63875).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that Bellaire, Texas is a sister facility of the Pasadena, Texas location. Both locations experienced worker separations during the relevant time period due to a shift in services to Malaysia. Information from the company also shows that leased workers from Tatum LLC were employed on-site at the Pasadena, Texas and the Bellaire, Texas locations of the subject firm. Also, the original decision covered the Accounts Payable and Accounts Receivable departments. At the request of the company, only Accounts Payable is covered by this certification.

Accordingly, the Department is amending the certification to include workers of the Bellaire, Texas location of the subject firm, include on-site leased workers from Tatum LLC and to correctly identify the worker group to only include Accounts payable.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in services to Malaysia.

The amended notice applicable to TA–W–81,445 and TA–W–81,445A are hereby issued as follows:

All workers from Worley Parsons Group, a subsidiary of Worley Parsons Corporation, Accounts Payable, including on-site leased workers from GAS Unlimited, The Mergis Group and Tatum LLC, Pasadena, Texas (TA–W–81,445) and Worley Parsons Group, a subsidiary of Worley Parsons Corporation, Accounts Payable, including on-site leased workers from GAS Unlimited, The Mergis Group and Tatum LLC, Bellaire, Texas (TA–W–81,445A), who became totally or partially separated from employment on or after March 22, 2011 through April 30, 2014, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 29th day of November 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–30577 Filed 12–19–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,905]

Welded Tube—Berkeley Including On-Site Leased Workers From Snelling, Aerotek and Express Personnel Services, Huger, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 10, 2012, applicable to workers of Welded Tube—Berkeley, including on-site leased workers from Snelling and Aerotek, Huger, South Carolina. The workers are engaged in activities related to the production of steel pipe. The notice was published in the **Federal Register** on October 29, 2012 (77 FR 65583).

At the request of South Carolina State, the Department reviewed the certification for workers of the subject firm. New information from the company shows that workers leased from Express Personnel Services were employed on-site at the Huger, South Carolina location of Welded Tube—Berkeley. The Department has determined that these workers were sufficiently under the control of Welded Tube—Berkeley to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased customer imports of steel pipe.

Based on these findings, the Department is amending this certification to include workers leased from Express Personnel Services working on-site at the Huger, South Carolina location of the subject firm.

The amended notice applicable to TA–W–81,905 is hereby issued as follows:

All workers from Welded Tube—Berkeley, including on-site leased workers from Snelling, Aerotek and Express Personnel, Huger, South Carolina, who became totally or partially separated from employment on or after August 20, 2011, through October 10, 2014, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 29th day of November 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–30574 Filed 12–19–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of November 19, 2012 through November 23, 2012.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,023	US Mouldings, LLC	Manning, SC	October 1, 2011.
82,075	Trane U.S. Inc., Tyler Operations/Residential Solutions, Remedy Intelligent Staffing.	Tyler, TX	October 12, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,061	Matrix Telecom, Inc., Customer Service Department, Platinum Equity	Atmore, AL	October 5, 2011.
82,108	Axa Equitable Life Insurance Company, AXA Financial, Benefits, Payment and Accounting Group, Kelly Services, etc.	Syracuse, NY	October 23, 2011.
82,143	Brake Parts Inc., Affinia Group, Nesco Resource	Stanford, KY	November 8, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
81,948	Vacumet Corporation, Paper Division	Morristown, TN	
82,029	Oregon Catholic Press, Employers Overload	Portland, OR	
82,085	Randstad US, LP, FKA Spherion Staffing, Hewlett-Packard, Business Critical Systems, etc.	Fort Collins, CO	

I hereby certify that the aforementioned determinations were issued during the period of November 19, 2012 through November 23, 2012. These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: November 28, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–30576 Filed 12–19–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 2012.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 31, 2012.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 29th day of November 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[10 TAA petitions instituted between 11/19/12 and 11/23/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82162	Crane Payment Solutions, Inc. (Company)	Salem, NH	11/20/12	11/19/12
82163	Delphi Connection Systems US, Inc. (Company)	Mount Union, PA	11/20/12	11/19/12
82164	Karastan (Company)	Eden, NC	11/20/12	11/19/12
82165	Hostess (16 Locations in Michigan) (State/One-Stop)	MI	11/20/12	11/19/12
82166	Technicolor Creative Services (State/One-Stop)	Glendale, CA	11/21/12	11/20/12
82167	Hostess Brands (Union)	Seattle, WA	11/21/12	11/19/12
82168	Foamworks, Inc. (State/One-Stop)	Morristown, TN	11/21/12	11/21/12
82169	T-Systems North America (State/One-Stop)	Andover, MA	11/23/12	11/21/12
82170	TI Automotive (Company)	Cynthiana, KY	11/23/12	11/21/12
82171	Pearson Inc., Pearson Imaging Center (Workers)	Upper Saddle River, NJ	11/23/12	11/21/12

[FR Doc. 2012–30575 Filed 12–19–12; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

Request for Information (RFI): Use of National Science Foundation Overseas Offices in Paris, Tokyo, Beijing by Broader Stakeholder Community

AGENCY: National Science Foundation.

ACTION: Request for information (RFI).

FOR FURTHER INFORMATION CONTACT: *NSF-FOREIGN-OFFICE-INFO@LISTSERV.NSF.GOV.*

DATES: To be considered, submissions must be received by January 18, 2013.

SUMMARY: *Purpose:* As part of an assessment investigating the function of the three National Science Foundation overseas offices, this RFI seeks to solicit input from as large a set of stakeholders as possible.

SUPPLEMENTARY INFORMATION:

Background

NSF's current strategic plan states that ''NSF envisions a nation that capitalizes on new concepts in science and engineering and provides global leadership in advancing research and education.'' Because science and engineering are increasingly global, NSF's Office of International Science and Engineering (OISE) seeks to ensure that U.S. institutions and researchers are globally engaged, are able to advance their research through international collaboration, and maintain U.S. leadership within the global scientific community. To pursue its goals in these areas, OISE operates three international offices. NSF opened its first international office in Tokyo in 1960. Two decades later, the NSF Europe Office, affiliated with UNESCO, opened in Paris and in 2006 the NSF Beijing office was opened.

The major functions of these three offices are:

- Facilitation: Promote collaboration between the science and engineering communities of the United States and the respective country/region.
- Representation: Serve as a liaison between NSF and agencies, institutions and researchers.
- Reporting: Monitor and report on science and engineering developments and policies.

In responding to the following questions, please provide as much detail regarding each interaction and with which office, wherever possible.

Specifically the assessment seeks public comment on the questions listed below:

(1) In what capacity, if any, have you directly engaged with the NSF overseas offices (*e.g.* as a Principal Investigator (PI), Co-PI, postdoctoral researcher, graduate student, or undergraduate student on a research project; as an NSF employee on official travel; as a U.S. Government official on a visit to a foreign country, or in any other capacity)? Please be specific with respect to which office(s) you have interacted with, and on what basis (*e.g.* one time only, 2–5 times per year, etc.).

(2) What was the nature of that interaction with the overseas offices? Why did you contact them (*e.g.* a visit to one of the three overseas offices while abroad, to help connect with foreign researchers, to identify research opportunities in a foreign country, to help with logistical aspects of current research in a foreign country, etc.)?

(3) Was the interaction valuable to you? How would you characterize the quality of service and/or information that you received in your interactions with each office? Similarly, are there any services you would have expected to—but did not—receive from the overseas offices?

(4) Please provide examples of opportunities that were created as a result of these interactions, if any.

(5) Are there other interactions you have had with NSF on international research activities other than through NSF's 3 overseas offices?

(6) Are there ways in which NSF's overseas offices might better be able to directly serve your overseas research needs?

(7) Please use this space to address any additional concerns you would like to raise with respect to the existence and value of NSF's three overseas offices.

(8) If you believe that describing your background (*e.g.,* U.S. or foreign resident, field or sector of employment, etc.) would help to provide context for your responses, please do so here. Your participation in responding to this RFI is completely voluntary. All responses will be included in a content analysis following the close of the response period and complete confidentiality of individual responses will be maintained. Individuals are not mandated to respond to each question. Please note that the Government will not pay for response preparation or for the use of any information contained in the response.

Submission Instructions

All comments must be submitted electronically to: *NSF-FOREIGN-OFFICE-INFO@LISTSERV.NSF.GOV.*

Responses to this RFI will be accepted through January 18, 2013. You will receive an electronic confirmation acknowledging receipt of your response, but will not receive individualized feedback on any suggestions. No basis for claims against the U.S. Government shall arise as a result of a response to this request for information or from the Government's use of such information. Additionally, in reporting results from this call for information, respondent comments will be kept confidential to the extent allowed by law and reported only in aggregate form.

Specific questions about this RFI should be directed to the following email address: *NSF-FOREIGN-OFFICE-INFO@LISTSERV.NSF.GOV.*

Dated: December 17, 2012.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2012–30697 Filed 12–19–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0184]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget (OMB) review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on September 5, 2012 (77 FR 54617).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 398, ''Personal Qualification Statement—Licensee.''

3. *Current OMB approval number:* 3150–0090.

4. *The form number if applicable:* NRC Form 398.

5. *How often the collection is required:* Upon application for an initial or upgrade operator license and every 6 years for the renewal of operator or senior operator licenses.

6. *Who will be required or asked to report:* Facility licensees who are tasked with certifying that the applicants and renewal operators are qualified to be licensed as reactor operators and senior reactor operators.

7. *An estimate of the number of annual responses:* 1,436.

8. *The estimated number of annual respondents:* 1,436.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 3,680.25.

10. *Abstract:* NRC Form 398 is used to transmit detailed information required to be submitted to the NRC by a facility licensee on each applicant applying for new and upgraded licenses or license renewals to operate the controls at a nuclear reactor facility. This information is used to determine that each applicant or renewal operator seeking a license or renewal of a license is qualified to be issued a license and that the licensed operator would not be expected to cause operational errors and endanger public health and safety.

The public may examine and have copied for a fee, publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by January 22, 2013. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–0090), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this *13th* day of *December*, 2012.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2012–30679 Filed 12–19–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0166]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on August 17, 2012 (77 FR 49833).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC's Policy Statement on Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production and Utilization Facilities.

3. *Current OMB approval number:* 3150–0163.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* On occasion, when a State wishes to observe NRC inspection or perform inspections for the NRC.

6. *Who will be required or asked to report:* Nuclear Power Plant Licensees, Materials Security Licensees and those States interested in observing or performing inspections.

7. *An estimate of the number of annual responses:* 70.

8. *The estimated number of annual respondents:* 55.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,000.

10. *Abstract:* States are involved and interested in monitoring the safety status of nuclear power plants and radioactive materials. This involvement is, in part, in response to the States' public health and safety responsibilities and, in part, in response to their citizens' desire to become more knowledgeable about the safety of nuclear power plants and radioactive materials. States have identified NRC inspections as one possible source of knowledge for their personnel regarding plant and materials licensee activities, and the NRC, through the policy statement on Cooperation with States, has been amenable to accommodating the States' needs in this regard. Additionally, the NRC has entered into reimbursable Agreements with certain States under Section 274i of the Act, as amended, to employ their resources to conduct radioactive materials security inspections against NRC Orders.

The public may examine and have copied for a fee, publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by January 22, 2013. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–0163), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov,* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 13th day of December 2012.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2012–30678 Filed 12–19–12; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2013–26; Order No. 1579]

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 international mail contract. This document invites public comments on the request and addresses several related procedural steps.

DATES: *Comments are due:* December 26, 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

Notice of filing. On December 13, 2012, the Postal Service filed a notice announcing that it is entering into an additional Global Expedited Package Services (GEPS) 3 contract (Agreement).[1] The Postal Service seeks to have the Agreement included within the GEPS 3 product on grounds of functional equivalence to a previously approved baseline agreement. *Id.* at 2.

Background. Customers for GEPS contracts are small- or medium-sized businesses that mail products directly to foreign destinations using Express Mail International, Priority Mail International, or both. *Id.* at 4. The Commission added GEPS 1 to the competitive product list, based on Governors' Decision No. 08–7, by operation of Order No. 86. *Id.* at 1. It later approved the addition of GEPS 3 contracts to the competitive product list

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, December 13, 2012 (Notice). The Notice was filed in accordance with 39 CFR 3015.5. *Id.* at 1.

as a result of Docket No. MC2010–28.[2] The Commission designated the contract filed in companion Docket No. CP2010–71 as the baseline agreement for purposes of establishing the functional equivalency of other agreements proposed for inclusion within the GEPS 3 product. Notice at 1–2.

II. Contents of Filing

The filing includes a Notice, along with the following attachments:

- Attachment 1—a redacted copy of the Agreement;
- Attachment 2—a redacted copy of the certification required under 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 08–7; and
- Attachment 4—an application for non-public treatment of material filed under seal.

The material filed under seal consists of unredacted copies of the Agreement and supporting financial documents. *Id.* at 2.

Functional equivalency. The Postal Service asserts that the instant Agreement and the baseline agreement are functionally equivalent because they share similar cost and market characteristics. *Id.* at 3. It notes that the pricing formula and classification established in Governors' Decision No. 08–7 ensure that each GEPS contract meets the criteria of 39 U.S.C. 3633 and related regulations. *Id.* The Postal Service further asserts that the functional terms of the two agreements are the same and the benefits are comparable. *Id.*

The Postal Service states that prices may differ, depending on when an agreement is signed, due to updated costing information. *Id.* at 4. It also identifies other differences in contractual terms, but asserts that the differences do not affect either the fundamental service being offered or the fundamental structure of the Agreement.[3] *Id.*

Effective date; term. The Postal Service will inform its contracting partner of the effective date of the Agreement via notice provided as soon as possible, but no later than, 30 days after receiving all necessary regulatory approvals. *Id.* Attachment 1 at 7. The Agreement is to remain in effect for one calendar year, unless terminated sooner. *Id.*

[2] *See* Order No. 503, Docket Nos. MC2010–28 and CP2010–71, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, July 29, 2010.

III. Commission Action

The Commission establishes Docket No. CP2013–26 for consideration of matters raised in the Notice. Interested persons may submit comments on whether the Agreement 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 26, 2012. The public portions of the Postal Service's filing can be accessed via the Commission's Web site at *http://www.prc.gov.* Information on how to obtain access to nonpublic material appears at 39 CFR 3007.40.

The Commission appoints Natalie Rea Ward to represent the interest of the general public (Public Representative) in this case.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2013–26 for consideration of matters raised in the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission designates Natalie Rea Ward to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than December 26, 2012.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–30607 Filed 12–19–12; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 68443; File No. SR–DTC–2012–09]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Ministerial Changes to the Existing Reorganization Service Guide

December 14, 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 December 6, 2012, The Depository Trust Company (''DTC'') 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 DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii)[3] of the Act and Rule 19b–4(f)(4)(i)[4] thereunder, so that the proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Change

As discussed below, this rule change will make ministerial changes regarding inputs and methods of notification in the Reorganization Service Guide (''Reorg Guide'').

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.[5]

(A) Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC receives and distributes information to Participants about various reorganization activities through its reorganization service. Following the distribution of the information, DTC will process Participants' elections with respect to this activity on their behalf. DTC will also assign voting or consenting rights to Participants in conjunction with shareholder meetings or consent solicitations through its reorganization service.

With this rule filing, DTC is updating the Reorg Guide in order to make ministerial changes regarding inputs and methods of notification. The changes include changing the name of the ''Participant Terminal System'' or ''PTS'' to ''Participant Browser System'' or ''PBS,'' updating contact information, and updating the time that acceptances can be transmitted via the Participant Tender Offer PBS function. Additionally, greater detail is being included on how the ''Conversion'' and

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(4)(i).

[5] The Commission has modified the text of the summaries prepared by DTC.

''Proxy'' features work. For the Conversion feature, the Reorg Guide will now state that: ''On Conversions where the entitlement could be Cash, proceeds are credited to your account after the price determination period,'' and ''DTC will chill Delivery Orders the evening prior to the redemption date.'' For the Proxy feature, the Reorg Guide will now state that: ''DTC also offers election processing for Consent Solicitation events via its ATOP (Automated Tender Offer Program) service. Under this service, DTC allows participant instructions on Consent Solicitation events to be accepted via ATOP and transmitted electronically to balloting agents.'' These changes will provide a more concise and coherent description of the procedures.

The proposed rule change is consistent with the requirements of the Act, specifically Section 17A(b)(3)(F),[6] and the rules and regulations thereunder, applicable to DTC in that it promotes efficiencies in the prompt and accurate clearance and settlement of securities transactions by enhancing the utilization of DTC's existing services. Moreover, the proposed rule change reduces the costs, inefficiencies and risks associated with the processing or reorganization events by clarifying the procedures associated with the Reorganization Service.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The forgoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [7] and Rule 19b–4(f)(4)(i) [8] thereunder because it effects a change in an existing service of DTC that does not significantly affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and does not significantly affect the respective rights or obligations of DTC or persons using this service. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–DTC- 2012–09 on the subject line.

Paper Comments

- Send 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–DTC–2012–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of DTC and on DTC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2012/dtc/SR-DTC-2012-09.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2012–09 and should be submitted on or before January 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–30649 Filed 12–19–12; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(4)(i).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68441; File No. SR–CME–2012–26]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Order Approving Proposed Rule Change To Amend Rules in Connection With Status as a ''Deemed Registered'' Clearing Agency

December 14, 2012.

I. Introduction

On October 15, 2012, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (SR–CME–2012–26) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on November 2, 2012.[3] The Commission received no comment letters regarding the proposal. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

A. Background—CME's Credit Default Swap Business and ''Deemed Registered'' Status

CME began clearing credit default swaps prior to the passage of the Dodd-Frank Act.[4] These activities were facilitated by temporary exemptive relief granted by the Commission to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 68121 (Oct. 29, 2012), 77 FR 66211 (Nov. 2, 2012).

[4] The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat.1376 (2010).

CME.[5] Upon the passage of the Dodd-Frank Act, on July 16, 2011, this temporary relief expired.[6] To ensure that entities that were clearing credit default swaps prior to the passage of Dodd-Frank based on exemptions granted by the Commission could continue to do so without interruption, Section 763(b) of the Dodd-Frank Act[7] provided that (i) a depository institution registered with the Commodities Futures Trading Commission (''CFTC'') that cleared swaps as a multilateral clearing organization prior to the date of enactment of the Dodd-Frank Act and (ii) a derivatives clearing organization (''DCO'') registered with the CFTC that cleared swaps pursuant to an exemption from registration as a clearing agency prior to the date of enactment of the Dodd-Frank Act will be deemed registered with the Commission as a clearing agency solely for the purpose of clearing security-based swaps (''Deemed Registered Provision'').[8] On July 16, 2011, the Deemed Registered Provision, along with other general provisions under Title VII of the Dodd-Frank Act, became effective,[9] thereby requiring each affected clearing agency, including CME, to comply with all requirements of the Act and the rules and regulations thereunder applicable to clearing agencies registered with the Commission under the Act.

[5] See generally Securities Exchange Act Release Nos. 59578 (Mar. 13, 2009), 74 FR 11781 (Mar. 19, 2009), 61164 (Dec. 14, 2009), 74 FR 67258 (Dec. 18, 2009), and 61803 (Mar. 30, 2010), 75 FR 17181 (Apr. 5, 2010) (temporary exemptions in connection with CDS clearing by Chicago Mercantile Exchange Inc.). In addition, the Commission issued interim final temporary rules that provide exemptions under the Securities Act of 1933 and the Securities Exchange Act of 1934 for CDS to facilitate the operation of central counterparties for the CDS market. See Securities Act Release Nos. 8999 (Jan. 14, 2009), 74 FR 3967 (Jan. 22, 2009) (initial approval), 9063 (Sep. 14, 2009), 74 FR 47719 (Sep. 17, 2009) (extension until Nov. 30, 2010), and 9158 (Nov. 30, 2010) (extension until Jul. 16, 2011).

[6] Securities Exchange Act Release No. 61803 (Mar. 30, 2010), 75 FR 17181 (Apr. 5, 2010).

[7] The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat.1376 (2010).

[8] *See* Section 763(b) of the Dodd-Frank Act (adding new Section 17A(l) to the Exchange Act, 15 U.S.C. 78q–1(1)). Under this Deemed Registered Provision, CME became a registered clearing agency solely for the purpose of clearing security-based swaps.

[9] Section 774 of the Dodd-Frank Act states, ''[u]nless otherwise provided, the provisions of this subtitle shall take effect on the later of 360 days after the date of the enactment of this subtitle or, to the extent a provision of this subtitle requires a rulemaking, not less than 60 days after publication of the final rule or regulation implementing such provision of this subtitle.''

B. Proposed Changes in Furtherance of Compliance With the Act

In light of CME's requirement to comply with the Act and the rules and regulations thereunder, CME proposed rule changes concerning membership participation standards, administrative practices, and financial safety, and provided a description of CME's governance arrangements in the context of the fair representation requirement in Section 17A(b)(3)(C) of the Act, as they relate to the CDS portion of CME's clearing activities. The proposed changes are found within Chapter 8H of the CME Rulebook and are summarized and discussed in detail below. The text of the proposed changes is available on the CME's Web site at *http://www.cmegroup.com,* at the principal office of CME, and at the Commission's Public Reference Room.

III. Discussion

A. Statutory Standard

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[10] In particular, Section 17A(b) of the Act requires that, among other things, the rules of a clearing agency:

- Subject to the provisions of Section 17A(b)(4) of the Act,[11] provide that any (i) registered broker or dealer, (ii) other registered clearing agency, (iii) registered investment company, (iv) bank, (v) insurance company, or (vi) other person or class of persons as the Commission, by rule, may from time to time designate as appropriate to the development of a national system for the prompt and accurate clearance and settlement of securities transactions may become a participant in such clearing agency; [12]
- Provide for fair representation of the clearing agency's shareholders (or members) and participants in the selection of its directors and administration of its affairs; [13]
- Are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency and for which it is responsible, to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of this section or the administration of the clearing agency; [14]
- Provide that (subject to any rule or order of the Commission pursuant to section 17(d) or 19(g)(2) of the Act) its participants shall be appropriately disciplined for violation of any provision of the rules of the clearing agency by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, or any other fitting sanction; [15] and
- Are in accordance with the provisions of Section 17A(b)(5) of the Act,[16] and, in general, provide a fair procedure with respect to the disciplining of participants, the denial of participation to any persons seeking participation therein, and the prohibition or limitation by the clearing agency of any person with respect to access to services offered by the clearing agency.[17]

B. Summary of Proposed Rule Changes

1. Membership Participation Standards

CME Rule 8H04, CDS Clearing Member Obligations and Qualifications. CME Rule 8H04 sets forth CDS Clearing Member obligations and qualifications. CME has proposed changes to this rule to provide specifically that CME may approve an application for CDS Clearing Membership to permit the clearing of security-based swaps submitted by any corporation, partnership, limited liability company, or any other type of entity, provided that CME determines such applicant satisfies applicable requirements. CME has also proposed to state in this rule that applicants within one of the enumerated categories of participants in Section 17A(b)(3)(B) of the Act [18] are specifically eligible to become CDS Clearing Members for the purpose of clearing security-based swaps. Further, additional revisions to CME Rule 8H04 would make clear that CME may, and in cases in which the Commission by order directs, shall, deny an application for CDS Clearing Membership to any person subject to a statutory disqualification, as such term is defined by the Act.

The Commission believes that these proposed changes to CME Rule 8H04 are consistent with Sections 17A(b)(3)(B) [19] and 17A(b)(4)(B) [20] of the Act, which provide that a registered clearing agency shall provide in its rules that the

[10] 15 U.S.C. 78s(b)(2)(C).

[11] 15 U.S.C. 78q–1(b)(4).

[12] 15 U.S.C. 78q–1(b)(3)(B).

[13] 15 U.S.C. 78q–1(b)(3)(C).

[14] 15 U.S.C. 78q–1(b)(3)(F).

[15] 15 U.S.C. 78q–1(b)(4)(G).

[16] 15 U.S.C. 78q–1(b)(5).

[17] 15 U.S.C. 78q–1(b)(4)(H).

[18] 15 U.S.C. 78q–1(b)(3)(B).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 15 U.S.C. 78s(b)(4).

categories of applicants enumerated in Section 17A(b)(3)(B) of the Act[21] may become a participant in the registered clearing agency, subject to meeting the standards of financial responsibility, operational capability, experience, and competence prescribed by the rules of the clearing agency, among other things.[22] The Commission believes the proposed changes relating to CME's authority and obligation to restrict the membership and activities of persons subject to a statutory disqualification are consistent with Section 17A(b)(4)(A),[23] which provides, among other things, that a registered clearing agency may, and in cases in which the Commission, by order, directs as appropriate in the public interest shall, deny participation to any person subject to a statutory disqualification. In addition, the Commission finds that these proposed changes are consistent with Section 17A(b)(3)(F) of the Act,[24] which requires, among other things, that a registered clearing agency's rules not be designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency.

2. Administrative Practices

New CME Rule 8H931. CME has proposed to add new CME Rule 8H931, which would state that rules that relate to CME's activities as a clearing agency clearing security-based swaps will be adopted, altered, amended or repealed in accordance with the applicable requirements of Section 19(b) of the Act. Under this rule, CME would promptly notify all CDS Clearing Members of any proposal it has made to change, revise, add or repeal any rule that relates to its activities as a securities clearing agency. Such notice would include the text or a brief description of any such proposed rule change, along with its purpose and effect, in accordance with the requirements of the Act. CDS Clearing Members would have the opportunity to submit comments with respect to any such proposal in accordance with the applicable Commission rules. The Commission believes that proposed CME Rule 8H931 is consistent with CME's obligations as a clearing agency registered under the Act to file its proposed rule changes pursuant to Section 19(b) of the Act and Rule 19b–4 thereunder.[25]

New CME Rule 8H932, Records Relating to Disciplinary Proceedings and Security-Based Swaps. Proposed CME Rule 8H932 would require CME to maintain records of any disciplinary proceeding related to the activities of a CDS Clearing Member involving security-based swaps in accordance with the requirements of the Act and Rule 17a–1 thereunder. The Commission believes that proposed CME Rule 8H932 is consistent with CME's obligation as a clearing agency under Section 17(a)[26] and Rule 17a–1 thereunder[27] to maintain records made or received by it in the course of its business as such and in the conduct of its self-regulatory activity.[28]

New CME Rule 8H933, Notice Regarding Certain Disciplinary Matters Related to Security-Based Swaps. Proposed CME Rule 8H933 would add language to Chapter 8H that would require CME to notify the Commission and any appropriate regulatory agency, as such term is defined by Section 3(a)(34) of the Act, regarding any final disciplinary sanction, denial of participation, prohibition or limitation with respect to access, and/or summary suspension taken against a CDS Clearing Member relating to activities involving security-based swaps. The Commission believes that proposed CME Rule 8H933 is consistent with Section 19(d)(1) of the Act, which requires a self-regulatory organization that imposes any final disciplinary sanction on any of its members or participants, denies membership or participation to any applicant, or prohibits or limits any person in respect to access to services it offers, promptly to file notice with the appropriate regulatory agency for the self-regulatory organization and (if other than the appropriate regulatory agency for the self-regulatory organization) the appropriate regulatory agency for such member, participant, applicant, or other person.[29] The Commission also believes that proposed CME Rule 8H933 is consistent with Section 17A(b)(3)(H) of the Act,[30] which requires that the rules of a clearing agency provide a fair procedure with respect to the disciplining of participants, the denial of participation to any persons seeking participation therein, and the prohibition or limitation by the clearing agency of any person with respect to access to services offered by the clearing agency.[31]

New CME Rule 8H938, Summary Suspensions Relating to Security-Based Swap Activities. Under proposed CME Rule 8H938, CME would only summarily suspend and close the accounts of a CDS Clearing Member engaged in security-based swap clearing activities that (i) has been and is expelled or suspended from any self-regulatory organization, (ii) is in default of any delivery of funds or securities to the clearing agency, or (iii) is in such financial operating difficulty that the clearing agency determines and so notifies the appropriate regulatory agency for the member that such suspension and closing of accounts are necessary for the protection of the clearing agency, its members, creditors, or investors.

The Commission views summary suspensions, as discussed in Section 17A(b)(5)(C) of the Act,[32] as an exception to the general provisions Sections 17A(b)(5)(A)[33] and 17A(b)(5)(B)[34] of the Act, which require a clearing agency to adhere to specific processes prior to certain disciplinary actions taking place. The effect of the exception of Section 17A(b)(5)(C) is to allow registered clearing agencies to summarily suspend and close a participant's accounts only in the limited circumstances and in accordance with the minimum procedural requirements set forth in Section 17A(b)(5)(C). Thus, the Commission believes that proposed CME Rule 8H938 is consistent with Section 17A(b)(5)(C) of the Act, as well as Sections 17A(b)(3)(G)[35] and (H)[36] of the Act, which require the rules of the clearing agency provide that its participants shall be appropriately disciplined for violations of any provisions of those rules and to provide fair procedures for disciplining participants, denying participation in the clearing agency to any person, and prohibiting or limiting access to the

[21] 15 U.S.C. 78s(b)(2)(B).

[22] The Commission is not making a determination whether this proposed rule change or any other proposed rule change discussed in this Order is sufficient for full compliance with the statute, rule, or regulation with which they are consistent.

[23] 15 U.S.C. 78s(b)(4)(A).

[24] 15 U.S.C. 78s(b)(3)(F).

[25] The Commission is not making a determination whether this proposed rule change or any other proposed rule change discussed in this Order is sufficient for full compliance with the statute, rule, or regulation with which they are consistent.

[26] 15 U.S.C. 78q(a).

[27] 17 CFR 240.17a–1.

[28] The Commission is not making a determination whether this proposed rule change or any other proposed rule change discussed in this Order is sufficient for full compliance with the statute, rule, or regulation with which they are consistent.

[29] 15 U.S.C. 78s(d)(1).

[30] 15 U.S.C. 78q–1(b)(3)(H).

[31] The Commission is not making a determination whether this proposed rule change or any other proposed rule change discussed in this Order is sufficient for full compliance with the statute, rule, or regulation with which they are consistent.

[32] 15 U.S.C. 78q–1(b)(5)(C).

[33] 15 U.S.C. 78q–1(b)(5)(A).

[34] 15 U.S.C. 78q–1(b)(5)(B).

[35] 15 U.S.C. 78q–1(b)(3)(G).

[36] 15 U.S.C. 78q–1(b)(3)(H).

clearing agency's services, among other things.

3. Financial Safety

Change to CME Rule 8H07, CDS Financial Safeguards and Guaranty Fund Deposit, and 8H802.B, Satisfaction of Clearing House Obligations. CME has proposed changes to CME Rule 8H07, governing CDS financial safeguards and Guaranty Fund deposit matters, that would require CME to notify CDS Clearing Members regarding both the amount of and reasons for any charges to the CDS Guaranty Fund (''CDS Guaranty Fund,'' or ''Guaranty Fund'') for any reason other than to satisfy a clearing loss attributable to a CDS Clearing Member solely from that Clearing Member's Guaranty Fund deposit. CME has proposed changes to Rule 8H802.B that would specify that CME would provide notice to CDS Clearing Members as required by the Act regarding any amounts charged to the CDS Guaranty Fund due to losses incurred. By providing additional transparency to CDS Clearing Members regarding the use of the CDS Guaranty Fund, these proposed changes facilitate CDS Clearing Member monitoring of CME's financial condition as well as CME's accountability with regard to the CDS Guaranty Fund. The Commission thus believes that these proposed changes to CME Rule 8H07 and 8H802.B are consistent with Section 17A(b)(3)(F) of the Act,[37] which requires that the rules of a registered clearing agency be designed, among other things, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

Further, additional proposed changes would also clarify that CME would apply CME Rule 8H07 on a uniform and non-discriminatory basis when determining minimum Guaranty Fund deposits. The Commission finds these changes to CME Rule 8H07 are consistent with Section 17A(b)(3)(F) of the Act, which, among other things, requires that a clearing agency's rules not be designed to permit unfair discrimination among participants in the use of the clearing agency.[38]

New CME Rule 8H820, Performance Bond for Security-Based Swaps, and Changes to CME Rule 8H930, CDS Performance Bond Requirements. Proposed CME Rule 8H820 would specify that CDS performance bond requirements will be as determined by CME staff from time to time and as set forth in CME Rule 820. Further, the proposed rule would provide that, with respect to performance bond requirements that apply to security-based swap clearing activities, CME would be required under new CME Rule 8H20 to determine that each item that is enumerated as being acceptable performance bond pursuant to CME Rule 820 has been determined to assure the safety and liquidity of the clearing agency. New language in CME Rule 8H930 also would explain that (i) acceptable performance bond assets for security-based swaps and the applicable haircuts related to such assets will be set forth on a public Web site and that CME will have discretion to make adjustments to asset haircuts at any time; (ii) any such adjustment to the applicable asset haircut will be promptly communicated to CDS Clearing Members; (iii) any adjustments to the applicable asset haircut schedule for security-based swap clearing activities must be based on an analysis of appropriate factors including, for example, historical and implied price volatilities, market composition, current and anticipated market conditions, and other relevant information; and (iv) the Clearing House will conduct regular reviews of its then-current haircut schedules and make any necessary adjustments. CME also has proposed to revise CME Rule 8H930 to provide that CME will apply CME Rule 8H930 on a uniform and non-discriminatory basis when determining performance bond requirements.

By providing additional transparency concerning CME's process for determining CDS performance bond requirements as described above, the Commission believes that CME Rule 8H820 and the revisions to CME Rule 8H930 should provide guidance and an increased level of predictability to CME's CDS Clearing Members concerning performance bond requirements without compromising CME's ability to adjust them as market conditions warrant. CME Rule 8H975 continues to permit CME to require additional performance bond to be deposited to CME and/or to take any other action necessary to protect the financial integrity of CME in emergency situations as defined under CME Rule 8H975. With increased transparency and predictability concerning performance bond requirements, CDS Clearing Members should be better able to anticipate and manage amounts due to CME, which may translate into less risk that CME would not be able to collect on such requirements and ultimately, improved financial stability for CME as well as its CDS Clearing Members. In addition, the requirement in CME Rule 820 that each item enumerated as being acceptable performance bond has been determined by CME to assure the safety and liquidity of the clearing agency should also provide additional assurance to Clearing Members that CME performs the diligence necessary to select appropriate performance bond assets in support of the CME's CDS clearing activities. Thus, the Commission believes the addition of CME Rule 820 and the revisions to CME Rule H930 described above to be consistent with Section 17A(b)(3)(F),[39] which requires that a clearing agency's rules be designed, among other things, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. The Commission also believes the changes to CME Rule 8H930 providing that CME will determine performance bond requirements in a uniform and non-discriminatory manner among members are consistent with Section 17A(b)(3)(F) of the Act,[40] which, among other things, requires that a clearing agency's rules not be designed to permit unfair discrimination among participants in the use of the clearing agency.

New CME Rule 8H934, Reports to CDS Clearing Members. Proposed CME Rule 8H934 would obligate CME to, as soon as practicable after the end of each calendar year, make available financial statements audited by independent public accountants to all CDS Clearing Members engaged in security-based swap clearing activities. CME would also be required under this rule to make available to CDS Clearing Members clearing security-based swaps a report by independent public accountants regarding the system of internal accounting control of CME Group Inc. (''CME Group''), CME's parent company, in describing any material weaknesses discovered and any corrective action taken or proposed to be taken.

The financial statements would, at a minimum include: (i) The balance of the Guaranty Fund, and the breakdown of the fund balance between the various forms of contributions to the fund, e.g., cash and secured open account indebtedness; (ii) the types and amounts of investments made with respect to the cash balance; (iii) the amounts charged

[37] 15 U.S.C. 78s(b)(3)(F).

[38] 15 U.S.C. 78s(b)(3)(F).

[39] *Id.*

[40] *Id.*

to the Guaranty Fund during the year in excess of a defaulting CDS Clearing Member's Guaranty Fund contribution; and (iv) any other charges to the fund during the year not directly related and chargeable to a specific CDS Clearing Member's Guaranty Fund contribution. CME also would make available to CDS Clearing Members clearing security-based swaps a report of CME Group by independent public accountant regarding its system of internal accounting control, describing any material weaknesses discovered and any corrective action taken or proposed to be taken.

CME would also furnish to all CDS Clearing Members engaged in security-based swap clearing activities, within 40 days following the close of each fiscal quarter, unaudited quarterly financial statements. These unaudited quarterly financial statements shall at a minimum consist of: (i) A statement of financial position as of the end of the most recent fiscal quarter and as of the end of the corresponding period of the preceding fiscal year; (ii) a statement of changes in financial position for the period between the end of the last fiscal year and the end of the most recent fiscal quarter and for the corresponding period of the preceding fiscal year; and (iii) a statement of results of operations, which may be condensed, for the most recent fiscal quarter and for the period between the end of the last fiscal year and the end of the most recent fiscal quarter and for the corresponding periods of the preceding fiscal year.

The Commission believes that CME Rule 8H934, requiring CME to provide to all CDS Clearing Members engaged in security-based swap activities financial statements of CME and reports regarding CME Group's system of internal accounting control, as described above, is consistent with Section 17A(b)(3)(F) of the Act,[41] which provides that the rules of a registered clearing agency should be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

New CME Rule 8H935, Use of Assets. Proposed CME Rule 8H935 would limit CME's ability to invest the cash portion of the CDS Guaranty Fund and CDS Clearing Member performance bond contributions by only allowing investments in accordance with the requirements of CFTC Regulation 1.25, including U.S. Government obligations or such other investments as the rules of CME may provide which assure safety and liquidity. CME would also be required to limit its use of CDS Guaranty Fund and performance bond contributions related to security-based swap activities to the purposes permitted by the Act under the proposed rule language. CDS Guaranty Fund and performance bond contributions shall not be permitted to be used to account for clearing agency losses attributable to day-to-day operating expenses.

The Commission expects that proposed CME Rule 8H935 should provide additional assurance as to the safety and liquidity of acceptable performance bond for security-based swaps positions. Thus, the Commission believes CME Rule 8H935 is consistent with Section 17A(b)(3)(F) of the Act,[42] which provides that the rules of a registered clearing agency should be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[43]

New CME Rule 8H936, Capacity Reviews. Proposed CME Rule 8H936 would specify that CME would perform periodic risk assessments of CME's operations and its data processing systems and facilities, and provide CME's Board of Directors or its designee, such as a Board Committee, with such reports, and supervise the establishment, maintenance, and updating of operations and data processing safeguards while reporting periodically to the Board or its designee concerning strengths and weaknesses in CME's system of safeguards. In addition, Rule 8H936 would make clear that CME is obligated to consider, and advise the Board of, the impact that new or expanded service or volume increases would have on CME's processing capacity, both physical, including personnel, and systemic risk.

The Commission believes that proposed CME Rule 8H936 is consistent with Section 17A(b)(3)(F) of the Act,[44] which provides that the rules of a registered clearing agency should be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

4. Fair Representation Requirement

Commission staff asked CME to provide an explanation of how CME's current governance arrangements relating to its CDS clearing offering should be viewed in light of the requirements of Section 17A(b)(3)(C) of the Act.[45] This provision requires that the rules of a clearing agency provide for fair representation of the clearing agency's shareholders (or members) and participants in the selection of its directors and administration of its affairs.

CME responded that the Board of Directors of the CME Group, the parent company of CME, also serves as the Board of Directors of CME. CME Group is a public company whose stock is listed on the Nasdaq Stock Market (''Nasdaq'') and thus is subject to board composition requirements under Nasdaq listing standards. In addition, any member of the public is afforded the opportunity to purchase shares in CME Group and influence the selection of directors and administration of its affairs on that basis, subject to applicable law. CME cited Commission staff guidance in asserting that the Commission may find fair representation with respect to clearing agency participants if such participants are afforded an opportunity to acquire voting stock of the clearing agency in proportion to their use of its facilities.[46]

In addition, CME noted that it is also subject to governance and conflict of interest provisions under the core principles set out in the CEA for a DCO. The CFTC reviews CME for compliance with these principles. For example, Section 5b(c)(2)(O) of the CEA sets out governance fitness standards that apply to DCOs, including transparent governance arrangements, that are designed to ensure the consideration of views of owners and participants. Further, Section 5b(c)(2)(Q) of the CEA requires a DCO's board to include market participants. CFTC regulations also require a DCO's governance arrangements to be clear and transparent

[41] *Id.*

[42] *Id.*

[43] The Commission is not making a determination whether this proposed rule change or any other proposed rule change discussed in this Order is sufficient for full compliance with the statute, rule, or regulation with which they are consistent.

[44] *Id.*

[45] 15 U.S.C. 78q–1(b)(3)(C).

[46] *See* Regulation of Clearing Agencies, *supra* note 10. Rather than prescribing a single method, Commission staff guidance has stated that the Commission will evaluate a clearing agency's procedures with regard to the fair representation requirement on a case-by-case basis. *Id.*

and ''to support the objectives of relevant stakeholders.'' [47]

CME also stated that it believes CDS participants will have a meaningful input into decisions affecting the clearing operations for CDS through participation on the CME CDS Risk Committee. CME noted that the CDS Risk Committee was formed under CME Rule 8H27 to provide guidance and oversight to CME on matters relating to CDS products. The CDS Risk Committee, among other things, is responsible for reviewing CDS-related financial safeguards, clearing member requirements, risk management policies and practices, and rule changes, among other things.

CME noted that the Charter of the CDS Risk Committee sets forth certain composition requirements that ensure the perspectives of CDS Clearing Members are represented. More specifically, the Charter requires that at all times the CDS Risk Committee is populated with up to nine and no fewer than five individuals who are representative of CDS Clearing Members. Because of these composition requirements of the CDS Risk Committee, and the scope of its responsibilities, CME stated that it believed the Commission could find that its current governance arrangements meet the fair representation requirement of the Act.

Further, CME also noted that the Charter of the CDS Risk Committee specifically provides that its Chairman shall be a member of the CME Board of Directors. In this capacity, the Chairman of the CDS Risk Committee serves as a liaison to the full Board of Directors of CME. He or she can relay any concerns addressed by the CDS Risk Committee to the full CME Board of Directors. CME noted that the CDS Risk Committee is required to reassess the adequacy of this Charter on an annual basis and submit any recommended changes to the full CME Board of Directors for approval. CME believes these features provide a concrete nexus between the activities of the CDS Risk Committee and the full CME Board of Directors and ensure that there will be a fair representation of CDS Clearing Members in accordance with the spirit and letter of the Act.

Based on the representations made by CME, as described above, the Commission believes that CME's governance structure could accommodate fair representation of the clearing agency's shareholders (or members) and participants in the selection of CME's directors and administration of its affairs, consistent with Section 17A(b)(3)(C) of the Act.[48] The Commission intends to monitor these governance arrangements over time for consistency with fair representation requirement, taking into consideration the interaction between the CDS Risk Committee, including its Chairman, with the CME Board of Directors, any changes to the composition of the CDS Risk Committee relative to that of the CME Board of Directors, the scope and proportion of CME's CDS clearing relative to its other activities, and other facts and circumstances as appropriate.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [49] and the rules and regulations thereunder. *It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[50] that the proposed rule change (File No. SR–CME–2012–26) be, and hereby is, approved.[51]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[52]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–30648 Filed 12–19–12; 8:45 am]

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[47] The Commission notes that compliance with the requirements of other regulatory authorities does not necessarily substitute for compliance with the Exchange Act and the rules and regulations thereunder.

[48] 15 U.S.C. 78q–1(b)(3)(C).

[49] 15 U.S.C. 78q–1.

[50] 15 U.S.C. 78s(b)(2).

[51] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[52] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68442; File No. SR–BATS–2012–046]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Modify Exchange Rule 11.23 Relating to Auctions of Exchange-Listed Securities

December 14, 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 December 6, 2012, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 11.23 entitled ''Auctions'' including to amend Rule 11.23(a)(6) to incorporate the Exchange's clearly erroneous execution standards into the definition of Collar Price Range,[3] to amend Rule 11.23(a)(22) to provide that any portion of a market Regular Hours Only [4] (''RHO'') order will be cancelled immediately following any auction in which the order is not fully executed, to make changes to Rules 11.23(b)(2)(B), 11.23(c)(2)(B), and 11.23(d)(2)(C) to help to prevent the possibility of erroneous executions occurring in auctions on the Exchange, and to make changes to Rule 11.23(d)(2)(A) entitled ''Publication of BATS Auction Information'' in order to both make clear that the rule should apply to IPO Auctions and to make a change to the data that will be disseminated by the Exchange.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[3] As defined in BATS Rule 11.23(a)(6).

[4] As defined in BATS Rule 11.23(a)(22).

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The Exchange recently proposed and received approval of rules governing auctions conducted on the Exchange for securities listed on the Exchange (''Exchange Auctions'').[5] The Exchange adopted rules for conducting opening and closing auctions (''Opening Auctions'' and ''Closing Auctions,'' respectively) on the Exchange, an initial public offering auction (an ''IPO Auction''), and an auction in the event of a halt of trading in the security (a ''Halt Auction''). As mentioned above, the purpose of this filing is to amend the Exchange's rules to incorporate the Exchange's clearly erroneous execution standards into the definition of Collar Price Range, to make clear that the unexecuted portion of certain order types that do not participate in an auction will be cancelled immediately following the execution, to further prevent the possibility of erroneous executions occurring in auctions that occur on the Exchange, to make clear that certain requirements should apply to both IPO Auctions and Halt Auctions, and to make a change to the data that will be disseminated by the Exchange related to Exchange Auctions.

Collar Price Range

The Exchange proposes to amend Rule 11.23(a)(6) to amend the definition of ''Collar Price Range'' to incorporate the Exchange's clearly erroneous execution standards into the definition of Collar Price Range. Specifically, the Exchange is proposing that the Collar Price Range will be based on the Exchange's numerical guidelines for clearly erroneous executions, as detailed in Rule 11.17(c)(1). The Collar Price Range will be based on a collar midpoint which will be the Volume Based Tie Breaker[6] or, for an IPO Auction of an exchange traded product (''ETP''), the issuing price (both the ''Collar Midpoint'')[7] and shall be determined as follows: Where the Collar Midpoint is $25.00 or less, the Collar Price Range shall be the range from 10% below the Collar Midpoint to 10% above the Collar Midpoint; where the Collar Midpoint is greater than $25.00 but less than or equal to $50.00, the Collar Price Range shall be the range from 5% below the Collar Midpoint to 5% above the Collar Midpoint; and where the Collar Midpoint is greater than $50.00, the Collar Price Range shall be the range from 3% below the Collar Midpoint to 3% above the Collar Midpoint.

The Exchange believes that this proposed change will provide greater transparency and certainty in Exchange Auctions by helping to reduce the possibility that an auction would occur at a price that would qualify as clearly erroneous under Rule 11.17(c)(1) and that may result in cancelled executions. As currently written, the Collar Price Range is set at 10% of the Volume Based Tie Breaker below and above the ZBB and ZBO, the NBB and NBO, or the Final Last Sale Eligible Trade, depending on market conditions at the time of the auction. In addition to helping to prevent auctions from occurring at prices that would qualify as clearly erroneous, the proposed change will also act to narrow the Collar Price Range, which will help limit the volatility in auction prices.

Market RHO Orders

The Exchange proposes to amend Rule 11.23(a)(22) to provide that any unexecuted portion of a market RHO order is immediately cancelled following any Exchange Auction in which it was eligible to participate, rather than being eligible for execution after the Exchange Auction. Specifically, the Exchange proposes that any portion of a market RHO order (a ''Market RHO Auction Order'') will be cancelled immediately following any auction in which it is not executed. This proposed change would make clear that, consistent with the behavior of all other market orders entered on the Exchange, including market RHO orders entered on the Continuous Book, Market RHO Auction Orders would either execute immediately or be cancelled.

Determination of Auction Price

The Exchange proposes to amend Rules 11.23(b)(2)(B), 11.23(c)(2)(B), and 11.23(d)(2)(C) in order to help to protect against erroneous executions occurring in auctions on the Exchange. Specifically, the Exchange is proposing to amend its Rules related to the determination of the auction price for Exchange Auctions such that where no limit orders from one or both sides would participate in the auction, the auction will occur at the price of the Volume Based Tie Breaker for Opening and Closing Auctions, the Final Last Sale Eligible Trade for Halt Auctions, and the issuing price for IPO Auctions.

Currently, BATS Rule 11.23 provides that where there is at least one limit order either: (i) On the Continuous Book or Auction Book for Opening and Closing Auctions; or (ii) among Eligible Auction Orders for IPO and Halt Auctions; then the auction will occur at the price level within the Collar Price Range, where applicable, that maximizes the number of shares executed in the auction. BATS Rule 11.23 also currently provides that where there are no limit orders: (i) On both the Continuous Book and the Auction Book for Opening and Closing Auctions; or (ii) among the Eligible Auction orders for IPO and Halt Auctions; then the auction will occur at a default price, which is based on the type of Auction occurring (the ''Default Price''). Under the Exchange's current rules, for Opening, Closing, and Halt Auctions, the Default Price is the Final Last Sale Eligible Trade. For IPO Auctions, the Default Price is the issuing price.

The proposed changes to Rule 11.23 are two-fold. First, the Exchange is proposing to amend its Rules such that, before determining the auction price, the Exchange will look to whether there is at least one limit order from each side that would participate in the auction, rather than, as currently implemented, looking to whether there is a single limit order either on the Continuous Book and Auction Book (for Opening and Closing Auctions) or among Eligible Auction Orders (for IPO and Halt Auctions). Where no limit orders from either or both sides would participate in the auction, the Exchange is proposing that the auction will occur at the price of the Default Price. By providing that the auction price will be the Default Price where no limit orders from one or both sides would participate in an Exchange Auction, this proposed change would aid in price discovery and help to prevent erroneous executions by ensuring that a single limit order on one side of an auction that might not even participate in the Exchange Auction cannot on its own determine the auction price.

Secondly, the Exchange proposes to amend its Rules to change the Default Price for Opening and Closing Auctions. Currently, the Default Price for Opening and Closing Auctions is the price of the Final Last Sale Eligible Trade. Specifically, the Exchange is proposing to use the Volume Based Tie Breaker as the Default Price for Opening and Closing Auctions. Using the Volume Based Tie Breaker as the Default Price

[5] *See* Securities Exchange Act Release No. 65619 (October 25, 2011), 76 FR 67238 (October 31, 2011) (SR–BATS–2011–032).

[6] As defined in BATS Rule 11.23(a)(23).

[7] The Exchange notes that, because the Collar Price Range will be based on the Collar Midpoint and the numerical guidelines for clearly erroneous executions are based on the Reference Price, which is equal to the consolidated last sale immediately prior to the execution(s) under review, the modified Collar Price Range would not necessarily prevent all clearly erroneous executions from occurring.

instead of the Final Last Sale Eligible Trade means that, by definition, the Exchange will look first to the ZBBO, then the NBBO to determine the auction price, and only where there is no ZBB or ZBO and no NBB or NBO will the Exchange use the Final Last Sale Eligible Trade as the auction price. This proposed change would aid in price discovery and help to reduce the likelihood of executions in auctions occurring at prices out of line with existing market conditions by using a Default Price that is based on current market conditions rather than a previous execution, the Final Last Sale Eligible Trade, to determine the auction price where no limit orders from one or both sides would participate in the auction.

In summary:

• Opening and Closing Auctions—Currently, in Opening and Closing Auctions, where there are no limit orders on both the Continuous Book and the Auction Book, the auction will occur at the price of the Final Last Sale Eligible Trade. The Exchange is proposing to change the current Opening and Closing Auction functionality such that, where no limit orders from either or both sides would participate in the auction, the auction will occur at the Volume Based Tie Breaker.

• IPO Auctions—Currently, in IPO Auctions, where there are no limit orders among the Eligible Auction Orders, the auction will occur at the issuing price. The Exchange is proposing to change the current IPO Auction functionality such that, where no limit orders from either or both sides would participate in the IPO Auction, the auction will occur at the issuing price.

• Halt Auctions—Currently, in Halt Auctions, where there are no limit orders among the Eligible Auction Orders, the auction will occur at the Final Last Sale Eligible Trade. The Exchange is proposing to change the current Halt Auction functionality such that, where no limit orders from either or both sides would participate in the Halt Auction, the auction will occur at the price of the Final Last Sale Eligible Trade.

Publication of BATS Auction Information

The Exchange proposes to amend Rule 11.23(d)(2)(A) entitled ''Publication of BATS Auction Information'' in order to both make clear that the rule should also apply to IPO Auctions, not just Halt Auctions, and to make a change to the data that will be disseminated. Specifically, the Exchange proposes to add a reference to IPO Auctions to the rule and to disseminate the lesser of the Reference Buy Shares and the Reference Sell Shares rather than to disseminate both pieces of information, in order to more effectively prevent the possibility of gaming.

The Exchange is proposing to amend Rule 11.23(d)(2)(A) to disseminate the lesser of the Reference Buy Shares and the Reference Sell Shares in an effort to prevent possible gaming of IPO Auctions and Halt Auctions. Specifically, the Exchange is concerned that market participants could use information in the auction information messages to manipulate the auction. Where an auction information message for an IPO or Halt Auction contains both Reference Buy Shares and Reference Sell Shares, a User knows the exact amount of liquidity available at a given price level on both sides of the Auction Book simultaneously. In IPO and Halt Auctions, orders can be entered up until the auction occurs, which would allow a User to use that information to knowingly move the price of the auction by entering and/or cancelling sufficiently sized orders, assuming that there is at least one share of contra-side liquidity at the next price level.

As proposed, the auction information message for IPO and Halt Auctions would only contain the lesser of the Reference Buy Shares and Reference Sell Shares and, therefore, a User would never have complete knowledge of liquidity available on both sides of the book simultaneously. This lack of full information will prevent Users from knowing exactly how the auction will react to an order that they enter, thus helping to prevent gaming of IPO and Halt Auctions.

These gaming concerns do not exist for Opening and Closing Auctions because the auction information messages for the Opening and Closing Auctions do not include information relating to the Continuous Book, so information disseminated in the auction information messages does not provide complete information about the auction. This prevents Users from knowing exactly how the auction will react to an order that they enter. In addition, auction information messages are not disseminated until after the point in time that Eligible Auction Orders cannot be modified or cancelled and only Late Limit on Open Orders [8] and Late Limit on Close Orders [9] (collectively, ''Late Orders'') can be entered. Specifically, in Opening and Closing Auctions, auction information messages are not disseminated until two minutes and five minutes prior to the auction (the ''Cutoff''), respectively, at which point Users may not modify or cancel any Eligible Auction Orders entered onto the Auction Book. After the Cutoff, Users may only enter Late Orders onto the Auction Book. Late Orders cannot be modified or cancelled by the User after entry and can only be priced as aggressively as the ZBB for bids and the ZBO for offers, the NBB or NBO where there is no ZBBO, or the limit price of the order where there is no ZBBO and NBBO. In the absence of a ZBBO and NBBO a Late Order could be entered without price restriction, however, because there may be hidden liquidity on the Continuous Book, the User could not be certain of how the order would affect the auction.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[10] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[11] because it would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. Specifically, the Exchange believes that the proposed changes will improve the price discovery process for securities listed on the Exchange along with reducing the likelihood that erroneous executions will occur in auctions conducted on the Exchange by ensuring that a single limit order on one side of an auction that might not even participate in the Exchange Auction cannot on its own determine the auction price. Instead, the Exchange is proposing that where there are no limit orders on either or both sides that would participate in an Exchange Auction, the auction price would be the Default Price. The Exchange further believes that the proposed changes will improve the price discovery process by changing the Default Price for Opening and Closing Auctions from the Final Last Sale Eligible Trade to the Volume Based Tie Breaker, which will, by definition, mean that the Exchange will look to current market conditions rather than a previous execution to determine the auction price where no limit orders

[8] As defined in BATS Rule 11.23(a)(12).

[9] As defined in BATS Rule 11.23(a)(11).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

from one or both sides would participate in the auction. In addition, the Exchange believes that the proposed changes will provide greater transparency and certainty in Exchange Auctions by helping to reduce the possibility that an auction would occur at a price that would qualify as clearly erroneous under Rule 11.17(c)(1) and that may result in cancelled executions. Further, the Exchange believes that the proposed change will provide greater transparency and certainty in Exchange Auctions by helping to limit the volatility in auction prices by narrowing the Collar Price Range. The Exchange also believes that the proposed changes will help prevent fraudulent and manipulative acts and practices along with, in general, protecting investors and the public interest by changing the auction information messages disseminated by the Exchange during IPO and Halt Auctions to include only the lesser of the Reference Buy Shares and the Reference Sell Shares, which will more help to prevent the possibility of gaming in the auctions, as described above. Lastly, the Exchange believes that the proposed changes will provide greater clarity and transparency by making clear that any portion of a Market RHO Auction Order will be cancelled immediately following any auction in which it is not executed, behavior that is consistent with the behavior of all other market orders entered on the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2012–046 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2012–046. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2012–046 and should be submitted on or before January 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–30687 Filed 12–19–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68444; File No. SR–NYSEMKT–2012–78]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Section 102(a) of the NYSE MKT Company Guide To Eliminate an Erroneous Reference

December 14, 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 December 4, 2012, NYSE MKT LLC (''Exchange'' or ''NYSE MKT'') 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 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 Section 102(a) of the NYSE MKT Company Guide (the ''Company Guide'') to eliminate an erroneous reference. 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,

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 102(a) of the Company Guide (to eliminate an erroneous reference.

Section 102(a) of the Company Guide provides that a company listing its equity securities on the Exchange must have a minimum public distribution of 500,000 shares, together with a minimum of 800 public shareholders or minimum public distribution of 1,000,000 shares together with a minimum of 400 public shareholders. This provision contains an exception which ostensibly exempts from the distribution requirements in Section 102(a) applicants seeking to qualify for listing pursuant to Section 101(g). Section 101(g) is the Exchange's closed-end fund listing standard and it has always been the Exchange's policy to apply the general distribution standard of Section 102(a) to closed-end funds. As such, the reference to an exception for closed-end funds is erroneous and the Exchange proposes to delete it. The erroneous cross-reference was originally intended to be applicable to companies listing under the Exchange's Alternative Listing Standards for equity securities, which were eliminated in 2008.[3]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[4] of the Securities Exchange Act of 1934 (the ''Act''),[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it simply corrects a non-substantive error in the text of Section 102(a).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6)[8] thereunder because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, 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, provided that the Exchange has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest because it would immediately eliminate confusion for issuers resulting from the erroneous reference in the Company Guide and clarify the distribution requirement applicability. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and therefore, it designates the proposed rule change to be operative upon filing with the Commission.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2012–78 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2012–78. 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

[3] *See* [sic] 34–59050 (December 3, 2008); 73 CFR 75144 (December 10, 2008) (SR–Amex–2008–70).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78a.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78s(b)(3)(C).

public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2012–78 and should be submitted on or before January 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–30688 Filed 12–19–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68439; File No. TP 11–10]

Order Granting Limited Exemptions From Exchange Act Rules 101 and 102 of Regulation M to Shares of JPM XF Physical Copper Trust Pursuant to Exchange Act Rules 101(d) and 102(e)

December 14, 2012.

By letter dated December 14, 2012 (the ''Letter''),[1] as supplemented by conversations with the staff of the Division of Trading and Markets, counsel for J.P. Morgan Commodity ETF Services LLC (''Sponsor'') on behalf of the Sponsor, JPM XF Physical Copper Trust (''Trust''), and persons or entities engaging in transaction in the shares of the Trust requested that the Securities and Exchange Commission (''Commission'') issue an exemption from Rules 101 and 102 of Regulation M in connection with secondary market transactions in the shares of the Trust, and the creation or redemption of shares of the Trust.[2]

According to the Trust's registration statement, the Trust was formed as a Delaware statutory trust on October 15, 2010. The Trust, based on representations in the Letter, is a passive, unmanaged investment vehicle and will have no directors, officers, or employees. Additionally, the Letter represents that the Trust is an exchange-traded investment vehicle that will hold only Grade A Copper in physical form. The Letter also states that each share of the Trust represents a fractional undivided interest in the net assets of the Trust (''Share''). The Trust's investment objective, according to the Letter, is for the value of the Shares to reflect, at any given time, the value of copper owned by the Trust less the Trust's expenses and liabilities at that time.

The Letter contains the following representations:

- Shares of the Trust will trade on a national securities exchange.[3]
- Shares will be issued and redeemed in basket-size aggregations (''Creation Units'') to registered broker-dealers or certain other persons that have entered into a participation agreement with the Trust and the Sponsor (''Authorized Participants'').
- Creation Units will be issued and redeemed daily in exchange for a specified amount of physical metal that represents a *pro rata* share of the metal then held in the Trust.
- The Sponsor does not expect the difference in price based on the locational premia to be significant.[4]
- The Sponsor believes that the copper selection protocol,[5] the independent third-party valuation agent,[6] and information transparency measures[7] will cause the price of Shares in the secondary market to closely track the net asset value per Share of the Trust.
- The Trust will continuously redeem baskets of Shares at net asset value expressed as a pro rata portion of the weight of copper held by the Trust.
- The Sponsor states that it believes that, because Authorized Participants have full, transparent information about the Trust's copper, including the locational premium and the brand for each lot of copper held by the Trust and whether the brand of any such lot is or has ceased to be an Acceptable Delivery Brand,[8] factors such as locational premia and de-registering of copper will not impair the price alignment process or the arbitrage mechanism.[9]
- NYSE Arca will calculate and disseminate, approximately every 15 seconds during the Exchange's core

[13] 17 CFR 200.30–3(a)(12).

[1] *See* Letter from John Crowley to Josephine Tao (December 14, 2012), re: Request of J.P. Morgan Commodity ETF Services LLC for Relief from Certain Provisions of Regulation M, available at: *http://www.sec.gov/divisions/marketreg/mr-noaction.shtml.*

[2] For additional information regarding the Trust please see the Order Approving a Proposed Rule Change to List and Trade Shares of the JPM XF Physical Copper Trust Pursuant to NYSE Arca Equities Rule 8.201, Securities Exchange Act Release No. 68440;____FR____(''Approval Order'').

[3] *See also* Approval Order, *supra,* note 1.

[4] According to the Letter, the copper will be held in one or more warehouses in locations throughout the world. The value of copper depends in part on its location, *i.e.,* copper stored in a location that is low in supply and high in demand carries a higher premium than copper that is stored in a location where supply is high and demand is low. To assist in valuing the Trust's copper, by 9:00 a.m. EST, an independent valuation agent will provide the administrative agent (the administrative agent, which initially will by J.P. Morgan Treasury Securities Services, will administer various daily functions of the Trust (''Administrative Agent'')) the locational premia for the locations at which the Trust is permitted to hold copper. The locational premium for a warehouse location for a business day will be calculated as an amount expressed in U.S. dollars that is equal to the average value of copper per metric ton in such location minus the LME Settlement Price of copper on such business day. *See* Securities Exchange Act Release No. 66816 (April 16, 2012); 77 FR 23772, 23779 (''Notice'').

[5] According to the Letter, the selection protocol is intended to provide a consistent and transparent method of selecting lots to satisfy redemption orders and calculating and paying expenses, by requiring the Administrative Agent to select lots in the following manner: (1) Lots will be selected first from the warehouse where it holds available copper that has the lowest locational premium at a particular time (*i.e.,* the ''cheapest-to-deliver location''), and then from other warehouse locations successively based on a ranking of their respective locational premia from lowest to highest; (2) if there are multiple lots in the same warehouse location specified by the first step, lots in such warehouse location will be selected based on the date such lots were first delivered to the relevant account, with the earliest delivered lot being selected first; and (3) if there are multiple lots in the same warehouse location that were first delivered to the relevant account on the same date, lots will be selected based on the actual weight of the lot, with the lot having the lowest actual weight being selected first. For additional information, *see* Notice, *supra,* note 3, 77 FR at 23781–82.

[6] According to the Letter, the valuation agent, which is independent from and unaffiliated with the Sponsor, is responsible for providing the locational premium for each permitted warehouse location, which is used to calculate the Trust's net asset value, determine the cheapest-to-deliver location, and make other determinations for the Trust.

[7] According to the Letter, the Administrative Agent will provide full transparency on its Web site of the Trust's assets. The Sponsor anticipates that, through a combination of the use of the selection protocol and transparency of information, each Authorized Participant will be able to assess which lots of copper are likely to be delivered in connection with a redemption order by the Authorized Participant. Additionally, the Exchange will publish two intraday indicative values throughout the course of the day. These two intraday indicative values, discussed in subsequent bullets below, will provide Authorized Participants with an indication of the underlying value of the Trust's Shares during the trading day, on any day the Exchange is open for business.

[8] According to the Letter, the LME oversees the registration process for each refinery seeking to register its brand of copper as an acceptable delivery brand for LME registered transactions (''Acceptable Delivery Brand''). Any copper that is delivered to the Trust by an Authorized Participant must, at the time of delivery, be of an Acceptable Delivery Brand. If the LME de-registers a brand of copper that is held by the Trust, the Trust will use the de-branded copper to satisfy redemptions before using any other lots of copper, even if the de-branded copper is not held in the cheapest-to-deliver location.

[9] *See supra* notes 4 and 9.

trading session, two different intraday indicative values for the Shares: the First-Out IIV and the Liquidation IIV.[10]

• Authorized Participants can generally expect to receive copper from the cheapest-to-deliver location whenever they redeem Creation Units of Shares and are expected to seek to create Creation Units of Shares by transferring copper from the cheapest-to-deliver location at which they have copper available.[11]

• Arbitrage activity by Authorized Participants is expected to result in the Shares trading within a limited range, with the lower end of that range approximating the first-out intraday indicative value and the higher end of that range approximating the value of copper in the cheapest-to-deliver location at which the Authorized Participants have copper available.[12]

Rule 101 of Regulation M

Generally, Rule 101 of Regulation M is an anti-manipulation regulation that, subject to certain exemptions, prohibits any ''distribution participant'' and its ''affiliated purchasers'' from bidding for, purchasing, or attempting to induce any person to bid for or purchase, any security which is the subject of a distribution until after the applicable restricted period, except as specifically permitted in the rule. Rule 100 of Regulation M defines ''distribution'' to mean any offering of securities that is distinguished from ordinary trading transactions by the magnitude of the offering and the presence of special selling efforts and selling methods. The provisions of Rule 101 of Regulation M apply to underwriters, prospective underwriters, brokers, dealers, or other persons who have agreed to participate or are participating in a distribution of securities, and affiliated purchasers of such persons. Shares of the Trust are in a continuous distribution and, as such, the restricted period in which distribution participants and their affiliated purchasers are prohibited from bidding for, purchasing, or attempting to induce others to bid for or purchase extends indefinitely. As a result, absent an exemption from Rule 101 of Regulation M, the distribution participants would be prohibited from bidding for or purchasing Shares during the distribution without violating Rule 101 of Regulation M.

On the basis of the representations and the facts presented in the Letter, particularly that the Trust will continuously redeem baskets of Shares at net asset value expressed as a pro rata portion of the weight of copper held by the Trust and that the secondary market price of Shares is expected to trade within a limited range with the lower end of that range approximating the first-out intraday indicative value and the higher end of that range approximating the value of copper in the cheapest-to-deliver location at which the Authorized Participants have copper available, the Commission finds that it is appropriate in the public interest, and is consistent with the protection of investors, to grant the Shares of the Trust a limited exemption from Rule 101 of Regulation M pursuant to paragraph (d) thereof,[13] to permit persons participating in the distribution of Shares and their affiliated purchasers to bid for or purchase Shares during their participation in such distribution.[14] In particular, the price alignment process and arbitrage mechanism, which are expected to align the price of the Shares in the secondary market to the copper held by the Trust, should mitigate the potential manipulation concerns that Rule 101 of Regulation M is designed to prevent. Accordingly, granting such relief to the Shares to permit persons participating in the distribution of Shares and their affiliated purchasers to bid for or purchase Shares during their participation in such distribution is appropriate in the public interest, and is consistent with the protection of investors.

Rule 102 of Regulation M

Rule 102 of Regulation M prohibits issuers, selling security holders, or any affiliated purchaser of such persons from bidding for, purchasing, or attempting to induce any person to bid for or purchase a covered security[15] during the applicable restricted period in connection with a distribution of securities effected by or on behalf of an issuer or selling security holder, except as specifically permitted in the rule. As a result, absent an exemption from Rule 102 of Regulation M, the Shares could not be redeemed by the Trust without violating Rule 102 of Regulation M.

On the basis of the representations and the facts presented in the Letter, particularly that the Trust will continuously redeem baskets of Shares at net asset value expressed as a pro rata portion of the weight of copper held by the Trust and that the secondary market price of Shares is expected to be within a limited range with the lower end of that range approximating the first-out intraday indicative value and the higher end of that range approximating the value of copper in the cheapest-to-deliver location at which the Authorized Participants have copper available, the Commission finds that it is appropriate in the public interest, and is consistent with the protection of investors, to grant the Shares of the Trust a limited exemption from Rule 102 of Regulation M, pursuant to paragraph (e) thereof,[16] to permit the Trust and any of its affiliated purchasers to redeem Shares during the distribution of the Shares.[17] In particular, the price alignment process and arbitrage mechanism, which are expected to align the price of the Shares in the secondary market to the copper held by the Trust, should mitigate the potential manipulation concerns that Rule 102 of Regulation M is designed to prevent.

[10] The ''First-Out IIV'' is designed to facilitate arbitrage activity by authorized participants by indicating whether the Shares are trading at a discount or premium during the trading day. *See* Notice, *supra,* note 3, 77 FR at 23785. It represents, as of the time of such calculation, the hypothetical U.S. dollar value per Share of the copper that would need to be transferred to or from the Trust to create or redeem one Share included in a Creation Unit, assuming that copper in the cheapest-to-deliver location was used for such creation or redemption. *See id.* at 23783. The ''Liquidation IIV'' is an intraday indicative value that represents, as of the time of the calculation, the hypothetical U.S. dollar value per Share of all of the copper owned by the Trust divided by the number of Shares then outstanding. *See id.* at 23783. For a description of how the Exchange will calculate the First-Out IIV and the Liquidation IIV, *see id.* at 23784–86.

[11] *See* Notice, *supra,* note 3, 77 FR at 23784.

[12] *Id.* at 23785.

[13] Rule 101(d) of Regulation M specifies the Commission may grant an exemption from the provision of Rule 101, either unconditionally or on specified terms and conditions, to any transaction or class of transactions, or to any security or class of securities.

[14] The Commission, pursuant to delegated authority, has granted similar exemptive relief from Rule 101 to other exchange-traded vehicles that hold only physical metal. *See, e.g.,* Letters from James A. Brigagliano, Assistant Director, Division of Market Regulation, (i) to Kathleen Moriarty, Esq., Carter Ledyard & Milburn, dated November 17, 2004, with respect to the trading of StreetTRACKS Gold Trust, (ii) to David Yeres, dated January 27, 2005, with respect to the trading of the iShares COMEX Gold Trust, and (iii) to David Yeres, dated April 27, 2006, with respect to the trading of iShares Silver Trust.

[15] Covered security is defined as any security that is the subject of a distribution, or any reference security. Rule 100(b), 17 CFR 242.100(b).

[16] Rule 102(e) specifies the Commission may grant an exemption from the provision of Rule 102, either unconditionally or on specified terms and conditions, to any transaction or class of transactions, or to any security or class of securities.

[17] The Commission, pursuant to delegated authority, has granted similar exemptive relief from Rule 102 to other exchange-traded vehicles that hold only physical metal. *See, e.g.,* Letters from James A. Brigagliano, Assistant Director, Division of Market Regulation, (i) to Kathleen Moriarty, Esq., Carter Ledyard & Milburn, dated November 17, 2004, with respect to the trading of StreetTRACKS Gold Trust, (ii) to David Yeres, dated January 27, 2005, with respect to the trading of the iShares COMEX Gold Trust, and (iii) to David Yeres, dated April 27, 2006, with respect to the trading of iShares Silver Trust.

Accordingly, granting such relief to the Shares to permit the Trust and any of its affiliated purchasers to redeem Shares during the distribution of the Shares is appropriate in the public interest, and is consistent with the protection of investors.

Conclusion

It is hereby ordered, pursuant to Rule 101(d) of Regulation M, that, based on the representations and facts presented in the Letter, the Shares of the Trust are exempt from the requirements of Rule 101 to permit persons participating in the distribution of Shares of the Trust and their affiliated purchasers to bid for or purchase such Shares during their participation in such distribution.

It is further ordered, pursuant to Rule 102(e) of Regulation M, that, based on the representations and facts presented in the Letter, the Shares of the Trust are exempt from the requirements of Rule 102 to permit the Trust and any of its affiliated purchasers to redeem Shares of the Trust during the distribution of such Shares.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. Persons participating in the distribution of Shares of the Trust shall discontinue creations and redemptions involving the Shares of the Trust, in the event that any material change occurs with respect to any of the facts or representations made by the Trust, the Sponsor, or its counsel. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a), 10(b), and Rule 10b-5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws and rules must rest with the persons relying on this exemption. This order does not represent the Commission views with respect to any other question that the proposed transactions may raise, including, but not limited to the adequacy of the disclosure concerning, and the applicability of other federal or state laws and rules to, the proposed transactions.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–30646 Filed 12–19–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68437; File No. SR–ICEEU–2012–08]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Clear Western European Sovereign CDS Contracts

December 14, 2012.

On October 15, 2012, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICEEU–2012–08 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on November 2, 2012.[3] The Commission received one comment on this proposal.[4]

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of filing of this proposed rule change is December 17, 2012. The Commission is extending this 45-day time period.

The proposed rule change would permit ICE Clear Europe to clear Western European Sovereign credit default swaps on the following sovereign reference entities: Republic of Ireland, Italian Republic, Hellenic Republic, Portuguese Republic, and Kingdom of Spain. In light of the fact that ICE Clear Europe does not currently provide clearing services for Western European Sovereign credit default swaps, and because no registered clearing agency currently provides clearing services for Western European Sovereign credit default swaps, the Commission finds it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates January 31, 2013, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ICEEU–2012–08).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–30604 Filed 12–19–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68445; File No. SR–OCC–2012–19]

Self-Regulatory Organizations; Options Clearing Corporation; Order Approving Proposed Rule Change To Revise the Method for Determining the Minimum Clearing Fund Size To Include Consideration of the Amount Necessary To Draw on Secured Credit Facilities

December 14, 2012.

I. Introduction

On October 18, 2012, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change SR–OCC–2012–19 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on November 7, 2012.[3] The Commission received no comment letters. This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–68119 (October 29, 2012), 77 FR 66209 (November 2, 2012).

[4] *See* Comments submitted to the Commission by Darrell Duffie, Stanford University dated November 7, 2012 (*http://www.sec.gov/comments/sr-iceeu-2012-08/iceeu201208.shtml*).

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 68130 (November 1, 2012), 77 FR 66900 (November 7, 2012). OCC also filed an advance notice relating to these proposed changes. *See* Securities Exchange Act Release No. 68225 (November 14, 2012), 77 FR 69668 (November 20, 2012). The Commission did not receive any comments on this publication.

II. Description of the Proposed Rule Change

A. Background

On September 23, 2011, the Commission approved a proposed rule change by OCC to establish the size of OCC's clearing fund as the amount that is required, within a confidence level selected by OCC, to sustain the maximum anticipated loss under a defined set of scenarios as determined by OCC, subject to a minimum clearing fund size of $1 billion.[4] OCC implemented this change in May 2012. Until that time, the size of OCC's clearing fund was calculated each month as a fixed percentage of the average total daily margin requirement for the preceding month, provided that the calculation resulted in a clearing fund of $1 billion or more.[5]

Under the formula that is implemented for determining the size of the clearing fund as a result of the May 2012 change, OCC's Rules provide that the amount of the fund is equal to the larger of the amount of the charge to the fund that would result from (i) a default by the single ''clearing member group'' [6] whose default would be likely to result in the largest draw against the clearing fund or (ii) an event involving the near-simultaneous default of two randomly-selected ''clearing member groups'' in each case as calculated by OCC with a confidence level selected by OCC.[7] The size of the clearing fund continues to be recalculated monthly, based on a monthly averaging of daily calculations for the previous month, and it is subject to a requirement that its minimum size may not be less than $1 billion.

B. Proposed Rule Change

The proposed rule change will implement a minimum clearing fund size equal to 110% of the amount of committed credit facilities secured by the clearing fund so that the amount of the clearing fund likely will exceed the required collateral value that would be necessary for OCC to be able to draw in full on such credit facilities. OCC's clearing fund is primarily intended to provide a high degree of assurance that market integrity will be maintained in the event that one or more clearing members, settlement banks, or banks that issue letters of credit on behalf of clearing members as a form of margin fails to meet its obligations.[8] This includes the potential use of the clearing fund as a source of liquidity should it ever be the case that OCC is unable to obtain prompt delivery of, or convert promptly to cash, any asset credited to the account of a suspended clearing member.

OCC's committed credit facilities are secured by assets in the clearing fund and certain margin deposits of the suspended clearing member. In light of the uncertainty regarding the amount of margin assets of a suspended clearing member that might be eligible at any given point to support borrowing under the secured credit facilities, OCC has considered the availability of funds based on a consideration of the amount of the clearing fund deposits available as collateral. As an example, for OCC to draw on the full amount of its current credit facilities secured by the clearing fund, the size of the clearing fund likely would need to be approximately $2.2 billion. The $2.2 billion figure reflects a 10% increase above the total size of such credit facilities, which is meant to account for the percentage discount applied to collateral pledged by OCC in determining the amount available for borrowing.

Based on monthly recalculation information, the size of OCC's clearing fund during the period from July 2011 to July 2012 was less than $2.2 billion on eight occasions. Therefore, to reduce the risk that the assets in the clearing fund might at any time be insufficient to enable OCC to meet potential liquidity needs by accessing the full amount of its committed credit facilities that are secured by the clearing fund, OCC is amending the current minimum clearing fund size requirement of $1 billion by providing instead that the minimum clearing fund size is the greater of either $1 billion or 110% of the amount of such committed credit facilities. OCC is denoting the credit facility component of the minimum clearing fund requirement as a percentage of the total amount of the credit facilities that OCC actually secures with clearing fund assets because OCC negotiates these credit facility agreements, including size and other terms, on an annual basis and the total size is therefore subject to change.

III. Discussion

Section 17A(b)(3)(F) of the Act [9] requires that, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to safeguard securities and funds in its custody or control or for which it is responsible. The proposed rule change will further these ends by requiring a minimum clearing fund size that is designed to enable OCC to draw in full on its committed credit facilities that are secured by the clearing fund.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [10] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–OCC–2012–19) be and hereby is *approved* [12] as of the date of this order or the date of the ''Notice of No Objection to Advance Notice Filing to Revise the Method for Determining the Minimum Clearing Fund Size to Include Consideration of the Amount Necessary to Draw on Secured Credit Facilities''

[4] Securities Exchange Act Release No. 34–65386 (September 23, 2011), 76 FR 60572 (September 29, 2011) (SR–OCC–2011–10).

[5] If the calculation did not result in a clearing fund size of $1 billion or more, then the percentage of the average total daily margin requirement for the preceding month that resulted in a fund level of at least $1 billion would be applied. However, in no event was the percentage permitted to exceed 7%. With the rule change approved in September 2011, this 7% limiting factor on the minimum clearing fund size was eliminated.

[6] The term ''clearing member group'' is defined in OCC's By-Laws to mean a clearing member and any member affiliates of the clearing member.

[7] The confidence levels employed by OCC in calculating the charge likely to result from a default by OCC's largest ''clearing member group'' and the default of two randomly-selected ''clearing member groups'' were approved by the Commission at 99% and 99.9%, respectively. However, the Commission approval order notes that OCC retains discretion to employ different confidence levels in these calculations provided that OCC will not employ confidence levels of less than 99% without first filing a proposed rule change.

[8] Under Article VIII, Section 1 of OCC's By-Laws, the clearing fund may be used to pay losses suffered by OCC: (1) As a result of the failure of a clearing member to perform its obligations with regard to any exchange transaction accepted by OCC; (2) as a result of a clearing member's failure to perform its obligations in respect of an exchange transaction or an exercised/assigned options contract, or any other contract or obligations in respect of which OCC is liable; (3) as a result of the failure of a clearing member to perform its obligations in respect of stock loan or borrow positions; (4) as a result of a liquidation of a suspended clearing member's open positions; (5) in connection with protective transactions of a suspended clearing member; (6) as a result of a failure of any clearing member to make any other required payment or to render any other required performance; or (7) as a result of a failure of any bank or securities or commodities clearing organization to perform its obligations to OCC.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 15 U.S.C. 78q–1.

[11] 15 U.S.C. 78s(b)(2).

[12] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

(File No. AN–OCC–2012–04), whichever is later.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–30689 Filed 12–19–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68440; File No. SR–NYSEArca–2012–28]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change as Modified by Amendment No. 1 To List and Trade Shares of the JPM XF Physical Copper Trust Pursuant to NYSE Arca Equities Rule 8.201

December 14, 2012.

I. Introduction

On April 2, 2012, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of JPM XF Physical Copper Trust (''Trust'') pursuant to NYSE Arca Equities Rule 8.201. J.P. Morgan Commodity ETF Services LLC is the sponsor of the Trust (''Sponsor''). The proposed rule change was published for comment in the **Federal Register** on April 20, 2012.[3]

The Commission initially received one comment letter, which opposed the proposed rule change.[4] On May 30, 2012, the Commission extended the time period for Commission action to July 19, 2012.[5] On June 19, 2012, NYSE Arca submitted a letter in support of its proposal.[6] On July 13, 2012, V&F submitted a second comment letter opposing the proposed rule change.[7] On July 16, 2012, United States Senator Carl Levin submitted a comment letter opposing the proposed rule change.[8] Additionally, on July 19, 2012, the Commission received a comment letter from another party opposing the proposed rule change.[9]

On July 19, 2012, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[10] The initial comments for the proceeding were due on August 24, 2012, and the Commission received four comment letters (another letter from V&F, another letter from the Exchange, a letter on behalf of the Sponsor, and a letter from several copper fabricators).[11] Rebuttal comments to submissions made during the initial comment period were due on September 10, 2012. The Commission received three more comment letters (another letter from V&F and two more on behalf of the Sponsor).[12] On October 2, 2012, the Commission issued a notice of designation of longer period for Commission action on proceedings to determine whether to approve or disapprove the proposed rule change.[13] The Commission subsequently received six more comment letters (two more letters from V&F, two letters from Americans for Financial Reform, and two letters from Robert E. Rutkowski).[14] On November 30, 2012, the Exchange filed Amendment No. 1 to the proposed rule change.[15] On December 7, 2012, the

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 66816 (April 16, 2012), 77 FR 23772 (''Notice'').

[4] *See* letter from Vandenberg & Feliu, LLP (''V&F''), received May 9, 2012 (''V&F May 9 Letter''). Comment letters are available at *http://www.sec.gov/comments/sr-nysearca-2012-28/nysearca201228.shtml.*

[5] *See* Securities Exchange Act Release No. 67075, 77 FR 33258 (June 5, 2012).

[6] *See* letter from Janet McGinness, General Counsel, NYSE Markets, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated June 19, 2012 (''Arca June 19 Letter'').

[7] *See* letter from Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated July 13, 2012 (''V&F July 13 Letter'').

[8] *See* letter from U.S. Senator Carl Levin, to Elizabeth M. Murphy, Secretary, Commission, dated July 16, 2012 (''Levin Letter'').

[9] *See* Web comment from Suzanne H. Shatto (''Shatto Letter'').

[10] *See* Securities Exchange Act Release No. 67470, 77 FR 43620 (July 25, 2012) (''Order Instituting Proceedings'').

[11] *See* letters from Janet McGinness, General Counsel, NYSE Markets, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated August 23, 2012 (''Arca August 23 Letter''); Joe Williamson, Senior Vice President, Strategic Sourcing, Southwire Company; Janet Sander, Vice President, Director of Purchasing, Encore Wire Corporation; Ron Beal, Executive Vice President, Tubes Division, Luvata; and Mark Woehnklar, President, Amrod Corp., to Elizabeth M. Murphy, Secretary, Commission, dated August 23, 2012 (''Copper Fabricators Letter''); Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated August 24, 2012 (''V&F August 24 Letter''); and John G. Crowley, Davis Polk & Wardwell LLP (''DP''), on behalf of the Sponsor, to Elizabeth M. Murphy, Secretary, Commission, dated August 24, 2012 (''DP August 24 Letter''). In its August 24 Letter, V&F requested to make an oral presentation in the proceeding. *See* V&F August 24 Letter at 1. The Commission denied V&F's request. *See* letter from Kevin M. O'Neill, Deputy Secretary, Commission, to Robert B. Bernstein, Eaton & Van Winkle LLP (''EVW''), dated December 5, 2012, *available at http://www.sec.gov/comments/sr-nysearca-2012-28/nysearca201228.shtml.* By letter dated November 29, 2012, Mr. Bernstein informed the Commission that he had left V&F and would continue to represent Southwire Company, Encore Wire Corporation, Luvata, and Amrod Corp. (collectively, the ''Copper Fabricators'') and RK Capital LLC in this proceeding.

[12] *See* letters from Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated September 10, 2012 (''V&F September 10 Letter''); John G. Crowley, DP, on behalf of the Sponsor, to Elizabeth M. Murphy, Secretary, Commission, dated September 10, 2012 (''DP September 10 Letter''); and John G. Crowley, DP, on behalf of the Sponsor, to Elizabeth M. Murphy, Secretary, Commission, dated September 12, 2012 (''DP September 12 Letter'').

[13] *See* Securities Exchange Act Release No. 67965, 77 FR 61457 (October 9, 2012).

[14] *See* letters from Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated October 23, 2012 (''V&F October 23 Letter''); Americans for Financial Reform (''AFR''), to Elizabeth M. Murray [sic], Secretary, Commission, dated October 23, 2012 (''AFR October 23 Letter''); email from Robert E. Rutkowski, to Mary Schapiro, Chair, Commission, dated October 24, 2012 (''Rutkowski October 24 Letter''); Robert B. Bernstein, V&F, to Elizabeth M. Murphy, Secretary, Commission, dated November 16, 2012 (''V&F November 16 Letter''); AFR, to Elizabeth M. Murray [sic], Secretary, Commission, dated November 16, 2012 (''AFR November 16 Letter''); and email from Robert E. Rutkowski, to Mary Schapiro, Chair, Commission, dated November 17, 2012 (''Rutkowski November 17 Letter'').

[15] In Amendment No. 1, the Exchange represented that: (1) It has obtained a representation from the Sponsor that the Sponsor is affiliated with one or more broker-dealers and other entities, and the Sponsor will implement a firewall with respect to such affiliate(s) regarding access to material non-public information of the Trust concerning the Trust and the Shares, and will be subject to procedures designed to prevent the use and dissemination of material non-public information of the Trust regarding the Trust and the Shares; (2) it will obtain a representation from the Trust prior to commencement of trading of the Shares that the net asset value (''NAV'') of the Trust and the NAV per Share will be calculated daily and made available to all market participants at the same time; (3) if the First-Out IIV or the Liquidation IIV (terms defined *infra* in note 42) is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption; (4) its comprehensive surveillance sharing agreement with the London Metal Exchange (''LME'') applies to trading in copper derivatives (as well as copper); (5) it will require that a minimum of 100,000 Shares be outstanding at the start of trading of the Shares; and (6) it can obtain information regarding the activities of the Sponsor and its affiliates under the Exchange's listing rules. Additionally, the Exchange supplemented its description of surveillance applicable to the Shares contained in the proposed rule change as originally filed. Specifically, the Exchange represents that trading in the Shares would be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, and that, in addition, FINRA would augment those existing surveillances with a review specific to the Shares that is designed to identify potential manipulative trading activity through use of the creation and redemption process. The Exchange represented that all those procedures would be operational at the commencement of trading in the Shares on the Exchange and that, on an ongoing basis, NYSE Regulation, Inc. (on behalf of the Exchange) and FINRA would regularly monitor the continued operation of those

Commission received another comment letter opposing the proposed rule change.[16] The Commission is publishing this notice to solicit comments on Amendment No. 1 to the proposed rule change from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.[17]

II. Description of the Proposal

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 8.201, which governs the listing and trading of ''Commodity-Based Trust Shares.'' [18] The Trust's investment objective is for the value of the Shares to reflect, at any given time, the value of its copper, less the Trust's expenses and liabilities. The Trust will invest in Grade A copper [19] in physical form from a source refinery that has had its brand registered with the LME (an ''Acceptable Delivery Brand'').[20] The Exchange states that, although the Shares are not the exact equivalent of an investment in copper, they are designed to provide investors with an alternative that allows a participation in the copper market through the securities market.[21]

A. Description of the Copper Market [22]

The following is a summary of the description of the copper market that the Exchange included in its filing. The market participants in the copper market include primary and secondary producers; fabricators, manufacturers, and end-use consumers; physical traders and merchants, who generally facilitate the domestic and international trade of copper supplies along the value chain and support the distribution of supplies to consumers; and the banking sector. Copper supply generally comes from the extraction and processing of ore (''primary production'') and the recovery of copper from existing stock (''secondary production''). Primary production accounts for the majority of new global copper supply.

Copper's physical, chemical, and aesthetic properties make it a material of choice in a wide range of electrical, electronics and communication, construction, transportation, industrial machinery and equipment, and general consumer applications. From copper derived from primary and secondary production, fabricators produce semi-fabricated products, such as copper wire, copper alloys, tube products, rods, bars, section, plate, sheets and strips, for various applications. The location of copper relative to consumption demand is important given the bulk and cost of transportation. The source of copper also is important to fabricators and consumers and affects buying behavior. Copper end-users will pay an additional locational premium to obtain copper of a specific brand that is stored in a specific location.[23]

The global market in copper consists of: (i) Trading within the physical copper market; and (ii) financial trading, through either (a) the exchange-traded futures and options market or (b) the over-the-counter (''OTC'') market. Each of these is described below in further detail.

1. Physical Copper Market

The physical copper market is comprised of sales directly by producers and refiners to end-users, and by sales transacted by merchants, dealers, and trading banks. A major portion of annual copper production and use is effected through transactions in the physical copper market, often through renewable annual supply contracts.

2. Futures Exchanges

A majority of copper derivatives trading occurs on three exchanges: The LME, the Commodity Exchange, Inc. (''COMEX'') (a division of CME Group, Inc.), and the Shanghai Futures Exchange (''SHFE''). LME members are regulated by the Financial Services Authority (''FSA''), the regulator of the financial services industry in the United Kingdom. COMEX is regulated by the U.S. Commodity Futures Trading Commission (''CFTC'') under the Commodity Exchange Act (''CEA''). The SHFE is regulated by the Chinese Securities Regulatory Commission (''CSRC''). At present, Chinese regulations stipulate that only companies or organizations organized and registered in China or Chinese citizens are allowed to participate in trading on the SHFE.

Futures exchanges provide for the trading of futures and options on futures contracts, which producers and consumers use to fix a price in the future as a hedge against price variations. Producers and consumers take long or short positions to manage price risk, which activity is facilitated by investors who buy the price risk.

Only eligible organizations or members are able to participate directly in trading on the LME. The LME publishes prices discovered as a result of daily trading of exchange contracts on the LME. The LME Settlement Price [24] and forward prices serve as the global benchmark prices of Grade A copper.[25] The copper industry uses these prices as the basis of price negotiations for the physical purchase and sale of copper. All contracts registered with the LME are executed on the basis of physical settlement: LME members deliver base metal against LME futures contracts in the form of LME warrants.[26] The seller

procedures. In addition, the Exchange has represented that it will communicate as needed regarding trading in the Shares with other markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[16] *See* letter from Robert B. Bernstein, EVW, to Elizabeth M. Murphy, Secretary, Commission, dated December 7, 2012 (''EVW December 7 Letter'').

[17] Similar to other exchange traded products that hold physical metals, the Sponsor, the Trust, and persons or entities engaging in transactions in Shares need to seek exemptions from, or interpretative or no-action advice regarding, Rules 101 and 102 of Regulation M under the Act to create or redeem Shares. *See, e.g.,* letters from James A. Brigagliano, Assistant Director, Division of Market Regulation, (i) to Kathleen Moriarty, Esq., Carter Ledyard & Milburn, dated November 17, 2004, with respect to the trading of StreetTRACKS Gold Trust, (ii) to David Yeres, dated January 27, 2005, with respect to the trading of the iShares COMEX Gold Trust, and (iii) to David Yeres, dated April 27, 2006, with respect to the trading of iShares Silver Trust. The Sponsor, on behalf of itself, the Trust, and persons or entities engaging in transactions in Shares, submitted a request to the Commission requesting that the Commission grant exemptions from, or interpretative or no-action guidance regarding, Rules 101 and 102 of Regulation M. Simultaneous with the approval of the proposed rule change, the Commission, by separate order, is granting the Trust, based on the representations and facts presented in its letter and subject to the conditions contained in that order, an exemption from the requirements of Rules 101 and 102 of Regulation M under the Act with respect to the Trust. *See* Securities Exchange Act Release No. 68439 (December 14, 2012).

[18] Commodity-Based Trust Shares are securities issued by a trust that represent investors' discrete identifiable and undivided interest in and ownership of the net assets of the trust.

[19] According to the Exchange, the LME trades, promotes, and maintains the standards of quality, shape, and weight of Grade A Copper, a commonly accepted standardized form of copper cathode. Grade A Copper currently must conform to the standard BS EN 1978:1998 (Cu-CATH–1), which specifies the allowed source, shape, and chemical composition of the cathode. Most copper cathodes are 99.95% to 99.99% pure copper. The chemical composition, and impurities, in the cathode depend largely on the source of the copper and whether the metal has been processed from copper sulfide ore or copper oxide ore. Copper oxide ore has a smaller number of residual chemical elements in the cathode. *See* Notice, *supra* note 3, 77 FR at 23777.

[20] Currently, there are 79 brands that are Acceptable Delivery Brands. The LME may deregister brands from time to time. According to the Exchange, generally, copper that is not of an Acceptable Delivery Brand is worth less than copper that is of an Acceptable Delivery Brand because of the perceived lower liquidity associated with that brand of copper. *See* Notice, *supra* note 3, 77 FR at 23777–78.

[21] *See id.*

[22] See Notice, *supra* note 3, for a more detailed description of the copper market.

[23] *See infra* note 35.

[24] *See infra* note 34 and accompanying text.

[25] *See infra* note 34.

[26] An ''LME warrant'' is a bearer document evidencing the right of the holder to possession of a specified lot of metal at a specified LME warehouse location. LME warrants are traded in the

Continued

has the right to select the LME warrant delivered to the buyer. Pertinent information about LME warrants is recorded in the LMEsword system. The LME publishes the number of LME warrants and associated tonnage (including canceled LME warrants for which copper has yet to be delivered out of the relevant LME warehouse).

3. OTC Market

Physical traders, merchants, and banks participate in OTC spot, forward, option, and other derivative transactions for copper.[27] The terms of OTC contracts are not standardized and market participants have the flexibility to negotiate all terms of the transaction, including delivery specifications and settlement terms. The OTC market facilitates long-term transactions, such as life-of-mine off-take arrangements,[28] which otherwise could be constrained by contract terms on a futures exchange. Participants in OTC transactions are subject to counter-party risk, including credit risk and contractual obligations to perform. The OTC derivative market for copper remains largely unregulated with respect to public disclosure of information by the parties, thus providing confidentiality among principals.

4. Copper Market Regulation

The CFTC is authorized under the CEA to monitor, investigate, and take actions with respect to activities that may have a material impact on the markets for physical commodities, commodity futures, commodity options, and swaps in the United States. Specifically, the CFTC has jurisdiction over manipulation and attempted manipulation of the cash commodity markets.[29] The CFTC also has broad authority over commodity derivatives markets and participants in those markets, including the COMEX.[30] Commodity futures and options traded on the COMEX also are subject to regulation by its parent, CME Group's Market Regulation Oversight Committee (''MROC''), under CFTC rules. The MROC is a self-regulatory body created in 2004 to ensure competitive and financially sound trading activity on the Chicago Mercantile Exchange, Inc. and its subsidiary exchanges.

The FSA is responsible for supervising the LME and regulating the financial soundness and conduct of the business conducted by LME members. The LME, a Recognised Investment Exchange by the FSA, is required by statute to ensure that business on its markets is conducted in an orderly and transparent manner, providing proper protection to investors and persons looking to manage risk. Regulation of the market is largely carried out by the LME. In addition to FSA oversight, the LME and its members also are subject to regulatory controls and input from various U.K. government bodies and offices, as well as directives from the European Union Commission. In international trading, rules applied by overseas regulatory bodies, such as the CFTC, are also taken into account.

The SHFE is a self-regulatory body under the supervision and governance of the CSRC. The SHFE is a day-to-day overseer of exchange activity, and is expected to carry out regulation as per the laws established by the CSRC. The CSRC serves as the final authority on exchange regulation and policy development, and ultimately determines the effectiveness of the SHFE as a regulatory entity. The CSRC has the right to overturn or revoke the SHFE's regulatory privileges at any time.

B. Description of the Proposed Rule Change and the Trust[31]

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 8.201. J.P. Morgan Treasury Securities Services, a division of JPMorgan Chase Bank, National Association, is the administrative agent of the Trust (''Administrative Agent''). Wilmington Trust Company is the trustee of the Trust (''Trustee''). The Henry Bath Group is the warehouse-keeper of the Trust (''Warehouse-keeper'').[32] Metal Bulletin Ltd., which is not affiliated with the Sponsor, is the valuation agent of the Trust (''Valuation Agent'').

As mentioned above, the Trust will hold Grade A copper in physical form, and the Trust's investment objective is for the value of the Shares to reflect, at any given time, the value of the copper owned by the Trust at that time, less the Trust's expenses and liabilities at that time. The Trust will hold only copper and will not trade in copper futures. The Trust will not be actively managed and will not engage in any activities designed to obtain a profit from, or to prevent losses caused by, changes in the price of copper.

The Administrative Agent will calculate the NAV of the Trust as promptly as practicable after 4:00 p.m. EST on each Business Day.[33] As part of this calculation, the Administrative Agent will determine the value of the trust's copper using the LME Settlement Price[34] and locational premia/discount information provided by the Valuation Agent.[35]

OTC market. The holder of an LME warrant is responsible for rental payments for storage of the underlying copper in an LME-approved warehouse as well as any changes to the price of the underlying copper and locational premium.

[27] OTC contracts are principal-to-principal agreements traded and negotiated privately between two principal parties, without going through an exchange or other intermediary.

[28] A life-of-mine off-take arrangement is an agreement between a producer and a buyer to purchase/sell portions of the producer's future production over the life of the operation. These agreements are commonly negotiated prior to the construction of a project as they can assist in obtaining financing by showing future revenue streams.

[29] Section 9(a)(2) of the CEA, 7 U.S.C. 13(a)(2), provides that it is a felony punishable by up to ten years' imprisonment or up to a $1 million fine for ''[a]ny person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, * * * or to corner or attempt to corner any such commodity.'' Section 6(c) of the CEA, 7 U.S.C. 9, authorizes the CFTC to assess treble damage penalties for manipulation or attempted manipulation of the price of any commodity in interstate commerce and to adopt rules to prevent manipulative practices. CFTC Rule 180.1 prohibits fraud and fraud-based manipulations, including any such attempts; CFTC Rule 180.2 addresses the elements of price-based manipulation and attempted manipulation.

[30] For example, 17 CFR 18.05 requires all traders that hold or control a reportable futures or options positions to: (1) ''Keep books and records showing all details concerning all positions and transactions in the commodity'' on all reporting markets, OTC transactions, exempt boards of trade, and foreign boards of trade; (2) ''keep books and records showing all details concerning all positions and transactions in the cash commodity, its products and byproducts, and all commercial activities that the trader hedges in the futures or option contract in which the trader is reportable''; and (3) provide to the CFTC upon request ''pertinent information concerning such positions, transactions, or activities.''

[31] *See* Notice, *supra* note 3, for a more detailed description. Additional details regarding the Trust also are set forth in the registration statement for the Trust, most recently amended on July 12, 2011 (No. 333–170085) (''Registration Statement'').

[32] Each of Henry Bath & Son Limited, Henry Bath LLC, Henry Bath Singapore Pte Limited, Henry Bath Italia Sr1, and Henry Bath BV is a member of the Henry Bath Group of companies and a wholly owned subsidiary of J.P. Morgan Ventures Energy Corporation, and is an affiliate of the Sponsor. *See* Notice, *supra* note 3, 77 FR at 23773 n.10.

[33] A Business Day is a day that the Exchange is open for regular trading and that is not a holiday in London, England. *See id.* at 23775 n.18.

[34] The ''LME Settlement Price'' is, with respect to any Business Day, the official cash sellers price per metric ton of Grade A Copper on the LME, stated in U.S. dollars, as determined by the LME at the end of the morning's second ring session (12:35 p.m. London time) for copper on each day that the LME is open for trading. The LME Settlement Price is made publicly available in real-time through third-party vendors such as Bloomberg and Reuters (on Bloomberg, it is currently displayed on Bloomberg page ''LOCADY <comdty>''). It is also made publicly available on a delayed basis on the LME's Web site at approximately 10:00 p.m. London time. *See id.* at 23775 n.17.

[35] The value of copper depends in part on its location, *i.e.,* copper stored in a location that is low in supply and high in demand carries a higher

The Trust will store its copper in both LME-approved warehouses and non-LME-approved warehouses that are maintained by the Warehouse-keeper, but none of the copper held by the Trust will be on LME warrant, and therefore will not be subject to regulation by the LME.[36] Initially, the permitted warehouse locations will be in the Netherlands (Rotterdam), Singapore (Singapore), South Korea (Busan and Gwangyang), China (Shanghai), and the United States (Baltimore, Chicago, and New Orleans). Although the Trust may hold copper in warehouses in any of these locations (or other locations that may be determined by the Sponsor from time to time), the locations at which copper actually is held will depend on the warehouse locations at which authorized participants have actually delivered copper to the Trust and the warehouse locations from which copper is or has been delivered pursuant to the Trust's redemption procedures.

Shares will be created when an authorized participant transfers Grade A Copper of an Acceptable Delivery Brand and having a weight equal to the Creation Unit Weight [37] to one or more acceptable warehouse locations of the Trust and the Trust, in return for the copper, delivers a Creation Unit of Shares [38] to the authorized participant. In creating Shares, if the aggregate weight of the whole lots transferred by the authorized participant falls short of or exceeds the aggregate Creation Unit Weight, the Administrative Agent will instruct the Warehouse-keeper to transfer ownership of copper between the authorized participant's book-entry account (''Reserve Account'') and the Warehouse-keeper's book-entry account (''Trust Account'') to cover any such amount.

Shares will be redeemed when an authorized participant transfers a Creation Unit of Shares to the Trust and the Trust, in return for such Shares, delivers copper having a weight equal to the Creation Unit Weight to the authorized participant, in accordance with the Selection Protocol.[39] Following the transfer of whole lots of copper, the Administrative Agent will instruct the Warehouse-keeper to adjust for any redemption underweight by transferring ownership of copper from the Trust Account to the relevant authorized participant's Reserve Account.[40] Because the copper held by the Trust in different locations may vary in value based on the applicable locational premium, the value of the copper actually received by the authorized participant will depend on the location of the specific whole lot(s) and fractional lots, if any, of the copper transferred to the authorized participant.

Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association. The Exchange also will make available via the Consolidated Tape trading volume, closing prices, and NAV for the Shares from the previous day.[41] In addition, NYSE Arca will calculate and disseminate, approximately every 15 seconds during the Exchange's Core Trading Session, two different IIVs for the Shares: The First-Out IIV and the Liquidation IIV.[42]

On each Business Day, as promptly as practicable after 4:00 p.m. E.T., the Trust will publish the following on its Web site: (1) The number of outstanding Shares as of the beginning of the Business Day; (2) the NAV of the Trust; (3) the NAV per Share; (4) the locational premium for each warehouse location, as calculated by the Valuation Agent at 5:00 p.m. London time, quoted both in U.S. dollars and as a percentage premium relative to the LME settlement price; (5) the price per metric ton of copper in each warehouse location where the Trust is permitted to hold copper; (6) the aggregate weight in metric tons of all copper owned by the Trust; (7) the aggregate weight in metric tons of the copper owned by the Trust in each warehouse location; (8) the gross value in U.S. dollars of the copper owned by the Trust in each warehouse location; (9) the Creation Unit Ratio; and (10) the Creation Unit Weight.[43] The Exchange will obtain a representation from the Trust prior to the commencement of trading of the Shares that the NAV will be calculated daily and made available to all market participants at the same time.[44]

Additionally, as promptly as practicable after 4:00 p.m. E.T. on each Business Day, the Trust will make available on its Web site a downloadable file containing the following information relating to each lot of copper owned by the Trust: (1) The unique identification number of the lot; (2) the warehouse location in which the lot is held; (3) the brand of the lot and, if such brand of copper is not an Acceptable Delivery Brand, an indication that the lot consists of a brand of copper that has been de-registered; (4) the weight in metric tons of the lot; and (5) the date upon which the lot was delivered to the Trust.[45]

The Exchange states that investors may obtain, almost on a 24-hour basis, copper pricing information based on the spot price of copper from various financial information service providers,

premium than copper that is stored in a location where supply is high and demand is low. To assist in valuing the Trust's copper, by 9:00 a.m. EST, the Valuation Agent will provide the Administrative Agent the locational premia for the locations at which the trust is permitted to hold copper. The locational premium for a warehouse location for a Business Day will be calculated as an amount expressed in U.S. dollars that is equal to the average value of copper per metric ton in such location minus the LME Settlement Price of copper on such Business Day. *See id.* at 23779.

[36] *See id.* at 23778.

[37] The Creation Unit Weight for a particular day will be equal to 25.0 metric tons multiplied by the Creation Unit Ratio in effect for such day. The Creation Unit Ratio will initially be equal to 1.0, but will decline gradually over time to reflect the payment of expenses by the Trust. As a result, the Creation Unit Weight will decline gradually over time as well. The Creation Unit Weight and the Creation Unit Ratio in effect on any Business Day will have been calculated on the prior Business Day, after the calculation of the Trust's NAV on such Business Day. For a discussion of how the Administrative Agent will calculate the Creation Unit Ratio and the Creation Unit Weight, *See id.* at 23784.

[38] A Creation Unit of Shares is a block of 2,500 Shares. *See id.* at 23781.

[39] According to NYSE Arca, the Selection Protocol is intended to provide a consistent and transparent method of selecting lots, by requiring the Administrative Agent to select lots in the following manner: (1) Lots will be selected first from the warehouse where it holds available copper that has the lowest locational premium at a particular time (*i.e.,* the ''cheapest-to-deliver location''), and then from other warehouse locations successively based on a ranking of their respective locational premia from lowest to highest; (2) if there are multiple lots in the same warehouse location specified by the first step, lots in such warehouse location will be selected based on the date such lots were first delivered to the relevant account, with the earliest delivered lot being selected first; and (3) if there are multiple lots in the same warehouse location that were first delivered to the relevant account on the same date, lots will be selected based on the actual weight of the lot, with the lot having the lowest actual weight being selected first. *See id.* at 23781–82.

[40] According to NYSE Arca, when copper is redeemed in this manner, the amount of copper received by the authorized participant will equal a pro rata share of the copper held by the Trust based on the weight of the Trust's aggregate copper holdings immediately prior to the processing of redemptions. *See id.* at 23782.

[41] *See id.* at 23786.

[42] The ''First-Out IIV'' is designed to facilitate arbitrage activity by authorized participants by indicating whether the Shares are trading at a discount or premium during the trading day. *See id.* at 23785. It represents, as of the time of such calculation, the hypothetical U.S. dollar value per Share of the copper that would need to be transferred to or from the Trust to create or redeem one Share included in a Creation Unit, assuming that copper in the cheapest-to-deliver location was used for such creation or redemption. *See id.* at 23783. The ''Liquidation IIV'' is an intraday indicative value that represents, as of the time of the calculation, the hypothetical U.S. dollar value per Share of all of the copper owned by the Trust divided by the number of Shares then outstanding. *See id.* For a description of how the Exchange will calculate the First-Out IIV and the Liquidation IIV, *See id.* at 23784–86.

[43] *See id.* at 23783.

[44] *See* Amendment No. 1, *supra* note 15.

[45] *See* Notice, *supra* note 3, 77 FR at 23783.

such as Reuters and Bloomberg.[46] Reuters and Bloomberg provide at no charge on their Web sites delayed information regarding the spot price of copper and last-sale prices of copper futures, as well as information and news about developments in the copper market.[47] Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on copper prices directly from market participants.[48] There are a variety of public Web sites providing information on copper, ranging from those specializing in precious metals to sites maintained by major newspapers, such as *The Wall Street Journal*.[49] The Trust's Web site will provide ongoing pricing information for copper spot prices and the Shares.[50] The Exchange will provide on its Web site (*www.nyx.com*) a link to the Trust's Web site.[51]

NYSE Arca will require that a minimum of 100,000 Shares be outstanding at the start of trading,[52] which represents 1,000 metric tons of copper. The Trust seeks to initially register 6,180,000 Shares.[53] NYSE Arca represents that the Shares satisfy the requirements of NYSE Arca Equities Rule 8.201, which governs the listing and trading of Commodity-Based Trust Shares, and thereby qualify for listing and trading on the Exchange.[54]

Under NYSE Arca Equities Rule 7.34(a)(5), if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it must halt trading on the Exchange until such time as the NAV is available to all market participants at the same time. If the First-Out IIV or the Liquidation IIV is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.[55] Further, the Exchange will consider suspension of trading pursuant to NYSE Arca Rule 8.201(e)(2) if, after the initial 12-month period following commencement of trading: (1) The value of copper is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the Sponsor, Trust, or Custodian, or the Exchange stops providing a hyperlink on its Web site to any such unaffiliated source providing that value; or (2) if the Liquidation IIV is no longer made available on at least a 15-second delayed basis. More generally, with respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which conditions in the underlying copper market have caused disruptions and/or lack of trading; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Additionally, trading in the Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's circuit breaker rule.[56]

NYSE Arca represents that its surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of NYSE Arca rules and applicable federal securities laws.[57] To support this, the Exchange states that, pursuant to NYSE Arca Equities Rule 8.201(g), it is able to obtain information regarding trading in the Shares, physical copper, copper futures contracts, options on copper futures, or any other copper derivative from ETP Holders acting as registered market makers, in connection with their proprietary or customer trades. More generally, NYSE Arca states that it has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder, as well as a subsidiary or affiliate of an ETP Holder that is in the securities business.[58] With respect to a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts, the Exchange states that it can obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.[59] Further, NYSE Arca states that it may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges that are members of the ISG, including the COMEX,[60] and that it has entered into a comprehensive surveillance sharing agreement with the LME that applies with respect to trading in copper and copper derivatives.[61]

Prior to the commencement of trading, the Exchange represents that it will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in the Creation Unit (including noting that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) how information regarding the IIV is disseminated; (d) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (e) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of physical copper trading during the Core and Late Trading Sessions after the close of the major world copper markets; and (f) trading information.

The Notice and the Registration Statement include additional information about: The Trust; the Shares; the Trust's investment objectives, strategies, policies, and restrictions; fees and expenses; creation and redemption of Shares; the physical copper market; availability of information; trading rules and halts; and surveillance procedures.[62]

III. Discussion and Commission Findings

After careful review and for the reasons discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act, including Section 6 of the Act,[63] and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent

[46] *See id.* at 23786.

[47] *See id.*

[48] *See id.*

[49] *See id.*

[50] *See id.*

[51] *See id.*

[52] *See* Amendment No. 1, *supra* note 15.

[53] *See* Registration Statement, *supra* note 31.

[54] With respect to application of Rule 10A–3 (17 CFR 240.10A–3) under the Act (15 U.S.C. 78a), the Trust relies on the exemption contained in Rule 10A–3(c)(7). *See* Notice, *supra* note 3, at 23773 n.12.

[55] *See* Amendment No. 1, *supra* note 15. NYSE Arca Equities Rule 8.201(e)(2) also provides that the Exchange may seek to delist the Shares in the event the underlying commodity or the IIV is no longer calculated or available as required.

[56] *See* NYSE Arca Equities Rule 7.12.

[57] *See* Notice, *supra* note 3, 77 FR at 23787.

[58] *See* Amendment No. 1, *supra* note 15.

[59] *See id.*

[60] *See* Notice, *supra* note 3, 77 FR at 23787.

[61] *See* Amendment No. 1, *supra* note 15.

[62] *See* Notice and the Registration Statement, *supra* notes 3 and 31, respectively.

[63] 15 U.S.C. 78f.

with Section 6(b)(5) of the Act,[64] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In addition, the Commission finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,[65] which requires that the rules of a national securities exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission also finds that the proposed rule change is consistent with Section 11A(a)(1)(C)(iii) of the Act,[66] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Further, pursuant to Section 3(f) of the Act, the Commission has considered whether the proposed rule change will promote efficiency, competition, and capital formation.

Six commenters submitted fourteen comment letters to explain their opposition to the proposed rule change.[67] Generally, the opposing commenters assert that the proposed rule change is inconsistent with Section 6(b)(5) of the Act.[68] V&F (and EVW), the Copper Fabricators, Senator Levin, and AFR (collectively, ''Opposing Commenters'') assert that the issuance by the Trust of all of the Shares covered by the Registration Statement within a short period of time would result in a substantial reduction in the supply of global copper available for immediate delivery.[69] The Opposing Commenters assert that this reduction in short-term supply would increase both the price of copper and volatility in the copper market, which would in turn significantly harm the U.S. economy.[70] They further state that the predicted decrease in copper available for immediate delivery would make the physical copper market more susceptible to manipulation.[71]

In response, the Exchange and the Sponsor generally state that the Trust would serve as a transparent and accessible alternative by which participants in the copper market can access or offload physical copper inventory and associated price risk.[72] The Sponsor believes that the Trust would move copper from one type of liquid stock to another type of liquid stock, rather than removing inventory from the market, and would track, rather than drive, copper prices.[73] The Exchange and the Sponsor believe the structure of the Trust and the regulatory regime for the Shares and copper derivatives (including non-securities) suggest approval of the proposed rule change would not render the copper market more susceptible to manipulation.[74]

Given the concerns expressed by the commenters that the Trust would remove a substantial amount of the supply of copper available for immediate delivery over a short period of time, which would render the physical copper market more susceptible to manipulation, and that the Trust therefore would provide market participants an effective means to manipulate the price of copper and thereby the price of the Shares,[75] the Commission analyzes the comments to examine, among other things, the extent to which the listing and trading of the Shares may (1) impact the supply of copper available for immediate delivery and the ability of market participants to manipulate the price of copper, and (2) be susceptible to manipulation. The sections below summarize and respond to the comments received.

A. The Trust's Impact on the Supply of Copper Available for Immediate Delivery

The Opposing Commenters believe that the issuance by the Trust of all of the Shares covered by the Registration Statement within a short period of time would result in the withdrawal of substantial quantities of copper from LME and COMEX warehouses, thus negatively impacting the supply of copper available for immediate delivery.[76] As discussed below, this belief assumes that: (1) Copper held by the Trust would not be available for immediate delivery; (2) the global supply of copper available for immediate delivery that could be used to create Shares consists almost exclusively of copper already under LME or COMEX warrant, and therefore the Shares would be created primarily using copper already under LME or COMEX warrant; and (3) the Trust would acquire a substantial amount of copper within a short period of time, such that copper suppliers would not be able to adjust production to replace the copper removed from the market by the

[64] 15 U.S.C. 78f(b)(5).

[65] 15 U.S.C. 78f(b)(8).

[66] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[67] *See* V&F May 9 Letter, *supra* note 4; V&F July 13 Letter, *supra* note 7; Levin Letter, *supra* note 8; Shatto Letter, *supra* note 9; Copper Fabricators Letter, *supra* note 11; V&F August 24 Letter, *supra* note 11; V&F September 10 Letter, *supra* note 12; V&F October 23 Letter, *supra* note 14; AFR October 23 Letter, *supra* note 14; Rutkowski October 24 Letter, *supra* note 14; V&F November 16 Letter, *supra* note 14; AFR November 16 Letter, *supra* note 14; Rutkowski November 17 Letter, *supra* note 14; and EVW December 7 Letter, *supra* note 16. V&F, and subsequently EVW, identified themselves as law firms that represent RK Capital LLC, an international copper merchant, and the Copper Fabricators. *See* V&F July 13 Letter, *supra* note 7, at 1; and EVW December 7 Letter, *supra* note 16, at 1. *See also supra* note 16 (explaining the change in representation). The Copper Fabricators state that they collectively comprise about 50% of the copper fabricating capacity of the United States. *See* Copper Fabricators Letter, *supra* note 11, at 1. AFR identifies itself as a coalition of over 250 groups who advocate for reform of the financial industry. *See* AFR October 23 Letter, *supra* note 14, at 1.

[68] Ms. Shatto does not tie her objections to any particular provision of the Act. First, she believes that ''jp morgan'' does not need another derivative product. This principle is not relevant to consideration of the proposed rule change under the Act. Second, she questions whether ''jp morgan,'' which she says ''already trades a lot in the commodities market,'' may be able to ''manipulate the market,'' a concern shared by other commenters. She asserts that ''jp morgan gets inside information by using their warehouses to buy and sell copper which maximizes profits to the detriment of commercial interests who have to buy copper.'' Concerns regarding the potential for manipulation are addressed in Section III.D and III.E. Third, she asserts that derivatives often allow short selling, which affects many equities at one time, making the equities market extremely volatile. Ms. Shatto does not provide further information to explain why this concern is relevant to the proposed rule change. Concerns regarding the potential for increased volatility in the copper market are addressed in Section III.C. Fourth, she states: ''banks should be banks, not business conglomerations.'' This principle is not relevant to consideration of the proposed rule change under the Act. Finally, she recommends that the Commission not enable short sellers or options traders. The proposed rule change does not address short selling or approve the listing and trading of options on the Shares. Mr. Rutkowski requests that the Commission deny the proposed rule change for the reasons articulated by AFR.

[69] *See* V&F May 9 Letter, *supra* note 4, at 3, 6; Levin Letter, *supra* note 8, at 1, 4; Copper Fabricators Letter, *supra* note 11, at 3; and AFR October 23 Letter, *supra* note 14, at 2.

[70] *See* V&F May 9 Letter, *supra* note 4, at 5–7; Levin Letter, *supra* note 8, at 1, 7; Copper Fabricators Letter, *supra* note 11, at 4–5; and AFR October 23 Letter, *supra* note 14, at 2.

[71] *See* V&F May 9 Letter, *supra* note 4, at 1, 10; Levin Letter, *supra* note 8, at 7; AFR October 23 Letter, *supra* note 14, at 4–5; Copper Fabricators Letter, *supra* note 11, at 5–6; and AFR October 23 Letter, *supra* note 14, at 4–5.

[72] *See* DP August 24 Letter, *supra* note 11, at 7; and Arca June 19 Letter, *supra* note 6, at 5.

[73] *See* DP August 24 Letter, *supra* note 11, at 11, 13.

[74] *See id.* at 4–5; and Arca June 19 Letter, *supra* note 6, at 5–6.

[75] *See* V&F May 9 Letter, *supra* note 4, at 1, 10.

[76] *See id.* at 3–4; Levin Letter, *supra* note 8, at 4–5; Copper Fabricators Letter, *supra* note 11, at 5; and AFR October 23 Letter, *supra* note 14, at 3.

Trust. The Commission believes that the record does not support each of the contentions, and thus, for the reasons discussed below, the Commission does not believe that the listing and trading of the Shares is likely to disrupt the supply of copper available for immediate delivery.

1. Availability of the Trust's Copper

Opposing Commenters assert that copper held by the Trust would not be available for immediate delivery, and therefore copper deposited into the Trust would be removed from the market and would be unavailable to end-users.[77] In response, the Sponsor asserts that the Trust would not remove immediately available copper inventory from the market.[78] The Sponsor points out that a report cited by one of the commenters defines inventories held in exchange-traded funds as ''liquid stocks.'' [79] The Sponsor asserts that, in effect, the Trust would move copper from one type of liquid stock (warrants) to another type of liquid stock (Shares).[80]

The Commission agrees with the Sponsor that copper held by the Trust will remain available to consumers and other participants in the physical copper market because: (1) The Trust will not consume copper; [81] (2) Shares are redeemable (in size) for copper on every Business Day; [82] and (3) redeeming authorized participants will receive the right to obtain their copper within three business days.[83] Additionally, as the Sponsor explains, the copper received in exchange for redeemed Shares could be: (1) Sold in the OTC market for cash; (2) swapped in the OTC market for copper in a different location or for a different brand; and/or (3) removed from the warehouse and consumed.[84] The Sponsor states that these three types of transactions are commonplace in the copper market.[85] Further, copper delivered from the Trust (in exchange for Shares) could be placed under LME warrant if required by LME market participants.[86] Given the structure of the Trust, the Commission believes that the amount of copper accessible to industrial users will not meaningfully change as a result of the listing and trading of the Shares. Accordingly, the Commission believes that the proposed rule change will not burden capital formation for users who acquire copper for industrial and other purposes.

The Commission recognizes that one group of end users state that they would not acquire Shares for the purpose of redeeming them to acquire copper because the copper they would receive in exchange for Shares might be in a location far from their plants or might be of brands that are not acceptable to their plants.[87] Regardless of the preferences of these consumers, authorized participants may redeem Shares for copper and the record does not contain any evidence that these or any other consumers of copper could not use the Shares to obtain copper through an authorized participant. Further, the record supports that the same logistical issues exist and are regularly addressed by end-users of copper holding LME warrants. Currently, a purchaser of an LME warrant does not know the location or brand of the underlying copper, and therefore warrant holders sometimes need to swap the warrants to acquire copper of a preferred brand in a convenient location.[88] The end user commenters explain that, because not all available brands of copper held at LME and COMEX warehouses are acceptable for the efficient operation of their fabricating plants, they currently rely on copper merchants to obtain their desired brands of copper by aggregating the lots from copper on warrant at LME and COMEX warehouses.[89] Nothing in the record indicates that copper merchants will not be able to perform the same function in connection with copper delivered in connection with Share redemptions. As discussed above,[90] on a daily basis, the Trust will publish information on the location and brand of copper that will be delivered to the next redeeming authorized participant, and this may assist end

[77] *See* V&F May 9 Letter, *supra* note 4, at 1; Levin Letter, *supra* note 8, at 7; Copper Fabricators Letter, *supra* note 11, at 3, and AFR October 23 Letter *supra* note 14, at 3.

[78] *See, e.g.,* DP August 24 Letter, *supra* note 11, at 13.

[79] *See* DP August 24 Letter, *supra* note 11, at 13; and DP September 10 Letter, *supra* note 12, at 5 n.11.

[80] *See* DP August 24 Letter, *supra* note 11, at 13.

[81] *See id.* at 22.

[82] *See* Notice, *supra* note 3, 77 FR at 23782.

[83] *See* DP August 24 Letter, *supra* note 11, at 7. The record is unclear whether authorized participants that are redeeming the Shares will be able to physically remove copper from the warehouse in which it is stored within three business days, or whether this reference is to three business days in addition to the existing time it takes to remove copper from the warehouses. The Registration Statement provides: ''Redemption orders will be settled by delivery of copper on the third Trading Day following the redemption order date, *provided* that, by 3:00 p.m. New York City time on the date such settlement is to take place, the Administrative Agent confirms in writing to the Warehouse-keeper that (x) the Administrative Agent's DTC account has been credited with the Creation Units to be redeemed and (ii) the Authorized Participant has paid the Administrative Agent the applicable transaction fee for such redemption order.'' Registration Statement, *supra* note 31 (emphasis in original). One of the Opposing Commenters acknowledged, however, that taking copper off LME warrant, which the commenter considers to be copper available for immediate delivery, takes time; according to that commenter: (1) The amount of time it takes to take copper off LME warrant depends ''on the length of the loading out queue'' at the LME warehouse; and (2) queues ''are currently ranging from 275 working days Vlissingen, Netherlands, 91 working days (4.5 months) in New Orleans, 51 working days (2.5 months) in Johor, Malaysia to under one month in Korea and Rotterdam, Netherlands.'' V&F August 24 Letter, *supra* note 11, at 14.

This commenter expresses further concern in its latest comment letter about an increasing length of time that it takes to withdraw metal, including copper, from LME warehouses. The commenter argues that this ''troubling new development'' may, together with the proposed listing and trading of the Shares, jeopardize the ability of United States copper consumers to obtain the physical copper they need in a timely manner. *See generally* EVW December 7 Letter, *supra* note 16. By its December 7 submission, the commenter appears to be updating information previously provided about the length of queues, but does not assert any new reason for disapproving the listing and trading of the Shares that is distinct from its original assertion, responded to in the text above, that listing and trading of the Shares will reduce the supply of copper available for immediate delivery.

For purposes of analyzing this proposed rule change, the Commission assumes that copper will be transferred to an authorized participant's book-entry account within three days, and that an authorized participant taking delivery of copper from an LME warehouse will then have to wait in the queues described by this Opposing Commenter, just like other owners withdrawing metal from that warehouse. The Commission believes that waiting up to an extra three business days beyond the time required to take copper off of LME warrant is not a significant enough delay to consider the copper delivered from the Trust unavailable for immediate delivery. In this regard, the Commission notes that the commenter, who acknowledges that taking copper off of LME warrant takes time, considers copper on LME warrant to be available for immediate delivery. *See, e.g.,* V&F July 13 Letter, *supra* note 7, at 1 (stating its view that there are no substantial sources of copper available for immediate delivery available to the Trust other than warranted copper in LME warehouses). Further, as noted above, the Trust's copper may be held in both LME-approved warehouses and non-LME-approved warehouses, and there is nothing in the record concerning the existence of unloading queues in non-LME warehouses. The Commission also notes that the LME appears to be attempting to address the unloading queue issue, see London Metal Exchange, *Consultation on Changes to LME Policy for Approval of Warehouses in Relation to Delivery Out Rates,* Notice 12/296: A295: W152 (November 15, 2012), *available at http://www.lme.com/downloads/notices/12_296_A295_W152_Consultation_on_Changes_to_LME_Policy_for_Approval_of_Warehouses_in_Relation_to_Delivery_Out_Rates.pdf,* which applies to LME warehoused aluminum and zinc, not just copper. *See also* EVW December 7 Letter, *supra* note 16, at 3.

[84] *See* DP August 24 Letter, *supra* note 11, at 7.

[85] *See id.* at 8.

[86] *See id.*

[87] *See* Copper Fabricators Letter, *supra* note 11, at 7. *See also* V&F September 10 Letter, *supra* note 12, at 4; and V&F July 13 Letter, *supra* note 7, at 7.

[88] *See* DP August 24 Letter, *supra* note 11, at 8.

[89] *See* Copper Fabricators Letter, *supra* note 11, at 3.

[90] *See supra* text accompanying note 45.

users of copper and copper merchants to locate suitable copper.

One of the Opposing Commenters also expresses concern that investors who hold the Shares would not sell them, and therefore Shares would not be readily available for redemption.[91] This claim is unsupported. There is no evidence in the record to suggest that investors holding the Shares will be unwilling to sell them, particularly in response to market movements or changes in investor needs.

The Commission believes that the listing and trading of the Shares, as proposed, could provide another way for market participants and investors to trade in copper, and could enhance competition among trading venues. Further, the Commission believes that the listing and trading of the Shares will provide investors another investment alternative, which could enhance a well-diversified portfolio. By broadening the securities investment alternatives available to investors, the Commission believes that trading in the Shares could increase competition among financial products and the efficiency of financial investment.

2. Source of Copper Used To Create Shares

The Opposing Commenters believe that the global supply of copper available for immediate delivery, and eligible to be used to create Shares, consists almost exclusively of copper already under LME or COMEX warrant, and therefore they believe that Shares would be created primarily using copper already under LME or COMEX warrant.[92] One of the Opposing Commenters states that the size of the market for copper available for immediate delivery is small relative to the size it expects the Trust to attain, asserting that there is only 230,000 metric tons available on the LME, with an additional 60,000 metric tons available on the COMEX, and projects that the Trust would remove as much as 61,800 metric tons from the market, which would be about 21.3% of the copper available for immediate delivery.[93] The Opposing Commenters also assert that the Trust would be funded with copper under warrant in the United States, which would result in a shortage of copper in the United States.[94] These Opposing Commenters urge the Commission to consider collectively the supply impacts of the Trust and the iShares Copper Trust,[95] the shares of which the Exchange also is proposing to list and trade.[96]

In contrast, the Sponsor believes that there are very substantial copper inventories available outside of the LME and COMEX that are deliverable on a short-term basis that could be used to fund the Trust. Specifically, the Sponsor states that, even according to the data provided by one of the Opposing Commenters, there are substantial sources of liquid copper stock inventory outside of the LME and other exchanges, and that most liquid copper stock inventory is non-LME or exchange inventory.[97] The Sponsor provided data that it says shows that liquid global copper inventories that are considered LME-branded are estimated at approximately 1.4 million metric tons as of July 31, 2012, and that approximately 70% of these inventories are not under warrant with the LME, COMEX, or any other exchange.[98] Additionally, the Sponsor asserts that authorized participants would not deposit into the Trust copper exclusively or disproportionately from the U.S.; according to the Sponsor, five of the initial permitted warehouses are located outside of the U.S. and, based on current conditions, the Sponsor states that Shanghai, South Korea, and Singapore are the most likely locations at which copper would be delivered to the Trust.[99]

The Commission believes that there is significant uncertainty about the locations from which copper will be purchased to create Shares. Based on the description of the Trust in the proposed rule change, authorized participants and their customers will choose what eligible copper to deposit with the Trust. Further, the Commission understands, based on information submitted by the Sponsor, that premia in different locations have fluctuated historically relative to one another and will continue to change over time, and that a region with the highest locational premia at a given time may have the lowest locational premia at a later date.[100]

The Commission also believes that the record supports the view that there are sufficient copper stockpiles such that up

[91] *See* V&F September 10 Letter, *supra* note 12, at 3.

[92] *See* Levin Letter, *supra* note 8, at 4–5; Copper Fabricators Letter, *supra* note 11, at 3 (''The market for copper available for immediate delivery consists of copper on warrant in LME and Comex warehouses. If there is any other copper available for us to purchase and be delivered within a week or two, we are generally not aware of it.''); V&F July 13 Letter, *supra* note 7, at 2–4; and AFR October 23 Letter, *supra* note 14, at 2.

[93] *See* V&F July 13 Letter, *supra* note 7, at 8. How opposing commenters measure the projected size of the Trust is discussed *infra* in Section III.A.3. Another Opposing Commenter states that, in 2011, total global copper stocks were 3.515 million metric tons, of which it believes only 808,000 metric tons were considered to be ''liquid.'' Levin Letter, *supra* note 8, at 4. The commenter then goes on to assert that: (1) Of those liquid stocks, most actually are unavailable for purchase; (2) most of that liquid copper that is available for immediate delivery is under LME or COMEX warrant; and (3) as of August 2011, the LME and COMEX had only 537,500 metric tons under warrant. *See id.* at 4–5. That commenter estimates that the Trust, which he expects would hold up to 61,800 metric tons of copper, and the iShares Copper Trust (*see infra* note 95), which would hold up to 121,200 metric tons of copper, collectively would hold approximately 34% of the copper available for immediate delivery. *See* Levin Letter, *supra* note 8, at 5. The Commission is not addressing the iShares Copper Trust proposed rule change in this order.

[94] *See* Levin Letter, *supra* note 8, at 6; V&F May 9 Letter, *supra* note 4, at 4; V&F July 13 Letter, *supra* note 7, at 9; Copper Fabricators Letter, *supra* note 11, at 4–5; and AFR October 23 Letter, *supra* note 14, at 2.

[95] *See* Securities Exchange Act Release No. 67237 (June 22, 2012), 77 FR 38351 (June 27, 2012) (SR–NYSEArca–2012–66) (notice of proposal to list and trade shares of the iShares Copper Trust).

[96] *See* Levin Letter, *supra* note 8, at 5, 6; Copper Fabricators Letter, *supra* note 11, at 3–4; and V&F May 9 Letter, *supra* note 4, at 6. 10.

[97] *See* DP August 24 Letter, *supra* note 11, at 13.

[98] *See* DP September 10 Letter, *supra* note 12, at 2. The Sponsor cites a report by Metal Bulletin Research indicating there are 4.09 million metric tonnes of refined copper stocks worldwide, 1.78 million metric tonnes of which can be considered to be liquid. *See* DP August 24 Letter, *supra* note 11, at Annex C–5 at 7, 10 (citing Metal Bulletin Research, ''Independent Assessment of Global Copper Stocks,'' August 22, 2012). According to the Sponsor, Metal Bulletin Research is the research arm of Metal Bulletin Ltd., the Trust's Valuation Agent. *See id.* at 15 n.44. Metal Bulletin Research estimates that 1.36 million metric tonnes of the 1.78 million metric tonnes considered to be liquid are in the form of LME brands. *See id.* at Annex C–5 at 7. Metal Bulletin Research further estimates that 249,000 metric tonnes are on LME warrant and 136,000 metric tonnes are LME-branded but located on other exchanges, leaving approximately 70% (or 975,000 metric tonnes) of liquid copper stocks that are eligible to be placed on LME warrant. *See id.* at Annex C–5 at 10.

[99] *See* DP September 10 Letter, *supra* note 12, at 8 n.32; and DP August 24 Letter, *supra* note 11, at 26.

[100] The Sponsor provided the following information provided by the Valuation Agent regarding locational premia: (1) In the United States, the average locational premium as a percentage of average physical price was 1.4217% for the year ended December 31, 2010; 1.1377% between January 1 and March 31, 2011, and 1.1590% between April 1 and June 15, 2011; (2) in Europe, the average locational premium as a percentage of average physical price was .9426% for the year ended December 31, 2010; .7035% between January 1 and March 31, 2011, and .7327% between April 1 and June 15, 2011; (3) in Shanghai, China, the average locational premium as a percentage of average physical price was 1.3500% for the year ended December 31, 2010; .3982% between January 1 and March 31, 2011, and .4640% between April 1 and June 15, 2011; and in Singapore, the average locational premium as a percentage of average physical price was 1.1259% for the year ended December 31, 2010; .7117% between January 1 and March 31, 2011, and .4964% between April 1 and June 15, 2011. *See* DP August 24 Letter, *supra* note 11, at C–3. The Sponsor states that this data provided in Annex C–3 demonstrates that locational premia vary over time and, as a result, ''a region with the highest premia in one interval of time may have the lowest premia at a later date, and vice versa.'' *See id.* at 32.

to 61,800 metric tons of copper could be deposited into the Trust without authorized participants taking copper off of either LME or COMEX warrant. For example, the Valuation Agent [101] estimates liquid global copper inventories that are considered LME-branded to be approximately 1.4 million metric tons as of July 31, 2012, and approximately 70% of these inventories are not under warrant with the LME, COMEX, or any other exchange.[102] One of the Opposing Commenters argues that this supply of non-warranted copper belongs to producers, consumers, and/or merchants and traders and is not otherwise in the supply pipeline, and that the only copper available for immediate delivery is in LME and COMEX warehouses.[103] The Commission believes, however, that it is more plausible that a sufficient portion of the estimated 1.4 million metric tons of copper inventories cited by commenters currently is available for authorized participants to use to create Shares.

For example, an Opposing Commenter states that there is estimated to be between 500,000 and 600,000 metric tons of bonded copper inventory in Shanghai and Guangzhou, China, and that up to 10% of this stockpile is not deliverable because it has not been kept under cover.[104] In the Commission's view, this leaves between 450,000 and 540,000 tons of copper that may be deliverable to the Trust. The Sponsor says that ''Metal Bulletin'' estimates that 80% of these bonded stocks are LME acceptable metal given the imported status of such metal and arbitrage activity between the LME and SHFE.[105] One of the Opposing Commenters argues that the Commission should not include copper located in China as inventory available for immediate delivery, noting that China is one of the largest copper-consuming countries in the world, leading the commenter to conclude that China would not export copper.[106] That commenter does not provide any empirical support for this view. That commenter also suggests that copper in China is unavailable because ''a substantial percentage of the inventory in bonded warehouses in China is being held in financing structures,'' [107] but the commenter admits that it does not know either how much of the copper is so encumbered under financing arrangements or how long such copper would be restricted.[108] Further, even if the commenter is correct that, as a practical matter, such copper may be unavailable to U.S. copper consumers, that does not preclude copper in Shanghai from being deposited into the Trust (if it is otherwise eligible), as one of the Trust's initial permitted warehouse locations is Shanghai.

Even assuming that authorized participants will need to remove copper from LME warrant to deposit the copper into the Trust, as discussed above, the Commission believes that the Trust's copper will remain available for immediate delivery to consumers and participants in the physical markets.[109] Accordingly, the Commission does not believe that the listing and trading of the Shares is likely to disrupt the supply of copper available for immediate delivery.

3. Growth of the Trust

One of the Opposing Commenters believes it is reasonable to expect that the Trust would sell all of the Shares covered by the Registration Statement in the three months after the registration becomes effective because of: (1) ''the stated desire to have the Trust remove enough copper from the market each month to move prices upward to cover the costs of storage''; (2) the very limited quantity of copper available for immediate delivery to accomplish the Trust's objective; and (3) the increase in copper prices in the three months following October 2010, when the Trust, iShares Copper Trust, and ETFS Physical Copper were announced.[110] That commenter also asserts that the copper supply is inelastic and that supply, therefore, is unlikely to increase fast enough to account for the increased demand that the commenter believes would be unleashed by the creation and growth of the Trust.[111] Opposing commenters state that the Trust would hold approximately 61,800 metric tons of copper if the Sponsor sells all of the 6,180,000 Shares covered by its Registration Statement.[112]

The Sponsor states that it does not expect to sell all registered Shares within three months after the Registration Statement becomes effective, and states: ''[l]ike all other physical metal ETVs, the Trust would register significantly more Shares than it initially intends to sell so that it is able to meet any such demand.'' [113] The Sponsor predicts that, in connection with the initial offering of Shares, the Trust would hold 9,893 metric tons of copper.[114]

As a preliminary matter, the Opposing Commenters appear to conflate the amount of copper held by the Trust with the number of Shares issued. When Commodity-Based Trusts redeem shares, those redeemed shares do not get put ''back on the shelf''; once securities are redeemed, the issuer cannot resell securities of the same amount unless there is either sufficient capacity left on the registration statement (*i.e.,* enough registered securities to cover the new issuance of shares by the issuer) or unless a new registration statement is filed to register the offer and sale of the securities.[115] Accordingly, 6,180,000 issued Shares will correspond with 61,800 metric tons of copper held by the Trust only if authorized participants do not redeem any Shares. Based on the existence of the arbitrage mechanism of the Trust,[116] which is common to many exchange-traded vehicles, the Commission believes it is very unlikely that no Shares will be redeemed.

The Commission believes that the amount of copper held by the Trust will

[101] The Exchange states that the Valuation Agent is an independent, third-party valuation agent that is not affiliated with the Sponsor. *See* Notice, *supra* note 3, 77 FR at 23773.

[102] *See* DP September 10 Letter, *supra* note 12, at 2.

[103] *See* V&F September 10 Letter, *supra* note 12, at 2.

[104] *See* V&F August 24 Letter, *supra* note 11, at 9–10. In contrast, the Sponsor states that there is estimated to be 550,000 metric tons of copper in bonded warehouses in Shanghai alone. *See* DP August 24 Letter, *supra* note 11, at 33.

[105] *See* DP August 24 Letter, *supra* note 11, at 30.

[106] *See* V&F September 10 Letter, *supra* note 12, at 5.

[107] V&F August 24 Letter, *supra* note 11, at 9.

[108] *See id.*

[109] *See supra* Section III.A.1.

[110] *See* V&F August 24 Letter, *supra* note 11, at 20. ETFS Physical Copper is a trust that holds copper under LME warrant and its shares are traded on the London Stock Exchange and Deutsche Börse. *See http://www.etfsecurities.com/en/updates/document_pdfs/ETFS_Physical_Industrial_Copper_Fact_Sheet.pdf.* A discussion of the effect of ETFS Physical Copper on the price of copper is included below. *See infra* Section III.B.

[111] *See* V&F May 9 Letter, *supra* note 4, at 5. That commenter states that, in the longer term, copper miners are likely to respond to price signals and increase production. *See* V&F August 24 Letter, *supra* note 11, at 28. Another Opposing Commenter generally asserted that the Trust actually would change ''supply and demand relationships.'' AFR October 23 Letter, *supra* note 14, at 4. That commenter offered neither an explanation for nor quantitative data to support its belief. As discussed below, the Commission believes that the Opposing Commenters have not supported their prediction that the assets of the Trust will grow so quickly, and that copper supply is sufficiently inelastic, such that copper prices would be impacted. *See infra* text following note 118.

[112] *See* V&F May 9 Letter, *supra* note 4, at 3; Levin Letter, *supra* note 8, at 5.

[113] DP August 24 Letter, *supra* note 11, at 41.

[114] *See id.*

[115] *See* Sections 5 and 6 of the Securities Act, 15 U.S.C. 77e and 15 U.S.C. 77f, respectively.

[116] The Trust's arbitrage mechanism allows authorized participants to create and redeem Shares, and is designed to align the secondary market price per Share to the NAV per Share. *See* Notice, *supra* note 3, 77 FR at 23780.

depend on investor demand for the Shares and the extent to which authorized participants fulfill such demand by buying Creation Units and not redeeming issued Shares. Investor demand for the Shares is currently unknown. The Commission notes that ETFS Physical Copper, shares of which are listed and traded on the London Stock Exchange and Deutsche Börse, has not grown to a substantial size since its inception.[117]

As discussed above, the Commission believes that copper held by the Trust will be available for immediate delivery.[118] However, even assuming that the Trust's copper will be unavailable for immediate delivery, the Commission believes that the Opposing Commenters have not supported their prediction that the Trust would grow so quickly that it would significantly disrupt the supply of copper available for immediate delivery.

4. Other Physical Commodity Trusts

Opposing commenters admit that the introduction of Commodity-Based Trusts that hold other metals had virtually no impact on the available supply, but they assert that these other metals—gold, silver, platinum, and palladium—are fundamentally different because they have traditionally been held for investment purposes, currently are used as currency, and that, as a result, there were ample stored sources available to fund Commodity-Based Trusts overlying those metals.[119] They assert that copper, in contrast, generally is not held as an investment, but rather is used exclusively for industrial purposes, with the annual demand generally exceeding the available supply, and they therefore believe that the introduction of the Trust would impact supply.[120]

In response, the Sponsor states that the majority of the market for silver, platinum, and palladium is industrial in nature.[121] The Sponsor has provided statistics from Thomson Reuters GFMS, a provider of information about the international metals industries, showing that in 2011, industrial use accounted for 84% of global palladium demand, 66% of global platinum demand, and 53% of global silver demand.[122] The Sponsor also states its belief that any holding of physical copper inventories, or of a financial replicating position, is implicitly an investment in copper.[123]

Given the industrial usage of silver, platinum, and palladium as compared to copper,[124] the Commission believes that it is reasonable to project that any impact of the listing and trading of the Shares will not be meaningfully different than that of the listing and trading of shares of these other Commodity-Based Trusts due solely to the nature of the underlying commodity markets. In any event, the Commission's analyses above in Sections III.A.1–3 are the primary bases for our belief that the listing and trading of the Shares is not likely to disrupt the supply of copper available for immediate delivery. The non-impact of those other trusts on the supplies in the underlying precious metals markets is consistent with this view, but it is not a significant factor underlying it.

B. The Trust's Impact on the Price of Copper

The Opposing Commenters assert that, due to the rapid growth of the Trust, which they believe would occur and would remove a substantial portion of the supply of immediately available LME-warranted copper,[125] the price of copper would be driven up.[126] As noted above, one of the Opposing Commenters estimates that the Trust, which would hold up to 61,800 metric tons of copper, and the iShares Copper Trust,[127] which would hold up to 121,200 metric tons of copper, collectively would hold approximately 34% of the copper available for immediate delivery.[128] That commenter concludes that, ''[i]f the supply of copper available for immediate delivery drops by about 34%, it naturally follows that the price of copper will rise.'' [129] Another of the Opposing Commenters states: ''[t]he LME settlement price is axiomatically affected by the quantity of copper on warrant * * * because the quantity on warrant defines how much copper is eligible to be delivered against a cash contract, *i.e.,* it is the total supply that is available when setting the settlement price.'' [130] That commenter also asserts that the launch of the UK-listed ETFS Physical Copper security and announcements about the proposed copper trusts in the United States were part of the cause of a copper price run up,[131] and predicts that the price increases for copper would be especially dramatic in the U.S., where copper currently is relatively inexpensive.[132] Another Opposing Commenter asserts that the value of copper is based on ''consumption rather than intrinsic value,'' and the creation of the Trust would introduce a financial element to copper pricing.[133]

In contrast, the Sponsor asserts that copper cash prices are not determined only by changes in on-warrant LME copper stocks.[134] The Sponsor believes

[117] According to one Opposing Commenter, on December 17, 2010 (one week after the product was launched), ETFS Physical Copper held 1,445.4 metric tons of copper, and on August 3, 2012, it held 1,763.7 metric tons of copper, although there have been periods where ETFS Physical Copper has held greater quantities of copper, reaching as high as 7,072.9 metric tons of copper in March and April of 2012. *See* V&F August 24 Letter, *supra* note 11, at 15.

[118] *See supra* Section III.A.1.

[119] *See* V&F May 9 Letter, *supra* note 4, at 2; and Levin Letter, *supra* note 8, at 6.

[120] *See* V&F May 9 Letter, *supra* note 4, at 2–3; and Levin Letter, *supra* note 8, at 7. Senator Levin states that because copper is very expensive to store and difficult to transport, relative to precious metals, copper is not currently held for investment purposes, and predicts that holding copper for investment purposes will have a significantly greater impact on the copper market than the precious metals Commodity-Based Trusts had on their markets and the broader economy. *See* Levin Letter, *supra* note 8, at 7.

[121] *See* DP August 24 Letter, *supra* note 11, at 39. Similarly, the Exchange states that the Trust would not be the first Commodity-Based Trust to hold a metal that is used primarily for industrial purposes. *See* Arca June 19 Letter, *supra* note 6, at 6.

[122] *See* DP August 24 Letter, *supra* note 11, at 39. No other commenter provided comparable statistics regarding the industrial use of palladium, platinum, or silver.

[123] *See id.* at 17, 19. The Sponsor believes copper held for investment purposes would include copper inventories on the LME, SHFE, and COMEX (453,464 metric tons as of July 31, 2012); copper inventories held through exchange-traded vehicles (2,356 metric tons as of July 31, 2012); and non-exchange-registered copper stocks (3.6 million metric tons as of July 31, 2012, 100,000 metric tons of which were held by hedge funds and private investors in private warehousing arrangements). *See id.* at 17–18.

[124] As mentioned above, the Sponsor provided statistics showing that in 2011, industrial use accounted for 84% of global palladium demand, 66% of global platinum demand, and 53% of global silver demand. *See supra* text accompanying note 122.

[125] *See supra* Section III.A.1.

[126] *See* V&F May 9 Letter, *supra* note 4, at 5; Copper Fabricators Letter, *supra* note 11, at 4–5; Levin Letter, *supra* note 8, at 5; and AFR October 23 Letter, *supra* note 14, at 2, 3.

[127] *See* Levin Letter, *supra* note 8, at 5. The Commission is not addressing the iShares Copper Trust proposed rule change in this order.

[128] *See id.*

[129] *See id.* Similarly, the Copper Fabricators state that the removal of 183,000 metric tons of copper from LME warehouses, which they believe is virtually all of the copper available for immediate delivery worldwide, would result in prices moving up very sharply. *See* Copper Fabricators Letter, *supra* note 11, at 5.

[130] *See* V&F August 24 Letter, *supra* note 11, at 7.

[131] *See id.* at 16.

[132] *See* V&F May 9 Letter, *supra* note 4, at 4–5.

[133] AFR October 23 Letter *supra* note 14, at 2. This commenter does not fully explain why the ''financialization'' of copper would result in higher copper prices. The commenter appears to make the same argument as other commenters: Namely, that the Trust will drive up the price of copper by removing it from the market, an activity that the commenter characterizes as ''hoarding.'' *See id.* at 3. Indeed, the commenter incorporates by reference the Levin Letter. *See id.* at 2.

[134] *See* DP August 24 Letter, *supra* note 11, at 11.

that supply and demand fundamentals, independent of the Trust, drive the price of copper.[135] According to the Sponsor, the main determinants of price in the copper market are production and demand fundamentals such as: Demand expectations; mine and refinery capacity; marginal costs of production (in particular, the change in marginal costs of production at different production levels); global and regional industrial growth patterns; cost of financing; and inventory levels.[136] The Sponsor states that: (1) Prices have reached the highest level and been among the lowest levels both in a ''normal'' regime and a low-stocks environment; and (2) copper inventories and prices do not always have an inverse relationship.[137] In response to questions posed by the Commission about the impact of LME inventories on the LME Settlement Price, the Sponsor states that 5-day changes in the supply of LME inventories of 10,000 metric tons or more are not that uncommon, and that inventory builds or withdrawals equivalent to the amount of copper required for the initial creation unit of Shares currently occur at the LME at least one quarter of the time.[138] The Sponsor and the Exchange also state that, due to the Trust's creation/redemption mechanism and the related ability of authorized participants to exchange Shares for physical copper, Shares—like shares of other physical commodity backed trusts—would track rather than drive the price of the commodity it holds.[139]

As discussed above,[140] the Commission does not believe that the listing and trading of the Shares is likely to disrupt the supply of copper available for immediate delivery, which is what the Opposing Commenters predict would increase the price of copper. However, even if the supply of copper under LME warrant would decrease because previously warranted copper were transferred to the Trust, for the reasons discussed below, the Commission does not believe that lower LME inventory level by itself will increase the LME Settlement Price (or any other price of copper).

To analyze the potential impact of changes in the LME inventory level on changes in the LME Settlement Price, Commission staff performed two regression analyses.[141] The first analysis was a linear regression of daily copper price changes, using five years of daily data from 2007–2012, against the following explanatory variables: The change in LME copper inventory from the previous day (*i.e.,* the lagged change in LME copper inventory), and the changes in spot prices of nickel, tin, gold, silver, platinum, and palladium, and the S&P 500, VIX index, and the China A-Shares index returns. The results indicate that LME copper inventories do not appear to have any independent statistical effect on prices.[142]

Commission staff also performed a similar regression analysis using monthly data from January 2000 until June 2012 obtained from the International Copper Study Group (''ICSG'') to determine whether a relation between copper prices and LME inventories exists over a longer time horizon.[143] The second analysis was a linear regression of monthly copper price changes against the following explanatory variables: The previous month's change in LME copper inventory, total exchange copper inventory (*i.e.,* combined inventory from LME, COMEX, and SHFE), non-exchange copper inventory (*i.e.,* inventory from merchants, producers, and consumers), and spot price changes for nickel, tin, and platinum. This analysis again indicates that LME inventories specifically do not appear to have any independent statistical effect on prices.[144]

Based on these analyses, even if the listing and trading of Shares of the Trust were to result in the removal of copper on warrant from LME inventories, the Commission does not believe that such a supply reduction will by itself directly impact the LME Settlement Price (or any other price of copper). Although total exchange inventories, in contrast to LME inventories, appear to have some effect on monthly copper prices in this linear regression analysis, the coefficient estimate associated with total exchange inventories indicates that copper prices should decrease when copper is taken off-exchange.[145]

Commission staff also performed Granger causality analyses[146] to test the causal effect the holdings of other Commodity-Based Trusts historically have had on the prices of their underlying commodities. Specifically, to evaluate whether the introduction of the SPDR Gold Trust, iShares Silver Trust, ETFS Platinum Trust, ETFS Physical Palladium Shares, and ETFS Physical Copper trust had an impact on the return of the metals underlying those trusts, using monthly data from their inceptions until September 2012, Commission staff examined flows into these funds and subsequent changes in underlying prices over time.[147] This analysis revealed no observable relation between the flow of assets and subsequent price changes of the underlying metal prices.[148] Commission staff repeated this analysis on a daily frequency for iShares Silver Trust, ETFS Platinum Trust, ETFS Physical Palladium Shares, and ETFS Physical Copper.[149] Again, Commission staff found no evidence that fund flows were statistically related to subsequent changes in the underlying metals prices. Given the industrial usage of silver, platinum, and palladium as compared to copper,[150] the Commission believes that it is reasonable to project that any impact of the listing and trading of the Shares will not be meaningfully different than that of the listing and trading of shares of other Commodity-Based Trusts due solely to the nature of the underlying commodity markets.

[135] *See id.* at 10. *See also* AFR November 16 Letter, *supra* note 14, at 6–7 (''It is true that if all other factors were equal, the removal of supply from the market through hoarding would increase prices, leading to a positive correlation between inventory and prices. But other supply and demand factors will frequently introduce exactly the opposite relationship between inventory and price.'' (footnote omitted)).

[136] *See* DP August 24 Letter, *supra* note 11, at 10.

[137] *See id.* at 24.

[138] *Id.*

[139] *See id.* at 25; and Arca June 19 Letter, *supra* note 6, at 4.

[140] *See supra* Section III.A.

[141] *See* Memorandum to File, dated November 6, 2012, from the Division of Risk, Strategy, and Financial Innovation (''RF Analysis''). The RF Analysis was designed to look for evidence of price impact related to changes in copper inventory levels and fund flows.

[142] *See id.* at 10.

[143] The Sponsor suggests that some of the inventory data published by the ICSG may be incomplete, but the Sponsor did not question the ICSG LME copper inventory data that was used in the Staff's analysis. *See* DP August 24 Letter, *supra* note 11, at 19.

[144] *See* RF Analysis, *supra* note 141, at 11.

[145] *See id.*

[146] Granger causality is a statistical concept of causality that is based on prediction. If a signal X ''Granger-causes'' a signal Y, past values of X should contain information that helps predict Y above and beyond the information contained in past values of Y alone. *See id.* at 3, n.9.

[147] *See id.* at 2–9. Because ETFS Physical Copper is small relative to the potential size of the Trust—holding only approximately 2,000 metric tons of copper as of August 2012—Commission staff augmented its analysis by comparing asset growth of SPDR Gold Trust, iShares Silver Trust, ETFS Platinum Trust, and ETFS Physical Palladium Shares with changes in spot prices for the underlying metals.

[148] *See id.* at 4.

[149] Daily asset data was not available for the SPDR Gold Trust within the Commission's existing data sources.

[150] As mentioned above, the Sponsor provided statistics showing that in 2011, industrial use accounted for 84% of global palladium demand, 66% of global platinum demand, and 53% of global silver demand. *See supra* note 122 and accompanying text.

The Commission received three comment letters regarding the Commission staff's analysis.[151] These letters include comments on both the substantive conclusions reached as well as the methodology used.[152] As described further below, the Commission believes the staff's analysis reasonably evaluates whether historical price impacts are associated with changes in copper supply, one of the Opposing Commenters' contentions.

One of the Opposing Commenters states that the results in Table 4 in the RF Analysis appear to contradict the staff's conclusion that there is no statistically significant relationship between copper inventories and copper prices as the results show a strong positive relationship between total exchange inventories and copper prices.[153] The Commission believes that the aforementioned linear regression analysis conducted by staff indicates that LME copper inventories do not appear to have any independent statistical effect on copper prices. Further, we recognize that the linear regression analysis summarized in Table 4 also indicates that total exchange inventory has a positive relation to copper prices. Specifically, this linear regression analysis indicates that removal of copper from exchanges would lead to a decrease in the price of copper, thus benefiting market participants who use copper as an input.[154]

This Opposing Commenter also states that the Commission staff's decision to use the inventory of LME-warranted copper, total exchange copper inventory, and total non-exchange inventory as independent variables makes it difficult to interpret any single coefficient.[155] The commenter states that because LME copper inventory makes up a significant portion of total exchange inventory, the two variables are obviously highly correlated, creating the problem of collinearity between regressors.[156] As a response to these comments, the Commission notes that its staff conducted a separate analysis, in which COMEX and SHFE copper inventory were substituted for total exchange copper inventory (*i.e.,* the inventory of LME-warranted copper was removed from total exchange copper inventory). Consistent with the findings in the RF Analysis, this separate analysis shows that, even when replacing total exchange inventories with non-LME exchange inventories, LME inventories specifically do not appear to have any independent statistical effect on copper prices.[157]

Further, this Opposing Commenter states: ''There are growing doubts about the utility of not just LME inventories but any established exchange inventories in representing the true global inventory stocks of copper.'' [158] The commenter asserts that, if there are large global inventories of copper that are not being measured, the utility of any of the models in the Commission staff's analysis is highly doubtful.[159] As discussed above, the Commission believes that there are sufficient copper stockpiles such that up to 61,800 metric tons of copper could be deposited into the Trust without authorized participants taking copper off of either LME or COMEX warrant.[160] This may, as the commenter suggests, limit the utility of the RF Analysis regarding the relation between LME inventories and prices. However, other Opposing Commenters have argued that the price of copper will increase precisely because authorized participants will create Shares by taking copper off of LME and/or COMEX warrant, and the RF Analysis addresses this concern.[161] Moreover, the Commission believes that if there are large global inventories of copper that are not being measured, it is less likely that the listing and trading of the Shares will by itself increase the price of copper compared with the scenario suggested by other commenters who assert that LME inventories drive prices.

This Opposing Commenter also argues that the Commission staff's analysis ignores key ''institutional factors'' in the copper market.[162] The commenter asserts that price determination in any market is highly dependent on the rules that govern that market, and that for an industrial commodity, factors concerning the practical use of the commodity are important.[163] According to the commenter, the most important institutional factor is the LME's requirement ''that any holder of 50 percent or more of LME warrants in any metal must lend its inventory on demand at rates designed to prevent any

[151] *See* AFR November 16 Letter, *supra* note 14; V&F November 16 Letter, *supra* note 14; and Rutkowski November 17 Letter, *supra* note 14. Mr. Rutkowski urges that the Commission afford the AFR November 16 Letter the attention Mr. Rutkowski believes it deserves. *See* Rutkowski November 17 Letter, *supra* note 14. The Commission discusses both the AFR November 16 Letter and the V&F November 16 Letter below.

[152] AFR states that ''[t]he detailed regression data, models (including computer code), and full results used in [the RF Analysis] should be released to the public.'' *See* AFR November 16 Letter, *supra* note 14, at 3. The Commission does not believe it is necessary to release this information because the RF Analysis includes sufficient data and information to permit commenters to evaluate the staff's analyses.

[153] *See id.* at 2. The commenter's concern appears to be based on its belief that supply changes ''on the margin'' influence price and that, if supply hoarding increases prices, the key determinant of price levels will be inventories for the source of supply for the marginal unit of copper. The commenter sets forth reasons why it believes the LME inventory no longer represents the marginal unit of copper, and its belief that total exchange inventory (or potentially off-exchange inventory) is the type of inventory most likely to include the marginal unit of copper inventory on the world market. AFR states that in recent years, inventories have been moving from the LME toward other exchanges, and that since 2008, most inventory flow has been to non-LME exchanges. AFR also argues that LME lending rules would make it illogical to use LME-warranted copper to influence market prices. In addition, AFR asserts that total exchange inventories may be a better guide to price impact since the Trust would hold copper that is not on LME warrant. *See id.* at 4.

AFR also states that because the Commission staff's analysis ''does not properly report the units in which these regression variables are measured in, and does not provide standardized coefficients, it is not possible to fully assess the economic (as opposed to statistical) significance of'' total exchange inventories and compare it to other coefficients. *See id.* at 4 n.4. While the Commission acknowledges this comment, the RF Analysis does not rely on the magnitude of coefficient estimates, but rather on the statistical significance of those estimates.

[154] In contrast, the Opposing Commenters argue that the removal from the market of a substantial portion of copper available for immediate delivery would drive up the price of copper. *See supra* notes 125–132 and accompanying text.

[155] *See* AFR November 16 Letter, *supra* note 14, at 4. Another commenter asserts that Commission staff ''included likely heteroskedastic variables of other LME and LBMA metals prices in the regression, which may in the least, have undermined the cogency of the coefficient pertaining to LME copper inventory levels.'' *See* V&F November 16 Letter, *supra* note 14, at 1–2. There is no evidence in the record of the existence of heteroskedasticity in these variables that would affect the results of the RF Analysis.

[156] *See* AFR November 16 Letter, *supra* note 14, at 4. This commenter did not identify which independent variables Commission staff should have used and did not provide its own regression analysis for Commission to consider.

[157] In this alternative regression specification, the coefficient for non-LME exchange inventories is estimated to be positive and statistically significant, like the coefficient for total exchange inventory in Table 4 of the RF Analysis. This result again implies that taking inventory off these exchanges may result in a decrease in copper prices, as opposed to an increase in prices as predicted by the Opposing Commenters.

[158] *See* AFR November 16 Letter, *supra* note 14, at 8. AFR states: ''Table 4 does include a variable for the off-exchange inventory. The coefficient is large but not statistically significant. It is difficult to assess this finding given the collinearity issue and the lack of detail on how the off-exchange inventory variable is calculated.'' *See id.* at 4 n.8. The Commission does not believe that the magnitude of the coefficient for off-exchange inventory in Table 4 of the RF Analysis is relevant as the p-value is statistically insignificant.

[159] *See id.* at 9.

[160] *See supra* Section III.A.2.

[161] *See supra* notes 125–132 and accompanying text.

[162] *See* AFR November 16 Letter, *supra* note 14, at 8.

[163] *See id.*

profit from the dominant position.'' [164] The commenter asserts that the findings in the RF Analysis are based on analyses of exchange-traded funds backed by LME warrants, and asserts that the findings of that analysis likely do not accurately reflect the likely price impact of the Trust as the assets of the Trust would not be backed by LME warrants.[165] As discussed above,[166] however, Commission staff evaluated whether the introduction of the SPDR Gold Trust, iShares Silver Trust, ETFS Platinum Trust, ETFS Physical Palladium Shares, and ETFS Physical Copper had an impact on the return of the metals underlying those trusts. Only ETFS Physical Copper holds LME warrants; the SPDR Gold Trust, iShares Silver Trust, ETFS Platinum Trust, and ETFS Physical Palladium Shares all hold physical gold, silver, platinum, and palladium, respectively, not warrants on those metals. Accordingly, the Commission believes the staff's analysis considers the institutional factor cited by the commenter.

Further, one of the Opposing Commenters asserts that the Commission staff's analysis ignores endogeneity problems.[167] The commenter argues that the Commission staff's Granger causality analyses [168] are inappropriate because they look for a statistical relationship between variables that are simultaneously determined—specifically, asset flows into Commodity-Based Trusts and metals prices.[169] In addition, this commenter argues that the Commission staff's regression analyses, performed to determine whether a relationship exists between copper prices and LME inventories,[170] are subject to endogeneity bias.[171] The commenter asserts that the Commission staff's analysis ''attempts to retrieve the causal impact of supply hoarding on prices through regressing price on quantity in the market generally.'' [172] According to the commenter, although, ''if all other factors were equal, the removal of supply from the market through hoarding would increase prices, leading to a positive correlation between inventory and prices,'' other supply and demand factors, such as an inventory buildup in connection with a decline in prices caused by decreased market demand, can lead to a negative correlation between inventory level and prices.[173] Thus, according to the commenter, a correlation between inventory levels and price will not isolate the effect of supply hoarding.[174]

The Commission does not believe that endogeneity biases are problematic with regard to the linear regression analyses and the Granger causality analyses Commission staff conducted because the analyses examine the relation between lagged inventory changes (in case of the regression analyses) or lagged flows (in the case of the Granger causality analyses) and subsequent price changes. For this reason, the inventory and flow variables are determined prior to the price variables being determined, and are not determined simultaneously with prices.[175]

Another of the Opposing Commenters states that the Granger causality analyses appear on their face to be incongruous.[176] This commenter states its belief that Commission staff appears to be comparing assets under management to the respective price of the commodity held by the trust, and provides a chart that the commenter purports to show that there is a 92% correlation between the rolling monthly change in NAV of the iShares Silver Trust and the silver price.[177] The Granger causality analysis from Tables 1 and 2 of the RF Analysis examines the relation between dollar flows into the funds and subsequent changes in the prices of the underlying metals. It does not examine the relation between changes in assets under management, which are driven by both flows and returns of the underlying, and the concurrent change in the prices of the underlying metals. Therefore, the Commission believes that the relation between the change in NAV for these funds and the concurrent change in the prices of the underlying metal is irrelevant for the purposes of the cited analysis.

Two of the Opposing Commenters question the time periods used in the Commission staff's analysis. One of these Opposing Commenters states that Commission staff failed to account for the term structure of prices (*e.g.,* whether, and the extent to which, the market is in contango or backwardation).[178] This commenter states: ''[t]he correct lag period to test for price impacts on copper consumers depends upon the delivery times and production lead times, which also affect the price impacts of deep backwardation on consumer access to supplies.'' [179] While this commenter suggests that the Commission staff did not use the correct lag period in its analysis, the commenter did not provide any specific time intervals that should be used from the many possible alternatives, nor did it explain what time intervals would have been more appropriate than those used by Commission staff. The Commission believes the daily periods used in the RF Analysis were reasonable and appropriate because evidence of the relationship between inventories and prices would likely be seen at daily intervals.[180]

Another of the Opposing Commenters suggests that Commission staff should have examined the cash to three month time spread and provides its own analysis, which the commenter concludes demonstrates a strong relationship between LME inventory changes and the cash to three month time spread.[181] This commenter states that if the Trust and the iShares Copper Trust were to sell all of the shares registered through their respective registration statements, the cash to three month time spread ''would blow out to a massive backwardation, potentially approaching record levels, making it impossible for copper consumers to finance their inventory.'' [182] The

[164] *See id.*

[165] *See id. See also supra* text accompanying note 147.

[166] *See supra* note 147 and accompanying text.

[167] *See* AFR November 16 Letter, *supra* note 14, at 5. AFR states that endogeneity refers to the simultaneous determination of quantity and price in supply-demand systems and ''involves a causal loop between the dependent and independent variable such that the causal impact of the independent variable cannot be isolated.'' *See id.*

[168] *See supra* notes 146–150 and accompanying text.

[169] *See* AFR November 16 Letter, *supra* note 14, at 5.

[170] *See supra* notes 141–144 and accompanying text.

[171] *See* AFR November 16 Letter, *supra* note 14, at 6.

[172] *See id.*

[173] *See id.* at 6–7.

[174] *See id.* at 7.

[175] The commenter asserts: ''The most preferred method [to address endogeneity issues] is to use an instrumental variables approach that isolates factors that affect market supply but are unrelated to other causal factors.'' *Id.* This commenter, however, did not submit for Commission consideration the analysis it asserts is necessary, nor did the commenter provide any examples of instrumental variables it asserted would rectify the analysis.

[176] *See* V&F November 16 Letter, *supra* note 14, at 6.

[177] *See id.* at 6–7.

[178] *See* AFR November 16 Letter, *supra* note 14, at 9.

[179] *See id.*

[180] In particular, LME inventory data for the previous day is released on the morning of each trading day so that prices are able to react over the course of that day. Moreover, the use of the monthly lag period confirmed the results of the daily analysis and allowed for the examination of the effect of non-exchange copper inventories for which only monthly data were available within the Commission's existing data sources.

[181] *See* V&F November 16 Letter, *supra* note 14, at 3.

[182] *See id.* The commenter further states that the mechanics of unit creation for Commodity-Based Trusts backed by precious metals are fundamentally different than those for Commodity-Based Trusts backed by industrial metals, citing the lack of copper in unallocated accounts that could be used

analysis provided by this commenter, however, does not provide the significance level of any test statistics associated with these findings, which would provide an assessment of the likelihood that relations were observed in the data by statistical chance. Without an assessment of statistical significance, it is difficult to conclude whether observed relations in the commenter's data are systematic or anecdotal. In addition, this commenter's analyses appear to analyze inventory changes against concurrent price changes. The Commission does not believe that such a concurrent analysis can isolate the effect of inventory changes on prices because such an analysis cannot distinguish whether price changes lead inventory changes or vice versa.

Further, as discussed above, the Commission does not believe that the listing and trading of the Shares is likely to disrupt the supply of copper available for immediate delivery,[183] and believes that the Opposing Commenters have not supported their prediction that the Trust would grow so quickly that it would significantly disrupt the supply of copper available for immediate delivery.[184]

This Opposing Commenter also asserts that Commission staff erred by using lagged daily LME stock data. This commenter asserts that because there are ''many consecutive and non-consecutive days that LME stock levels and LME traded metals do not change while LME prices do * * *, running a daily LME stock series through a regression analysis will yield statistically weak results in most cases.'' [185] The commenter states that LME inventory data for the prior day is released at 9:00 a.m. in the London trading day, thereby giving the market a full trading day to digest the data.[186] The lagged daily LME inventory change used in the RF Analysis in fact was regressed against the change in copper prices for the day on which this information was released at 9:00 a.m.[187]

In addition, this Opposing Commenter asserts that there is not a strong statistical relationship between lagged copper inventories and contemporaneous copper prices because the LME represents the copper market's ''warehouse of last resort.'' [188] According to this commenter, when LME stocks are drawn down or added to, market participants ''should have already fully discounted the fundamental information contained within that particular stock move.'' [189] This assertion seems consistent with a hypothesis that price changes precede inventory changes, which is contrary to Opposing Commenters' assertions that inventory changes precede price changes.[190] The Commission believes that this argument provides further weight to the Commission staff's finding that the LME copper inventory changes do not appear to precede price changes.

This Opposing Commenter suggests that, instead of looking at lagged daily LME stock data, the Commission staff should have looked at the 30 largest quarter-to-quarter LME inventory declines against changes in the LME cash price over the same time periods. The commenter asserts that such analysis, which the commenter submitted, shows that for the 30 largest observations, the median stock decline was 28.6%, and that the LME cash price rose in 25 out of 30 observations, for a median increase of 10.5%.[191] The commenter states that these findings suggest that if LME and COMEX inventories were to decline by more than 50%, which the commenter asserts could happen if the Trust and the iShares Copper Trust were to sell all of the shares registered through their respective registration statements, prices could increase 20–60% in the quarter that the LME and COMEX inventory decline occurs.[192]

The analysis provided by this commenter, however, does not provide the significance level of any test statistics associated with these findings.[193] In addition, this commenter's analysis appears to analyze inventory changes against concurrent price changes. The Commission does not believe that such a concurrent analysis can isolate the effect of inventory changes on prices.[194] Further, as discussed above, the Commission does not believe that the listing and trading of the Shares is likely to disrupt the supply of copper available for immediate delivery,[195] and believes that the Opposing Commenters have not supported their prediction that the Trust would grow so quickly that it would significantly disrupt the supply of copper available for immediate delivery.[196]

One of the Opposing Commenters states that Commission staff should have considered the impact on locational premia.[197] This commenter asserts that the relationship between COMEX inventory and locational premia in the U.S. is strong, and provides data that the commenter suggests shows that when COMEX inventories are at anemic levels, locational premia can be very high (above $200 per metric ton).[198] Thus, the commenter argues that if the Trust results in the removal of inventory from LME and COMEX warehouses, the associated market impact will be much higher locational premia.[199] The analysis provided by this commenter, however, does not provide the significance level of any test statistics associated with these findings.[200] In addition, this commenter's analysis appears to analyze inventory changes against concurrent price changes. The Commission does not believe that such

in creating Shares. According to the commenter, neither producers nor consumers are carrying meaningful inventories of copper, which would require authorized participants to acquire copper from LME and COMEX inventories to create Shares. The commenter asserts that a backwardation would be necessary to trigger the movement of copper to authorized participants, and that consumers would have to compete for this metal or lend to authorized participants. *See id.* at 4. As discussed above, the Commission believes that the record supports the view that there are sufficient copper stockpiles such that up to 61,800 metric tons of copper could be deposited into the Trust without authorized participants taking copper off of either LME or COMEX warrant. *See supra* Section II.A.2.

[183] *See supra* Section III.A.

[184] *See supra* Section III.A.3.

[185] *See* V&F November 16 Letter, *supra* note 14, at 2.

[186] *See id.* at 5–6.

[187] To confirm this, Commission staff reconciled a sample of historical LME stock data from the LME Web site (*http://www.lme.com/dataprices.asp*) and the Bloomberg LME stock data used in the RF Analysis. Additional reconciliation was done against historical LME copper warehouse stock data found at *http://www.metalprices.com/historical/database/copper/lme-copper-warehouse-stocks.*

[188] *See* V&F November 16 Letter, *supra* note 14, at 6.

[189] *See id.* at 6 (stating that LME stocks are drawn down by consumers because neither producers nor traders have material to sell to consumers and consumers are willing to go through the logistical hassle of being long LME warrants, swapping the warrants for their preferred brands, and transporting the copper to their individual plant, and that ''[i]t is nonsensical to assume that the trading community has not already discounted this information into the LME price''). *But see id.* at 2 (''Intuitively it doesn't make sense to argue that in a physically settled exchange system that fungible stock levels don't exert some statistically robust influence on metals prices.'').

[190] *See supra* note 154 and accompanying text.

[191] *See* V&F November 16 Letter, *supra* note 14, at 2.

[192] *See id.* at 2.

[193] *See supra* text following note 182.

[194] *See supra* text following note 182.

[195] *See supra* Section III.A.

[196] *See supra* Section III.A.3.

[197] *See* V&F November 16 Letter, *supra* note 14, at 3, 5. This commenter refers to ''physical'' premia in describing the manner in which the Trust will value its copper holdings: ''Another market price that the SEC could have done well to look into is the physical premia, especially in light of the [Trust's] implied objective to value metal * * * on an in-situ basis, taking into account regional physical price variations.'' *See id.* at 5. Consistent with this description, the Commission refers to locational premia rather than physical premia.

[198] *See id.*

[199] *See id.*

[200] *See supra* text following note 182.

a concurrent analysis can isolate the effect of inventory changes on prices, as discussed previously.[201] In addition, according to data provided by commenters, locational premia typically appear to be no greater than 2%. Therefore, the Commission believes the degree to which such premia can be influenced is limited. Further, even assuming that copper was taken off LME warrant to be deposited into the Trust, the Commission believes that the Trust's copper will remain available for immediate delivery to consumers and participants in the physical markets,[202] which will limit the possible effect on locational premia.

Finally, this Opposing Commenter asserts that the listing and trading of the Shares could change the fundamental structure of the copper market, and that Commission staff should ''ponder'' such a structural change in the copper market.[203] This commenter states that the ex-post implications for copper outright prices in a market that involves listing and trading of the Shares cannot be accurately inferred from what this commenter characterizes as ''an overly-simplistic ex-ante statistical analysis of LME/global inventories and LME settlement prices.'' [204] According to this commenter, never before has it been possible for financial players to ''lock up'' significant amounts of LME and COMEX inventory in a short period of time and remove that copper from the market.[205] Further, while this commenter indicates that ''[o]verall *historically* the level of LME inventories has been generally indicative of the trading environment, not a driver of the metal price per se,'' creation of the Trust could change the role of LME inventories from being a function of the fundamentals to being a fundamental, and ''arguably THE fundamental, as has become the case in precious metals.'' [206]

The Commission believes that such assertions are speculative and unsupported by the record. As discussed in detail throughout this order, the Commission does not believe that the listing and trading of the Shares is likely to alter the supply and demand fundamentals of the copper market. Further, as discussed above, the Commission does not believe that the listing and trading of the Shares is likely to disrupt the supply of copper available for immediate delivery [207] and, even assuming that copper was taken off LME warrant to be deposited into the Trust, the Commission believes that the Trust's copper will remain available for immediate delivery to consumers and participants in the physical markets.[208]

Lastly, one of the Opposing Commenters cites a study that ''examines the hedging activity of sponsors using futures as hedges for the total return swaps'' entered into as part of commodity index funds.[209] According to the commenter, the sponsor of a commodity index fund must replace expiring futures contracts with later-maturing futures on a continuous basis (referred to as the ''roll'').[210] The commenter states that the Frenk & Turbeville Study ''found an extremely strong and significant correlation'' over a multi-year period between the five-day roll period for hedges of the Goldman Sachs Commodity Futures Index in each month with a movement in the forward price curve toward higher prices in the future.[211] The commenter believes that suppliers hold onto more of the underlying commodity to take advantage of the rising prices signaled by the movement in the forward price curve (although no fundamental market forces have signaled such higher prices), which in turn increases spot prices to attract supply that otherwise could be hoarded.[212] The commenter believes that the proposed trust will have a more direct effect on the copper market as withdrawal of supply in rising-price markets (and flooding of supply in decreasing-price markets) constitutes an actual change in supply and demand relationships.[213]

The Commission is not persuaded that the conclusions of a study on correlations between the roll periods of futures indexes and commodities prices should be extrapolated to predict the impact of the Trust, which will hold physical copper (not copper derivatives), on the price of copper. As discussed above, the Commission believes that copper delivered into and held by the Trust will remain available for immediate delivery and, even if it is ''removed from the market'' as commenters have suggested, the supply of copper available for immediate delivery is sufficient such that the creation and quick growth of the Trust alone is not expected to impact the price of copper.[214]

Because the Commission does not believe that the listing and trading of the Shares, by itself, will increase the price of copper, the Commission also believes that approval of the proposed rule change will not have an adverse effect on the efficiency of copper allocation for industrial uses and will also not have an adverse effect on capital formation for industrial uses of copper.

C. The Trust's Impact on Copper Price Volatility

The Opposing Commenters assert that the successful creation and growth of the Trust would make the price of copper, which one of those commenters states already is volatile,[215] even more volatile. Specifically, they assert that the successful creation and growth of the Trust, which would in their view substantially restrict supply and increase copper prices, would create a boom and bust cycle in copper prices.[216] For example, the Copper Fabricators predict that: (1) The Trust would remove copper from the market, and thus would drive the price of copper higher, which in turn would

[201] *See supra* text following note 182.

[202] *See supra* text accompanying note 109.

[203] *See* V&F November 16 Letter, *supra* note 14, at 3–4.

[204] *See id.* at 4.

[205] *See id.* at 3–4, 8.

[206] *See id.* at 6 (emphasis in original). The commenter states that exchange-traded vehicles backed by silver, platinum, and palladium have become the largest single holder of those metals in a remarkably short period of time (less than eight years) and that exchange-traded vehicles backed by gold are eclipsed at a national level only by the U.S. and Germany. According to the commenter, while the cumulative impact of exchange-traded vehicles on prices has dissipated as these products have matured, ''the reality is that they have become a key fundamental in terms of analyzing the precious metals markets,'' and have become the main asset class. The commenter asserts that it is not certain, and that it should not be assumed, that potential investors in the Trust will ''be as sticky as they have been in gold and silver, and to a lesser degree in platinum and palladium.'' *Id.* at 7. The commenters ''stickiness'' argument has been addressed above. *See supra* Section III.A.1.

[207] *See supra* Section III.A. Even assuming that the Trust's copper will be unavailable for immediate delivery, the Commission believes that the Opposing Commenters have not supported their prediction that the Trust would grow so quickly that it would significantly disrupt the supply of copper available for immediate delivery. *See supra* Section III.A.3.

[208] *See supra* text accompanying note 109.

[209] AFR October 23 Letter, *supra* note 14, at 4 (citing David Frenk & Wallace Turbeville, Commodity Index Traders and the Boom/Bust Cycle in Commodities Prices (October 2011), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1945570* (''Frenk & Turbeville Study'')). The commenter states that these total return swaps do not reference a single commodity, but rather are valued based on indices comprised of a basket of commodity futures. *See id.* at 3.

[210] *See id.* at 4.

[211] *See id.*

[212] *See id.*

[213] *Id.*

[214] *See supra* Sections III.A.1 and A.3.

[215] *See* V&F May 9 Letter, *supra* note 4, at 5.

[216] *See id.* at 5; Levin Letter, *supra* note 8, at 5; Copper Fabricators Letter, *supra* note 11, at 5–6; and AFR October 23 Letter, *supra* note 14, at 2. *But see* V&F November 16 Letter, *supra* note 14, at 8 (stating that if Commission staff were to analyze whether the discrete flow of ounces in and out of exchange-traded vehicles drives underlying metals price, it would likely show that volatility in precious metals is not solely a function of net metal flow in and out of the exchange-traded vehicles).

drive the price of the Shares higher; (2) at some point, the anticipated incremental increase in price would either be insufficient to cover the increasing costs of storage or would not be enough to generate a profit; and (3) that when that expected outcome occurs, Share holders would sell their Shares and authorized participants would redeem them, returning the copper held in the Trust to the physical market.[217] The Opposing Commenters predict that this ultimate sell-off would be quick, and predict that the expected ''dumping'' of thousands of metric tons of copper back onto the market would depress the price of copper and negatively impact the world economy at large.[218]

In contrast, NYSE Arca and the Sponsor assert that the Trust would not increase copper price volatility in this manner and in fact may reduce it. The Exchange states that, because of the arbitrage mechanism common to all exchange-traded vehicles, share prices of physical commodity-backed exchange-traded vehicles generally follow rather than drive the price of the underlying assets.[219] The Sponsor asserts that volatility in prices results when there is a major change in prevailing expectations about fundamental market parameters, and the Trust would not affect any of the fundamental parameters that drive supply and demand.[220] Further, the Sponsor states that the Trust may reduce copper price volatility because, if holders of the Shares act according to their incentives—namely, to sell into rallies and buy on price dips—their actions may tend to reduce peaks and valleys in pricing, and help to reduce volatility.[221]

The Opposing Commenters' prediction that the listing and trading of the Shares would cause a boom and bust is premised upon both the supply and price impacts they predict. As discussed above, the Commission does not believe that the listing and trading of the Shares is likely to disrupt the supply of copper available for immediate delivery[222] or increase the price of copper.[223] In addition, this boom and bust prediction is unsupported by any empirical evidence. As a result, the Commission does not believe that the proposed listing and trading of the Shares will impact copper volatility in the manner that Opposing Commenters suggest. Further, the Commission does not believe that approval of the proposed rule change will impede the use of copper because the listing and trading of the Shares is not expected to, as discussed above, result in heightened volatility. Therefore, the Commission does not believe that the listing and trading of the Shares will have an adverse effect on the efficiency of copper allocation and capital formation.

D. The Trust's Impact on the Potential To Manipulate the Price of Copper

The Opposing Commenters set forth a number of arguments about why the Trust would increase the potential for manipulation of the copper market. One of the Opposing Commenters asserts that the Trust, in effect, would introduce so much transparency into the copper market that it would allow the Trust to manipulate, or alternatively provide market participants an effective means to manipulate, the price of copper and thereby the price of the Shares. According to that commenter, investors in the Trust would be able to measure how much impact their collective removal of copper from the supply available for immediate delivery would have on copper prices each day, and could adjust their purchasing strategies accordingly.[224] Therefore, that commenter believes that the increased market transparency, which the Exchange asserts would result from the formation and operation of the Trust, would not be in the public interest.[225] Instead, the commenter believes the transparency of the Trust's holdings would provide market participants with critical information about ''how much copper needs to be removed on any given day in order to artificially inflate [copper] prices and thus the price of the Trust's shares.'' [226]

Due to their view of the Trust's impact on the supply of copper available for immediate delivery, Opposing Commenters predict that the Trust would make the copper market more susceptible to squeezes and corners.[227] According to an Opposing Commenter, after a substantial portion of the copper market is deposited in one or more physical copper trusts, the costs of acquiring the remaining inventory would be relatively inexpensive, thus reducing a hurdle to engineering a corner or squeeze.[228] According to another commenter, such manipulative activities could go undetected by the LME because trusts that hold physical commodities are not subject to any form of commodity regulations; by holding physical copper rather than LME warrants, the Trust would be able to control more of the available supply of copper without triggering LME reporting or rules.[229]

In response, the Exchange states that the Trust instead may reduce the potential for fraud or manipulation in the physical copper market because: (1) The Trust may hold copper in multiple global locations, which is intended to provide a larger, more liquid supply of copper than would be available if creations and redemptions were only permitted using copper held in a single location; (2) the Trust and transactions in the Shares would be transparent, publishing information about its holdings and operations through its Web site; (3) the Trust would utilize a consistent, transparent, non-discretionary, rules-based, and fully disclosed selection protocol for redemptions; and (4) the Trust's copper would be valued by a recognized, independent valuation agent.[230]

The Sponsor also claims that the Trust may reduce the potential for fraud or manipulation in the physical copper market,[231] which would have an impact on any potential manipulation of the

[217] *See* Copper Fabricators Letter, *supra* note 11, at 5–6.

[218] *See, e.g.,* Levin Letter, *supra* note 8, at 6. More specifically, V&F states that, because of this predicted boom and bust, mines will go bust and resources will be needlessly misallocated. *See* V&F August 24 Letter, *supra* note 11, at 28.

[219] *See* Arca June 19 Letter, *supra* at 6, at 4.

[220] *See* DP August 24 Letter, *supra* note 11, at 11. The Sponsor also states: (1) Changes in realized volatility of physical copper prices and prices of copper derivatives based on changes in global copper supply are not constants; (2) LME prices and price volatility do not increase or decrease based solely on LME copper stocks or on-warrant LME copper stocks; and (3) in general, realized volatility of copper prices tends to be higher in a lower stocks environment, as strong physical demand draws production and distribution systems to full capacity utilization. *See id.* at 24–25.

[221] *See id.* at 11.

[222] *See supra* Section III.A.

[223] *See supra* Section III.B.

[224] *See* V&F May 9 Letter, *supra* note 4, at 9.

[225] *See id.* at 10.

[226] V&F July 13 Letter, *supra* note 7, at 10.

[227] *See* V&F May 9 Letter, *supra* note 4, at 1, 10; Levin Letter, *supra* note 8, at 7; and AFR October 23 Letter, *supra* note 14, at 4–5. One of the Opposing Commenters describes a squeeze on the copper market as occurring ''when a lack of supply and excess demand forces the price upward, and a corner is when one party acquires enough copper to be able to manipulate its price.'' Levin Letter, *supra* note 8, at 7.

[228] *See* V&F September 10 Letter, *supra* note 12, at 7. Senator Levin asserts that the Trust will make the copper market more susceptible to squeezes because it could be used by market participants to remove copper from the available supply in order to artificially inflate the price. *See* Levin Letter, *supra* note 8, at 7.

[229] *See* Levin Letter, *supra* note 8, at 7.

[230] *See* Arca June 19 Letter, *supra* note 6, at 5–6.

[231] *See* DP August 24 Letter, *supra* note 11, at 4. The Sponsor also states that neither it nor the Trust could deliberately influence copper prices even if it sought to because the Trust is not managed—it does not take positions or buy and sell copper, and it cannot place large orders that could affect the market. *See id.* at 12.

Shares as well. Specifically, the Sponsor asserts that the Trust already has introduced greater transparency into the copper market.[232] According to the Sponsor, prior to July 16, 2011, locational premia (*i.e.,* prices) for physical copper were reported infrequently, available only by subscription, and available only for certain broad regions.[233] Since then, in anticipation of the Trust's potential launch, the Valuation Agent has calculated the locational premium for physical copper in each of the Trust's approved warehouses on a daily basis, and published the locational premia on a *weekly* basis.[234] The Sponsor expects that transparency would increase through the listing of the Shares because when trading of the Shares commences: (1) The Trust would post on its Web site these locational premia on a *daily* basis; (2) the Exchange would continuously disseminate pricing information as part of its required intraday indicative value (''IIV'') reporting; (3) the Sponsor believes that Shares would be created using previously unreported non-exchange-registered stocks, and thus copper market participants would have more information about supply; and (4) the Trust would furnish complete visibility into creation and redemption activity by certain authorized participants.[235]

The Sponsor also argues that the underlying copper market is subject to extensive and explicit regulatory authority, and the increased transparency furnished by the Trust would enhance regulators' ability to oversee the copper market and enforce applicable laws and rules. Specifically, the Sponsor states: (1) The CFTC has explicit anti-fraud and anti-manipulation authority under the CEA that extends over the U.S. physical commodity markets; (2) the Department of Justice has the ability to pursue antitrust violations, such as concerted buying and selling involving commodities, under the federal antitrust laws; and (3) the LME has broad rights to obtain information relating to the activities of LME members and their affiliates if the LME has cause to suspect undesirable or improper trading that affects the copper markets, including the markets for both LME-warranted and non-warranted copper, and therefore the LME can obtain information about both LME and non-LME metal trading activities from J.P. Morgan Securities plc, an affiliate of the Sponsor that is a ring-dealing member of the LME, as well as from the Sponsor.[236] The Sponsor also asserts that there has been no increased manipulative behavior due to the reduction of copper available for immediate delivery that resulted from the prior years' deficits in copper production versus copper consumption, and that the creation of commodity backed trusts holding gold, silver, platinum, and/or palladium has not led to manipulation of the markets for those precious metals.[237]

The Commission does not believe that the listing and trading of the Shares is likely to increase the likelihood of manipulation of the copper market and, correspondingly, of the price of the Shares. Generally, the Commission believes that increased transparency helps mitigate risks of manipulation. For example, in approving the listing and trading of shares of the iShares Silver Trust, the Commission stated that the dissemination of information about the silver shares would ''facilitate transparency with respect to the Silver Shares and diminish the risk of manipulation or unfair informational advantage.'' [238] In this case, the Commission believes the transparency that the Trust will provide with respect to its holdings, the locational premium for and price per metric ton of the copper in each warehouse location of the Trust, and creation and redemption activity, including the locations of creations and redemptions, as well as the dissemination of quotations for and last-sale prices of transactions in the Shares and the IIV and NAV of the Trust,[239] all are expected to help reduce the ability of market participants to manipulate the physical copper market or the price of Shares.[240] Also, the Commission believes that the listing and trading of the Shares on the Exchange (and any other national securities exchange that trades the Shares pursuant to unlisted trading privileges) [241] may serve to make the overall copper market more transparent if OTC trading of unreported warehouse receipts shifts to trading Shares on exchanges.[242] In particular, additional information regarding the supply of copper will be disseminated, which will enable users of copper to make better-informed decisions. Over the long term, this additional transparency could enhance efficiency in the market for copper and capital formation for participants in this market. In addition, the Commission believes that the listing and delisting criteria for the Shares are expected to help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Shares.[243]

The Opposing Commenters assert serious disruptions in the supply of copper would make corners and squeezes more likely.[244] As discussed above, the Commission does not believe that the listing and trading of the Shares is likely to disrupt the supply of copper available for immediate delivery.[245] Depending on the size of the Trust though, it is possible that copper holdings may be dispersed across an additional market—*i.e.,* less copper may be held under LME and/or COMEX

[232] *See id.* at 4–5.

[233] *See id.*

[234] *See id.*

[235] *See id.*

[236] *See id.* at 5.

[237] *See id.* at 45, 46.

[238] *See* Securities Exchange Act Release No. 53521 (March 20, 2006), 71 FR 14967, 14975 (March 24, 2006).

[239] *See* DP August 24 Letter, *supra* note 11, at 43–45, and *supra* text accompanying notes 43 and 45.

[240] Further, the Trust is a passive vehicle, and therefore V&F's concerns about manipulation by the Trust itself are misplaced.

[241] When a national securities exchange extends ''unlisted trading privileges'' to a security, it allows the trading of a security that is not listed and registered on that exchange. *See* Securities Exchange Act Release No. 35323 (February 2, 1995), 60 FR 7718, 7718 (February 9, 1995) (proposing rules to reduce the period that exchanges have to wait before extending unlisted trading privileges to any listed initial public offering security). A number of national securities exchanges have rules that allow the extension of unlisted trading privileges to issues such as the Shares. *See, e.g.,* Securities Exchange Act Release No. 57806 (May 9, 2008), 73 FR 28541 (May 16, 2008) (SR–Phlx–2008–34); Securities Exchange Act Release No. 58623 (September 23, 2008), 73 FR 57169 (October 1, 2008) (SR–BATS–2008–004).

[242] Market participants that acquire a large percentage of the Shares must identify themselves to the Commission by filing Schedules 13D or 13G. *See* 17 CFR 240.13d–1. Specifically, Section 13(d) of the Act, 15 U.S.C. 78m(d), and the rules thereunder require that a person file with the Commission, within ten days after acquiring, directly or indirectly, beneficial ownership of more than five percent of a class of equity securities, a disclosure statement on Schedule 13D, subject to certain exceptions. *See* 17 CFR 240.13d–1. Section 13(g) and the rules thereunder enable certain persons who are the beneficial owners of more than five percent of a class of certain equity securities to instead file a short form Schedule 13G, assuming certain conditions have been met. Beneficial owners are also required to report changes in the information filed.

In addition, Section 13(f)(1) of the Act and Rule 13f–1 thereunder require every ''institutional investment manager,'' as defined in Section 13(f)(5)(A) of the Act, that exercises investment discretion with respect to ''section 13(f) securities,'' as defined in Rule 13f–1, having an aggregate fair market value of at least $100 million (''Reportable Securities''), to file with the Commission quarterly reports on Form 13F setting forth each Reportable Security's name, CUSIP number, the number of shares held, and the market value of the position.

[243] For example, under NYSE Arca Equities Rule 8.201(e)(2)(ii), the Exchange will consider suspending trading in the Shares or delisting the Shares if, following the initial 12-month period following commencement of trading, there are fewer than 50,000 Shares issued and outstanding.

[244] *See supra* notes 227–229 and accompanying text.

[245] *See supra* Section III.A.

warrant and more copper may be held by the Trust. However, the availability of inter-market arbitrage is expected to help mitigate any potential increase in the ability of market participants to engage in corners or squeezes as a result of any dispersion of copper holdings across markets (as distinguished from a reduction in the copper supply). For example, if the Trust grows large relative to the market for warrants on the LME, LME market participants faced with a potential corner or squeeze may acquire Shares, redeem them (through an authorized participant) for LME warrantable copper, put the copper on LME warrant, and deliver the warrants.[246] Further, although the Exchange currently provides for the listing and trading of shares of Commodity-Based Trusts backed by physical gold, silver, platinum, and palladium, none of the commenters has identified any evidence that the trading of shares of these Commodity-Based Trusts has led to manipulation of the gold, silver, platinum, or palladium markets.

For the reasons discussed above, the Commission does not believe that the proposed listing and trading of the Shares is likely to render the copper market or the price of Shares more susceptible to manipulation. Correspondingly, the Commission does not believe that approval of the proposed rule change will impose any burden on competition between participants in the market for copper as it will not provide market participants a greater opportunity to achieve an unfair competitive advantage.

E. Surveillance

One of the Opposing Commenters questions whether NYSE Arca's surveillance procedures are adequate to prevent fraudulent and manipulative trading in the Shares. According to that commenter, NYSE Arca's surveillance procedures are not adequate because they are the kind of garden-variety measures that are always in place to prevent collusion and other forms of manipulation by traders.[247] Two other Opposing Commenters assert that the Sponsor would be in a privileged informational position and could improperly trade on that non-public information.[248] One of those commenters asserts that the Sponsor participates in other, non-security copper derivatives markets (namely futures and swaps), and states that the Sponsor has an extensive commodities trading operation and ''owns copper warehousing capacity in the United States giving it access to physical supply.'' [249] The commenter also expresses concern that, if the Sponsor ''knows information regarding ETF inflows and outflows and understands the volatility consequences of changes in the holdings of the ETF,'' it can take advantage of that asymmetrical information and could ''be a potential source of disruption to the markets.'' [250]

NYSE Arca asserts that the statements about its surveillance are unsubstantiated,[251] and states that its surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[252] In particular, the Exchange represents the following:

- Pursuant to NYSE Arca Equities Rule 8.201(g), an ETP Holder acting as a registered Market Maker in Commodity-Based Trust Shares must file with the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the Market Maker may have or over which it may exercise investment discretion. No Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by NYSE Arca Equities Rule 8.201.
- In addition, pursuant to NYSE Arca Equities Rule 8.201(g), the Exchange is able to obtain information regarding trading in the Shares, physical copper, copper futures contracts, options on copper futures, or any other copper derivative from ETP Holders acting as registered market makers, in connection with their proprietary or customer trades.[253]
- NYSE Arca has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder, as well as a subsidiary or affiliate of an ETP Holder that is in the securities business.[254]
- With respect to a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts, the Exchange can obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.[255]
- Commentary .04 of NYSE Arca Equities Rule 6.3 requires an ETP Holder acting as a registered Market Maker in the Shares, and its affiliates, to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).[256]
- NYSE Arca may obtain trading information via ISG from other exchanges that are members of the ISG, including the COMEX.[257] The Exchange also states that it has entered into a comprehensive surveillance sharing agreement with LME that applies to trading in copper and copper derivatives.[258]

Further, in the context of preventing fraudulent and manipulative acts, the Exchange discusses its authority to halt trading in the Shares in the interest of promoting a fair and orderly market and protecting the interests of investors.[259]

According to the Exchange, the Valuation Agent will exclude any information provided by any JPMorgan-

[246] *See supra* note 85.

[247] *See* V&F May 9 Letter, *supra* note 4, at 10.

[248] *See* Shatto Letter, *supra* note 9; and AFR October 23 Letter, *supra* note 14, at 2.

[249] *See* AFR October 23 Letter *supra* note 14, at 4.

[250] *Id.* Similarly, another opposing commenter asserts that ''jp morgan gets inside information by using their warehouses to buy and sell copper which maximizes profits to the detriment of commercial interests who have to buy copper.'' Shatto Letter, *supra* note 9.

[251] *See* Arca August 23 Letter, *supra* note 11, at 1.

[252] *See* Notice, *supra* note 3, 77 FR at 23787. The Exchange also states that its existing surveillances will be augmented with a product-specific review designed to identify potential manipulative trading activity through the use of the creation and redemption process. *See* Amendment No. 1, *supra* note 15.

[253] *See* Notice, *supra* note 3, 77 FR at 23787. *See also* Arca August 23 Letter, *supra* note 11, at 2–3.

[254] *See* Amendment No. 1, *supra* note 15.

[255] *See id. See also infra* text accompanying notes 257–258.

[256] *See* Notice, *supra* note 3, 77 FR at 23786. *See also* Arca August 23 Letter, *supra* note 11, at 3.

[257] *See* Notice, *supra* note 3, 77 FR at 23787. *See also* Arca August 23 Letter, *supra* note 11, at 3.

[258] *See* Amendment No. 1, *supra note 15.*

[259] *See* Arca August 23 Letter, *supra* note 11, at 3 (''As stated in the Notice, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares, and trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.'').

affiliated entity when calculating the locational premium of copper in any permitted warehouse location.[260] In addition, NYSE Arca has obtained a representation from the Sponsor that it will (i) implement a firewall with respect to its affiliates regarding access to material non-public information of the Trust concerning the Trust and the Shares, and (ii) will be subject to procedures designed to prevent the use and dissemination of material non-public information of the Trust regarding the Trust and the Shares.[261] The Commission believes the firewall that the Exchange will require the Sponsor to erect is a reasonable measure to help prevent the flow of non-public information to the Sponsor's affiliates.[262]

More generally, based on the Exchange's representations, the Commission believes that the Exchange's surveillance procedures appear to be reasonably designed to permit the Exchange to monitor for, detect, and deter violations of Exchange rules and applicable federal securities laws and rules.[263] In addition to all of the same surveillance procedures employed with respect to the trading of all other Commodity-Based Trust Shares, NYSE Arca states that a new product specific review will be employed to monitor trading in the Shares to identify potential manipulative trading activity through the use of the creation and redemption process.[264] The commenters have not identified any specific deficiency in the proposed procedures or provided any evidence that the Exchange's surveillance program has been ineffective with respect to trading in other Commodity-Based Trust Shares.

F. Dissemination of Information About the Shares and Copper

The Commission believes the proposal is reasonably designed to promote sufficient disclosure of information that may be necessary to price the Shares appropriately. Specifically, the Commission believes that dissemination of the NAV, IIV, and copper holdings information, as discussed above, will facilitate transparency with respect to the Shares and diminish the risk of manipulation or unfair informational advantage.[265] Further, as noted above, quotation and last-sale information for the Shares will be available via the Consolidated Tape Association, and the Exchange will make available via the Consolidated Tape trading volume, closing prices, and NAV for the Shares from the previous day.[266] Additionally, as discussed above, the Exchange has identified numerous sources of copper price information unconnected with the Exchange that are readily available to investors.[267] The Commission therefore believes that sufficient venues for obtaining reliable copper pricing information exist to allow investors in the Shares to adequately monitor the price of copper and compare it to the NAV of the Shares.

G. Listing and Trading of the Shares

The Commission believes that the Exchange's proposed rules and procedures for the listing and trading of the Shares are consistent with the Act. For example, the Commission believes that the proposal is reasonably designed to prevent trading when a reasonable degree of transparency cannot be assured. As detailed above, NYSE Arca Equities Rules 7.34(a)(5) and 8.201(e)(2) respectively provide that: (1) If the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it must halt trading on the NYSE Marketplace until such time as the NAV is available to all market participants; and (2) the Exchange will consider suspension of trading if, after the initial 12-month period following commencement of trading: (a) The value of copper is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the Sponsor, Trust, or Custodian, or the Exchange stops providing a hyperlink on its Web site to any such unaffiliated source providing that value; or (b) if the Liquidation IIV is no longer made available on at least a 15-second delayed basis.[268] In addition, the Exchange's general authority to halt trading because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, also will advance this objective. Further, trading in the Shares will be subject to NYSE Arca Equities Rule 7.12, the Exchange's circuit breaker rule, which governs trading halts caused by extraordinary market volatility.

Further, the Shares will be subject to Exchange rules governing the responsibilities of market makers and customer suitability requirements. In addition, the Shares will be subject to Exchange Rule 8.201 for initial and continued listing of Shares.[269] As discussed above,[270] the Commission believes that the listing and delisting criteria for the Shares are expected to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Shares. The Commission also believes that the Information Bulletin will adequately inform members and member organizations about the terms, characteristics, and risks of trading the Shares.

H. Commission Findings

After careful review, and for the reasons discussed in Sections III.A–G above, the Commission finds that the proposed rule change is consistent with the requirements of the Act, including Section 6 of the Act,[271] and the rules and regulations thereunder applicable to a national securities exchange.[272] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[273] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; with Section 6(b)(8) of the Act,[274] which requires that the rules of a national securities exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act; and with Section 11A(a)(1)(C)(iii) of the Act,[275] which sets forth Congress's finding that it is in the public interest and appropriate for

[260] Notice, *supra* note 3, 77 FR at 23783.

[261] *See* Amendment No. 1, *supra* note 15.

[262] Further, NYSE Arca represents that it can obtain information about the activities of the Sponsor and its affiliates under the Exchange's listing rules.

[263] The Commission has discussed above in Section III.D other reasons why it believes that the listing and trading of the Shares as proposed is unlikely increase the likelihood of manipulation of the copper market and, correspondingly, of the price of the Shares.

[264] *See* Amendment No. 1, *supra* note 15.

[265] *See supra* notes 238–242, and accompanying text.

[266] *See supra* text accompanying note 41.

[267] *See* Notice, *supra* note 3, 77 FR at 23786.

[268] Additionally, if the First-Out IIV or the Liquidation IIV is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. *See* Amendment No. 1, *supra* note 15.

[269] *See* Notice, *supra* note 3, 77 FR at 23786.

[270] *See supra* text accompanying note 243.

[271] 15 U.S.C. 78f.

[272] This approval order is based on all of the Exchange's representations.

[273] 15 U.S.C. 78f(b)(5).

[274] 15 U.S.C. 78f(b)(8).

[275] 15 U.S.C. 78k–1(a)(1)(C)(iii).

the protection of investors to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.[276]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No.1 to 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–2012–28 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–2012–28. 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 submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 filings also will be available for inspection and copying at the principal offices of the Exchanges. 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–2012–28 and should be submitted on or before January 10, 2013.

V. Accelerated Approval of Proposed Rule Change As Modified by Amendment No. 1

As discussed above, the Exchange submitted Amendment No. 1 to make additional representations regarding trading in the Shares, availability of information, and the Exchange's surveillance program.[277] The Commission believes these additional representations are useful to, among other things, help: (1) Assure adequate liquidity in the Shares; (2) assure adequate availability of information to investors to support the arbitrage mechanism; (3) assure adequate information available to the Exchange to support its monitoring of Exchange trading of the Shares in all trading sessions; and (4) the Exchange deter and detect violations of NYSE Arca rules and applicable federal securities laws. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[278] for approving the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice in the **Federal Register**.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[279] that the proposed rule change (SR–NYSEArca–2012–28), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

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[276] As noted above (see *supra* Section II.B), quotation and last-sale information for the Shares will be available via the Consolidated Tape Association, and the Exchange will make available via the Consolidated Tape trading volume, closing prices, and NAV for the Shares from the previous day. *See supra* text accompanying note 41.

[277] *See supra* note 15.

[278] 15 U.S.C. 78s(b)(2).

[279] 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68438; File No. AN–OCC–2012–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection to Advance Notice Filing To Revise the Method for Determining the Minimum Clearing Fund Size To Include Consideration of the Amount Necessary To Draw on Secured Credit Facilities

December 14, 2012.

I. Introduction

On October 18, 2012, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') an advance notice concerning a proposed rule change AN–OCC–2012–04 pursuant to Section 806(e) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''),[1] entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Title VIII'' or ''Clearing Supervision Act'') and Rule 19b–4 under the Securities Exchange Act of 1934 (''Exchange Act'').[2] The advance notice was published in the **Federal Register** on November 20, 2012.[3] The Commission did not receive comments on the advance notice publication. This publication serves as a notice of no objection to the proposed rule change discussed in the advance notice.

II. Description of Proposed Rule Change

A. Background

On September 23, 2011, the Commission approved a proposed rule change by OCC to establish the size of OCC's clearing fund as the amount that is required, within a confidence level selected by OCC, to sustain the maximum anticipated loss under a defined set of scenarios as determined by OCC, subject to a minimum clearing fund size of $1 billion.[4] OCC implemented this change in May 2012. Until that time, the size of OCC's

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 68225 (November 14, 2012), 77 FR 69668 (November 20, 2012). OCC also filed a proposed rule change under Section 19(b)(1) of the Exchange Act relating to these changes. *See* Securities Exchange Act Release No. 68130 (November 1, 2012), 77 FR 66900 (November 7, 2012) (Proposing Release). The Commission did not receive comments on the proposed rule change.

[4] Securities Exchange Act Release No. 65386 (September 23, 2011), 76 FR 60572 (September 29, 2011) (SR–OCC–2011–10).

clearing fund was calculated each month as a fixed percentage of the average total daily margin requirement for the preceding month, provided that the calculation resulted in a clearing fund of $1 billion or more.[5]

Under the formula that is implemented for determining the size of the clearing fund as a result of the May 2012 change, OCC's Rule 1001 provides that the amount of the fund is equal to the larger of the amount of the charge to the fund that would result from (i) a default by the single ''clearing member group'' [6] whose default would be likely to result in the largest draw against the clearing fund or (ii) an event involving the near-simultaneous default of two randomly-selected ''clearing member groups'' in each case as calculated by OCC with a confidence level selected by OCC.[7] The size of the clearing fund continues to be recalculated monthly, based on a monthly averaging of daily calculations for the previous month, and it is subject to a requirement that its minimum size may not be less than $1 billion.

B. Proposed Change

The proposed rule change will implement a minimum clearing fund size equal to 110% of the amount of committed credit facilities secured by the clearing fund so that the amount of the clearing fund likely will exceed the required collateral value that would be necessary for OCC to be able to draw in full on such credit facilities. OCC's clearing fund is primarily intended to provide a high degree of assurance that market integrity will be maintained in the event that one or more clearing members, settlement banks, or banks that issue letters of credit on behalf of clearing members as a form of margin fails to meet its obligations.[8] This includes the potential use of the clearing fund as a source of liquidity should it ever be the case that OCC is unable to obtain prompt delivery of, or convert promptly to cash, any asset credited to the account of a suspended clearing member.

OCC's committed credit facilities are secured by assets in the clearing fund and certain margin deposits of the suspended clearing member. In light of the uncertainty regarding the amount of margin assets of a suspended clearing member that might be eligible at any given point to support borrowing under the secured credit facilities, OCC has considered the availability of funds based on a consideration of the amount of the clearing fund deposits available as collateral. As an example, for OCC to draw on the full amount of its current credit facilities secured by the clearing fund, the size of the clearing fund likely would need to be approximately $2.2 billion. The $2.2 billion figure reflects a 10% increase above the total size of such credit facilities, which is meant to account for the percentage discount applied to collateral pledged by OCC in determining the amount available for borrowing.

Based on monthly recalculation information, the size of OCC's clearing fund during the period from July 2011 to July 2012 was less than $2.2 billion on eight occasions. Therefore, to reduce the risk that the assets in the clearing fund might at any time be insufficient to enable OCC to meet potential liquidity needs by accessing the full amount of its committed credit facilities that are secured by the clearing fund, OCC is amending the current minimum clearing fund be size requirement of $1 billion by providing instead that the minimum clearing fund size is the greater of either $1 billion or 110% of the amount of such committed credit facilities. OCC is denoting the credit facility component of the minimum clearing fund requirement as a percentage of the total amount of the credit facilities that OCC actually secures with clearing fund assets because OCC negotiates these credit facility agreements, including size and other terms, on an annual basis and the total size is therefore subject to change.

III. Analysis of Advance Notice

Standard of Review

A registered clearing agency that has been designated as a systemically important financial market utility (''FMU'') by the Financial Stability Oversight Council (''FSOC'') must provide advance notice of all proposed changes to its rules, procedures, or operations that could, as defined in the rules of the supervisory agency, materially affect the nature or level of risks presented by the clearing agency.[9] Absent an extension or request for additional information, as discussed in greater detail below, the Commission is required to notify the clearing agency of any objection regarding the proposed change within the 60 day time frame established by Title VIII.[10] A designated clearing agency may not implement a change to which its supervisory agency has objected; [11] however, the clearing agency is explicitly permitted to implement a change if it has not received an objection from its supervisory agency within the same 60 day time period.[12]

Although Title VIII does not specify a standard that the Commission must apply to determine whether to object to an advance notice, the Commission believes that the purpose of Title VIII, as stated under Section 802(b),[13] is relevant to the review of advance notices.

The stated purpose of Title VIII is to mitigate systemic risk in the financial system and promote financial stability, by (among other things) authorizing the Federal Reserve Board to promote uniform risk management standards for systemically important FMUs, and providing an enhanced role for the Federal Reserve Board in the supervising of risk management standards for systemically important FMUs.[14] Therefore, the Commission believes that when reviewing advance

[5] If the calculation did not result in a clearing fund size of $1 billion or more, then the percentage of the average total daily margin requirement for the preceding month that resulted in a fund level of at least $1 billion would be applied. However, in no event was the percentage permitted to exceed 7%. With the rule change approved in September 2011, this 7% limiting factor on the minimum clearing fund size was eliminated.

[6] The term ''clearing member group'' is defined in Article I of OCC's By-Laws to mean a clearing member and any member affiliates of the clearing member.

[7] The confidence levels employed by OCC in calculating the charge likely to result from a default by OCC's largest ''clearing member group'' and the default of two randomly-selected ''clearing member groups'' were approved by the Commission at 99% and 99.9%, respectively. However, the Commission approval order notes that OCC retains discretion to employ different confidence levels in these calculations provided that OCC will not employ confidence levels of less than 99% without first filing a proposed rule change.

[8] Under Article VIII, Section 1 of OCC's By-Laws, the clearing fund may be used to pay losses suffered by OCC: (1) As a result of the failure of a clearing member to perform its obligations with regard to any exchange transaction accepted by OCC; (2) as a result of a clearing member's failure to perform its obligations in respect of an exchange transaction or an exercised/assigned options contract, or any other contract or obligations in respect of which OCC is liable; (3) as a result of the failure of a clearing member to perform its obligations in respect of stock loan or borrow positions; (4) as a result of a liquidation of a suspended clearing member's open positions; (5) in connection with protective transactions of a suspended clearing member; (6) as a result of a failure of any clearing member to make any other required payment or to render any other required performance; or (7) as a result of a failure of any bank or securities or commodities clearing organization to perform its obligations to OCC.

[9] 12 U.S.C. 5465(e). *See also* Process for Submissions for Review of Security-Based Swaps for Mandatory Clearing and Notice Filing Requirements for Clearing Agencies; Technical Amendments to Rule 19b–4 and Form 19b–4 Applicable to All Self-Regulatory Organizations, Securities Exchange Act Release No. 67286 (June 28, 2012), 77 FR 41602 (July 13, 2012) (Adopting Release).

[10] 12 U.S.C. 5465(e)(1)(E).

[11] 12 U.S.C. 5465(e)(1)(F).

[12] 12 U.S.C. 5465(e)(1)(G).

[13] 12 U.S.C. 5461(b).

[14] 12 U.S.C. 5461(b).

notices for FMUs, the consistency of an advance notice with Title VIII may be judged principally by reference to the consistency of the advance notice with applicable rules of the Federal Reserve Board governing payment, clearing, and settlement activity of the designated FMU.[15]

Section 805(a) requires the Federal Reserve Board and authorizes the Commission to prescribe standards for the payment, clearing, and settlement activities of FMUs designated as systemically important, in consultation with the supervisory agencies. Section 805(b) of the Clearing Supervision Act[16] requires that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- Promote safety and soundness;
- Reduce systemic risks; and
- Support the stability of the broader financial system.

The relevant rules of the Federal Reserve Board prescribing risk management standards for designated FMUs by their terms do not apply to designated FMUs that are clearing agencies registered with the Commission.[17] Therefore, the Commission believes that the objectives and principles by which the Federal Reserve Board is required and the Commission is authorized to promulgate such rules, as expressed in Section 805(b) of Title VIII,[18] are the appropriate standards at this time by which to evaluate advance notices.[19] Accordingly, the analysis set forth below is organized by reference to the stated objectives and principles in Section 805(b).

Discussion of Advance Notice

The proposed rule change is designed to allow OCC to take full advantage of its liquidity resources that are secured by the clearing fund by collecting an amount that is at least 10% above the total size of the credit facilities to account for any collateral haircut that may be applied. This should assist OCC in maintaining market integrity in the event that one or more clearing members, settlement banks, or banks that issue letters of credit on behalf of clearing members as a form of margin fails to meet its obligations. By increasing the likelihood that OCC can take full advantage of its liquidity resources that are secured by the clearing fund, the proposed rule change should promote robust risk management and safety and soundness, reduce systemic risks, and support the stability of the broader financial system. For these reasons, the Commission does not object to the advance notice.

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,[20] that, the Commission *does not object* to proposed rule change (File No. AN–OCC–2012–04) and that OCC be and hereby is *authorized* to implement proposed rule change (File No. AN–OCC–2012–04) as of the date of this notice or the date of the ''Order Approving Proposed Rule Change to Revise the Method for Determining the Minimum Clearing Fund Size to Include Consideration of the Amount Necessary to Draw on Secured Credit Facilities'' (File No. SR–OCC–2012–22), whichever is later.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–30645 Filed 12–19–12; 8:45 am]

BILLING CODE 8011–01–P

[15] *See* Financial Market Utilities, 77 FR 45907 (Aug. 2, 2012).

[16] 12 U.S.C. 5464(b).

[17] 12 CFR 234.1(b).

[18] 12 U.S.C. 5464(b).

[19] The risk management standards that have been adopted by the Commission in Rule 17Ad–22 are substantially similar to those of the Federal Reserve Board applicable to designated FMUs other than those designated clearing organizations registered with the CFTC or clearing agencies registered with the Commission. *See* Clearing Agency Standards, Securities Exchange Act Release No. 68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012). To the extent such Commission standards are in effect at the time advance notices are reviewed in the future, the standards would be relevant to the analysis. Moreover, the analysis of clearing agency rule filings under the Exchange Act would incorporate such standards directly.

[20] 12 U.S.C. 5465(e)(1)(I).

SMALL BUSINESS ADMINISTRATION

Hatteras Venture Partners IV SBIC, L.P.; Application No. 99000769; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Hatteras Venture Partners IV SBIC, L.P., 280 South Mangum Street, Suite 350, Durham, NC 27001, an applicant for a Federal License under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Hatteras Venture Partners IV SBIC, L.P. proposes to provide equity financing to Clearside Biomedical, Inc., 1220 Old Alpharetta Road, Suite 300, Alpharetta, GA 30005 (''Clearside''). The financing will be used for working capital and general corporate purposes.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Hatteras Venture Partners IV, LP and Hatteras Venture Partners III, LP, Associates of Hatteras Venture Partners IV SBIC, L.P., in the aggregate own more than ten percent of Clearside. Therefore, this transaction is considered a financing of an Associate requiring an exemption.

Notice is hereby given that any interested person may submit written comments on the transaction within fifteen days of the date of this publication to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: December 5, 2012.

Sean Greene,

Associate Administrator for Investment.

[FR Doc. 2012–30656 Filed 12–19–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 8129]

Culturally Significant Objects Imported for Exhibition Determinations: ''Projects 99: Meiro Koizumi''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Projects 99: Meiro Koizumi,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art in New York, New York from on or about January 9, 2013, until on or about May 6, 2013, 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 Ona M. Hahs, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6473). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: December 12, 2012.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012–30683 Filed 12–19–12; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0209]

Agency Information Collection Activities; Reinstatement With Change of a Currently-Approved Information Collection Request: Information Technology Services Survey Portal Customer Satisfaction Assessment (Formerly COMPASS Portal Consumer Satisfaction Assessment)

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval and invite public comment. The collection involves the assessment of FMCSA's strategic decision to integrate its Information Technology (IT) with its business processes using portal technology to consolidate its systems and databases through the FMCSA Information Technology Services Survey modernization initiative. The information to be collected will be used to assess the satisfaction of Federal, State, and industry customers with the FMCSA Information Technology Services Survey Portal. The ''COMPASS Portal Customer Satisfaction Assessment,'' ICR is being changed to the ''Information Technology Services Survey Portal Customer Satisfaction Assessment,'' to reflect the need for a broader term than ''COMPASS'' for the portal.

DATES: Please send your comments by January 22, 2013. OMB must receive your comments by this date in order to act on the ICR.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA–2012–0209. 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/Federal Motor Carrier Safety Administration, 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.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Sinrud, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–3843; email: *katherine.sinrud@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Technology Services Survey Portal Customer Satisfaction Assessment.

OMB Control Number: 2126–0042.

Type of Request: Revision of a currently-approved information collection request.

Respondents: Federal, State, and industry customers/users.

Estimated Number of Respondents: 3,392.

Estimated Time per Response: Five (5) minutes.

Expiration Date: 11/30/2012.

Frequency of Response: 4 times per year.

Estimated Total Annual Burden: 283 hours [91 hours (273 industry user respondents × 5 minutes/60 minutes to complete survey × 4 times per year) + 192 hours (575 Federal and State government respondents × 5 minutes/60 minutes to complete survey × 4 times per year) = 283].

Background

Title II, section 207 of the E-Government Act of 2002 requires Government agencies to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public. To meet this goal, FMCSA plans to provide a survey on the FMCSA Portal, allowing users to assess its functionality. This functionality includes the capability for Federal, State, and industry users to access the Agency's existing safety IT systems with a single set of credentials and have easy access to safety data about the companies that do business with FMCSA. The IT program will also focus on improving the accuracy of data to help ensure information, such as carrier name and address, is valid and reliable.

FMCSA's legacy information systems are currently operational. However, having this many stand-alone systems has led to data quality concerns, a need for excessive identifications (IDs) and passwords, and significant operational and maintenance costs. Integrating our information technologies with our business processes will in turn, improve our operations considerably, particularly in terms of data quality, ease of use, and reduction of maintenance costs.

In early 2007, FMCSA's IT program launched a series of releases of a new FMCSA Portal to its Federal, State and Industry customers. Over the coming years, more than 15 releases are planned. These releases will use portal technology to fuse and provide numerous services and functions via a single user interface and provide tailored services that seek to meet the needs of specific constituencies within our customer universe.

The FMCSA Information Technology Services Survey Portal will entail considerable expenditure of Federal Government dollars over the years and will fundamentally impact the nature of the relationship between the Agency and its Federal, State, and industry customers. Consequently, the Agency intends to conduct regular and ongoing assessments of customer satisfaction with the Information Technology Services Survey.

The primary purposes of this assessment are to:

- Determine the extent to which the FMCSA Portal functionality continues to meet the needs of Agency customers;
- Identify and prioritize additional modifications; and
- Determine the extent that the FMCSA Portal has impacted FMCSA's relationships with its main customer groups.

The assessment will address:

- Overall customer satisfaction;
- Customer satisfaction against specific items;
- Performance of systems integrator against agreed objectives;
- Desired adjustments and modifications to systems;

• Demonstrated value of investment to FMCSA and DOT;

• Items about the FMCSA Portal that customers like best;

• Customer ideas for making the FMCSA Portal better.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued on: December 10, 2012.

Kelly Leone,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2012–30638 Filed 12–19–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–27748]

Entry-Level Driver Training; Public Listening Session

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

ACTION: Notice of public listening session.

SUMMARY: FMCSA announces that it will hold a public listening session to solicit ideas and information on the issue of entry-level training for drivers of commercial motor vehicles (CMVs). Specifically, the Agency solicits input on factors, issues, and data it should consider in anticipation of a rulemaking to implement the entry-level driver training (ELDT) provisions in the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141 (MAP–21). Wherever possible, the Agency requests that participants indicate whether the ideas identified are supported by research and data analyses, including cost/benefit considerations. The session, which will be held at the American Bus Association (ABA) Marketplace meeting in Charlotte, NC, will allow interested persons to present comments and relevant new research on ELDT. All comments will be transcribed and placed in the docket referenced above for FMCSA's consideration. The entire day's proceedings will be webcast.

DATES: The listening session will be held on Monday, January 7, 2013, from 9:00–11:00 a.m. and from 2:00–4:00 p.m., ET. If all interested in-person participants have had an opportunity to comment, the session may conclude earlier.

ADDRESSES: The listening session will be held at the Charlotte Convention Center, 501 S. College Street, Charlotte, NC 28202, (704) 339–6000, in Room 207 A and B. In addition to attending the session in person, the Agency offers several ways to provide comments, as enumerated below.

Internet Address for Live Webcast. FMCSA will post specific information on how to participate via the Internet on the FMCSA Web site at *www.fmcsa.dot.gov/rules-regulations/topics/hos/HOS-Listening-Sessions.aspx*.

You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2007–27748 using any of the following methods:

• *Federal eRulemaking Portal:* Go to *www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received, without change, to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you would like acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf*.

FOR FURTHER INFORMATION CONTACT: For information concerning the listening session or the live webcast, please contact Ms. Shannon L. Watson, Senior Advisor for Policy, FMCSA, (202) 385–2395.

If you need sign language assistance to participate in this HOS listening session, contact Ms. Watson by Wednesday, January 2, 2013, to allow us to arrange for such services. FMCSA cannot guarantee that interpreter services requested on short notice will be provided.

SUPPLEMENTARY INFORMATION:

I. Background

In the early 1980s, the Federal Highway Administration (FHWA) Office of Motor Carriers, predecessor to the FMCSA, determined that there was a need for technical guidance in the area of truck driver training. Research showed that few driver training institutions offered a structured curriculum or a standardized training program for any type of CMV driver. A 1995 study entitled ''Assessing the Adequacy of Commercial Motor Vehicle Driver Training'' (the Adequacy Report) concluded, among other things, that effective ELDT needs to include behind-the-wheel (BTW) instruction on how to operate a heavy vehicle.

In 2004, FMCSA implemented a training rule that focused on areas unrelated to the hands-on operation of a CMV, relying instead on the commercial driver's license (CDL) knowledge and skills tests to encourage training in the operation of CMVs. These current training regulations cover four areas: (1) Driver qualifications; (2) hours of service limitations; (3) wellness; and (4) whistleblower protection. In 2005, the U.S. Court of Appeals for the District of Columbia Circuit held that the Agency was arbitrary and capricious in promulgating the 2004 rule because it ignored the BTW training component aspect of the 1995 Adequacy Report.

In 2007, FMCSA published a Notice of Proposed Rulemaking (NPRM) seeking public comment on enhanced ELDT requirements (72 FR 73226). In

the NPRM, FMCSA proposed revisions to the standards for mandatory training requirements for entry-level operators of CMVs in interstate operations who are required to possess a CDL. The proposal would apply to drivers who apply for a CDL beginning 3 years after a final rule goes into effect. Following that date, persons applying for new or upgraded CDLs would be required to successfully complete specified minimum classroom and BTW training from an accredited institution or program. The FMCSA proposed that the State driver-licensing agency would issue a CDL only if the applicant presented a valid driver training certificate obtained from an accredited institution or program. The Agency indicated the rulemaking would strengthen the Agency's ELDT requirements in response to the 2005 DC Circuit Court decision.

Since the publication of the NPRM, the Agency has completed its review of the public responses to the proposal and initiated new research concerning driver training. The Agency has also begun exploring new alternatives for mining Motor Carrier Safety Management Information System (MCMIS) data and Commercial Driver's License Information System (CDLIS) data to attempt to assess the safety performance of new CDL holders compared to that of more experienced CDL holders. In addition, in response to the public comments, the Agency has reexamined the regulatory options presented in the 2007 NPRM, as well as its estimates of the driver population who would be subject to the requirements. As a result, the Agency has concluded that additional stakeholder input will be useful in determining the most appropriate path forward for an ELDT rulemaking.

Section 32304 of MAP–21 requires that FMCSA issue final ELDT regulations by October 1, 2013, establishing minimum ELDT requirements for operators of CMVs. The listening session at the ABA's Marketplace will provide an opportunity for motorcoach operators and other interested parties to share with FMCSA their ideas, especially as they relate to the training needs for individuals seeking a passenger endorsement.

II. Meeting Participation and Information FMCSA Seeks From the Public

The listening session is open to the public. Speakers' remarks will be limited to 5 minutes each. No pre-registration is required. The public may submit material to the FMCSA staff at the session for inclusion in the public docket, FMCSA–2007–27748.

III. Alternative Media Broadcasts During and Immediately After the Listening Session on January 7, 2013

FMCSA will webcast the listening session on the Internet. The telephone access number and other information on how to participate via the Internet will be posted on the FMCSA Web site at *www.fmcsa.dot.gov/rules-regulations/topics/hos/HOS-Listening-Sessions.aspx.*

FMCSA will docket the transcripts of the webcast and a separate transcription of the listening session that will be prepared by an official court reporter.

Issued on: December 12, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–30641 Filed 12–19–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2012–0283]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 16 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective December 20, 2012. The exemptions expire on December 20, 2014.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

Background

On October 18, 2012, FMCSA published a notice of receipt of Federal diabetes exemption applications from 16 individuals and requested comments from the public (77 FR 64181). The public comment period closed on November 19, 2012, and one comment was received.

FMCSA has evaluated the eligibility of the 16 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction

with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 16 applicants have had ITDM over a range of 1 to 13 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the October 18, 2012, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA received one comment in this proceeding. Mr. Thomas A. Goodman stated he had met with a dietitian and surgeon to start the process for bariatric surgery, joined the ADA, and signed up for a diabetes program provided by his health insurer.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the 16 exemption applications, FMCSA exempts James D. Astle (OH), Gregory L. Faison (MD), Theodore A. Garsombke (WI), Thomas A. Goodman (PA), Kenneth M. Hanson (IA), Ronald D. Johnston (VA), Carl E. McCartney (PA), Jerry W. McFarland (OR), Fred Nelson, Jr. (PA), Ricky L. Osterback (WA), Francis J. Pollock (MA), Dwaine H. Sandlin (MI), Dan R. Stark (MN), Chad E. Vanscoy (OH), Gregory C. Watson (NC), and Bailey G. Zickefoose, Jr. (WV) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the 1/exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 12, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–30640 Filed 12–19–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2012–0282]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 14 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective December 20, 2012. The exemptions expire on December 20, 2014.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's

Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

Background

On October 16, 2012, FMCSA published a notice of receipt of Federal diabetes exemption applications from 14 individuals and requested comments from the public (77 FR 63411). The public comment period closed on November 15, 2012, and 2 comments were received.

FMCSA has evaluated the eligibility of the 14 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 14 applicants have had ITDM over a range of 1 to 43 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the October 16, 2012, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA received two comments in this proceeding. Mr. Robert L. Taylor stated he is in favor of all exemptions listed in the notice.

Ms. Denise Kay Cameron stated she is in favor of all exemptions listed in the notice.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the 14 exemption applications, FMCSA exempts Darrell G. Brave (WA), Joseph A. Capille (AL), Robert E. Carroll (FL), Ronald J. Coleman (NJ), Thomas L. Gilmore (IA), David J. Heppelmann (MN), Dennis R. Johnson (TN), Steve M. Knezevich (MI), Phillip J. Kunkel (IN), Joseph M. Polkowski, Sr. (PA), John F. Robinson (SC), Cody R. Sheehan (MA), Michael D. Suchecki (IL), and Mark A. Welch, Jr. (PA) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the 1/exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 12, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–30643 Filed 12–19–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0280]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 14 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective December 20, 2012. The exemptions expire on December 20, 2014.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue., SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

Background

On October 23, 2012, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (77 FR 64839). That notice listed 14 applicants' case histories. The 14 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 14 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 14 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, a macular hole, a retinal fold, a macular cyst, aphakia, loss of vision, iris damage, and complete loss of vision. In most cases, their eye conditions were not recently developed. Ten of the applicants were either born with their vision impairments or have had them since childhood.

The four individuals that sustained their vision conditions as adults have had it for a period of 3 to 29 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 14 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 34 years. In the past 3 years, none of the drivers were involved in crashes but one was convicted of two moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the October 23, 2012 notice (77 FR 64839).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to

several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 14 applicants, none of the drivers were involved in crashes but one was convicted of two moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 14 applicants listed in the notice of October 23, 2012 (77 FR 64839).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 14 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

Based upon its evaluation of the 14 exemption applications, FMCSA exempts Lazaro R. Apiau (FL), Ronald J. Bergman (OH), Noah E. Bowen (OH), William J. Hall (WA), Mark L. Julin (MN), Joshua D. Kelly (NC), Shelby M. Kuehler (KS), Lawrence D. Malecha (MN), Glenn C. Medeiros (NC), Jay C. Naccarato (WA), Paul B. Overman (WA), Reginald I. Powell (IL), Jerry M. Puckett (OH), and Emin Toric (GA) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 12, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–30639 Filed 12–19–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0327; FMCSA–2004–19477]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 11 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 14, 2013. Comments must be received on or before January 22, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [FMCSA–2010–0327; FMCSA–2004–19477], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 11 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 11 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Charles L. Alsager (IA)
Ross E. Burroughs (NJ)
Lester W. Carter (CA)
Christopher L. Depuy (OH)
John B. Etheridge (GA)
Larry J. Folkerts (IA)
Paul W. Hunter (AL)
Ray P. Lenz (IA)
Francis M. McMullin (PA)
Norman Mullins (OH)
David J. Triplett (KY)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 11 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (69 FR 64806; 70 FR 2705; 72 FR 1056; 73 FR 76439; 75 FR 65057; 75 FR 79081; 75 FR 79084). Each of these 11 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a

particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by January 22, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 11 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: December 12, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–30637 Filed 12–19–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. Marad–2012–0107]

Request for Comments on a New Collection

AGENCY: Maritime Administration (MARAD), DOT.

ACTION: Notice and request for comments.

SUMMARY: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, the Maritime Administration (MARAD) seeks to obtain OMB approval of a generic clearance to collect feedback on our service delivery. By feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

DATES: Written comments should be submitted on or before February 19, 2013.

FOR FURTHER INFORMATION CONTACT: Barbara Jackson, Maritime Administration, 1200 New Jersey Avenue SE., W26–448, Washington, DC 20590. Telephone: 202–366–0615; or Email: *barbara.jackson@dot.gov*. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Clearance for the collection of Qualitative Feedback on Maritime Administration Service Delivery.

Type of Request: New Collection of Information.

OMB Control Number: 2133–NEW.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Abstract: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are noncontroversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency (if released, the agency must indicate the qualitative nature of the information);
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed

sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results. As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Description of Respondents: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of Activities: 15.

Average Number of Respondents per Activities: 713.

Annual Responses: 10,700.

Frequency of Response: Once per Request.

Average Minutes per Response: 20.

Annual Burden: 3,032.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://regulation.gov*. Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. *EDT (or EST)*, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://regulations.gov*.

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) or you may visit *http://regulations.gov*.

Authority: 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: December 6, 2012.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2012–30354 Filed 12–19–12; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974: Computer Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Computer Matching Program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program. This will match personnel records of the Department of Defense (DoD) with VA records of benefit recipients under the Montgomery GI Bill and Post-9/11 GI Bill.

The goal of these matches is to identify the eligibility status of veterans, servicemembers, and reservists who have applied for or who are receiving education benefit payments under the Montgomery GI Bill and Post-9/11 GI Bill. The purpose of the match is to enable VA to verify that individuals meet the conditions of military service and eligibility criteria for payment of benefits determined by VA under the Montgomery GI Bill and Post-9/11 GI Bill.

The authority to conduct this match is found in 38 U.S.C. 3684A(a)(1). The records covered include eligibility records extracted from DoD personnel files and benefit records that VA establishes for all individuals who have applied for and/or are receiving, or have received education benefit payments under the Montgomery GI Bill and Post-9/11 GI Bill. These benefit records are contained in a VA system of records identified as 58VA21/22/28 entitled: Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA, first published in the **Federal Register** at 74 FR 9294 (March 3, 1976), and last amended at 74 FR 29275 (June 19, 2009), with other amendments as cited therein.

DATES: *Effective Date:* This match will commence on or about January 22, 2013 or 40 days after the Office of Management and Budget (OMB) review period, whichever is later, and continue in effect for 18 months. At the expiration of 18 months after the commencing date, the Departments may renew the agreement for another 12 months.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or fax to (202) 273–9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eric Patterson, Strategy and Legislative Development Team Leader, Education Service (225B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–9830.

SUPPLEMENTARY INFORMATION: This information is required by paragraph 6c of the ''Guidelines on the Conduct of Matching Programs'' issued by OMB (54 FR 25818), as amended by OMB Circular A–130, 65 FR 77677 (2000). A copy of the notice has been provided to both Houses of Congress and OMB. The matching program is subject to their review.

Approved: December 3, 2012.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

[FR Doc. 2012–30572 Filed 12–19–12; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Reasonable Charges for Medical Care or Services; V3.12, 2013 Calendar Year Update and National Average Administrative Prescription Drug Charge Update

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: This Department of Veterans Affairs (VA) notice informs the public of the updated data for calculating the ''Reasonable Charges'' collected or recovered by VA for medical care or services and of the updated ''National Average Administrative Costs'' for purposes of calculating VA's charges for prescription drugs that were not administered during treatment but

provided or furnished by VA to a veteran for: a nonservice-connected disability for which the veteran is entitled to care (or the payment of expenses for care) under a health plan contract; a nonservice-connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or a nonservice-connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations insurance. The charge tables and supplemental tables that are applicable to this notice can be viewed on the Veterans Health Administration Chief Business Office's Internet Web site. These changes are effective January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Romona Greene, Chief Business Office (10NB6), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–1595. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Section 17.101 of title 38, United States Code of Federal Regulations (CFR), sets forth VA's medical regulations concerning ''Reasonable Charges'' for medical care or services provided or furnished by VA to a veteran for: (1) A nonservice-connected disability for which the veteran is entitled to care (or the payment of expenses for care) under a health plan contract; (2) a nonservice-connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or (3) a nonservice-connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations insurance.

The regulation includes methodologies for establishing billed amounts for the following types of charges: Acute inpatient facility charges; skilled nursing facility and sub-acute inpatient facility charges; partial hospitalization facility charges; outpatient facility charges; physician and other professional charges, including professional charges for anesthesia services and dental services; pathology and laboratory charges; observation care facility charges; ambulance and other emergency transportation charges; and charges for durable medical equipment, drugs, injectables, and other medical services, items, and supplies identified by Healthcare Common Procedure Coding System (HCPCS) Level II codes. In cases where charges for medical care or services provided or furnished at VA expense (by either VA or non-VA providers) have not been established under other provisions or regulations, the method for determining VA's charges is set forth at 38 CFR 17.101(a)(8).

The regulation provides that the actual charge amounts at individual VA facilities based on these methodologies and the data sources used for calculating those actual charge amounts will either be published as a notice in the **Federal Register** or will be posted on the Internet site of the Veterans Health Administration Chief Business Office. Certain charges are hereby updated as described below, effective January 1, 2013.

Based on the methodologies set forth in 38 CFR 17.101, this document provides an update to charges for 2013 HCPCS Level II and Current Procedural Technology codes. Charges are also being updated based on more recent versions of data sources for the following charge types: Partial hospitalization facility charges; outpatient facility charges; physician and other professional charges, including professional charges for anesthesia services and dental services; pathology and laboratory charges; observation care facility charges; ambulance and other emergency transportation charges; and charges for durable medical equipment, drugs, injectables, and other medical services, items, and supplies identified by HCPCS Level II codes. These updated charges are effective January 1, 2013. As of the date of this notice, the actual charge amounts at individual VA facilities based on the methodologies in the regulation will be posted at *http://www1.va.gov/CBO/apps/rates/index.asp,* under the heading ''Reasonable Charges Data Tables'' and identified as ''V3.12 Data Tables (Outpatient and Professional).''

The list of data sources used for calculating the actual charge amounts listed above also will be posted at *http://www1.va.gov/CBO/apps/rate/index.asp* under the heading ''Reasonable Charges Data Sources'' and identified as ''Reasonable Charges V3.12 Data Sources (Outpatient and Professional)(PDF).''

Acute inpatient facility charges and skilled nursing facility/sub-acute inpatient facility charges remain the same as set forth in the notice published in the **Federal Register** on September 7, 2012 (77 FR 55269). The effective date of those charges was October 1, 2012. The data tables containing those actual charges are posted at *http://www1.va.gov/CBO/apps/rates/index.asp,* under the heading ''Reasonable Charges Data Tables'' and identified as ''V3.11 Data Tables (Inpatient).'' The data sources used to calculate these charges are posted at *http://www1.va.gov/CBO/apps/rate/index.asp* under the heading ''Reasonable Charges Data Sources'' and identified as ''Reasonable Charges V3.11 Data Sources (Inpatient) (PDF).'' VA's current inpatient charge structure utilizes the methodology set forth in 38 CFR 17.101 and VA does not itemize inpatient bills.

The list of VA medical facility locations has also been updated. We set forth the list of VA medical facility locations, which includes the first three-digits of their zip codes and provider based/non-provider based designations. The updated VA medical facility locations will be posted on the Internet site of the Veterans Health Administration Chief Business Office, currently at *http://www1.va.gov/CBO/apps/rate/index.asp* under the heading ''VA Medical Facility Locations,'' and identified as ''VA Medical Facility Locations V3.12 (Jan13).''

As provided in 38 CFR 17.101(m), when VA provides or furnishes prescription drugs not administered during treatment, ''charges billed separately for such prescription drugs will consist of the amount that equals the total of the actual cost to VA for the drugs and the national average of VA administrative costs associated with dispensing the drugs for each prescription.''

Section 17.101(m) includes the methodology for calculating the national average administrative cost for prescription drug charges not administered during treatment. The administrative cost is determined annually using VA's managerial cost accounting system. Under this accounting system, the national average administrative cost is determined by adding the total VA national drug general overhead costs (such as costs of buildings and maintenance, utilities, billing, and collections) to the total VA national drug dispensing costs (such as costs of the labor of the pharmacy department, packaging, and mailing) with the sum divided by the actual number of VA prescriptions filled nationally. The labor cost also includes cost for the professional activity of reviewing and dispensing a prescription.

Based on the accounting system, VA will determine the amount of the

national average administrative cost annually for the prior fiscal year (October through September) and then apply the charge at the start of the next calendar year. The national average administrative cost for the calendar year 2013 is $13.18. This change is effective on January 1, 2013, and will be posted at *http://www1.va.gov/CBO/payerinfo.asp* and identified as ''CY 2013 Average Administrative Cost For Prescriptions.''

Consistent with the regulations, the national average administrative cost, the updated data tables, and the supplementary tables containing the changes described in this notice will be posted online as indicated in this notice. This notice will be posted at *http://www1.va.gov/CBO/apps/rates/index.asp* under the heading ''**Federal Register**s, Rules, and Notices'' and identified as, ''V3.12 **Federal Register** Notice 01/01/13 (Outpatient and Professional), and National Administrative Cost (PDF).'' The national average administrative cost, updated data tables, and the supplementary tables containing the changes described will be effective until changed by a subsequent **Federal Register** notice.

Approved: December 14, 2012.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

[FR Doc. 2012–30700 Filed 12–19–12; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 77 Thursday,
No. 245 December 20, 2012

Part II

The President

Proclamation 8918—Wright Brothers Day, 2012

Federal Register
Vol. 77, No. 245
Thursday, December 20, 2012

Presidential Documents

Title 3—

The President

Proclamation 8918 of December 17, 2012

Wright Brothers Day, 2012

By the President of the United States of America

A Proclamation

After years of research and experimentation, 12 seconds of powered flight over the hills of Kitty Hawk, North Carolina, vindicated the passion and resolve with which Wilbur and Orville Wright pursued their lifelong dream. Like so many Americans before and after them, these two men achieved the unthinkable, and their achievements changed our way of life. On Wright Brothers Day, we reflect on their astonishing feat and celebrate the ambition it still inspires more than a century later.

Wilbur and Orville Wright were the kind of entrepreneurs Americans everywhere root for. Their inspiration sparked from their mother, Susan—a gifted mathematician in her own right who challenged her children to think big and dream bold. The brothers overcame years of personal hardship to open their own bicycle shop in Dayton, Ohio, quickly improving on the designs of the bikes they sold and eventually expanding to manufacture their own models. As they mastered their craft, they turned their attention skyward. Similar stories of resilient, canny entrepreneurship have unfolded throughout our Nation's history—from the founding of our airlines and auto industry to the growth of our research institutions and small businesses. While each journey has been unique, all have advanced that same brand of rugged determination to stay ahead of the curve and keep America moving forward.

With their game-changing feat, the Wright brothers earned their place in history as innovators who helped trigger America's rise as an economic superpower, and whose example inspired the kind of businesses and industries that built and grew our middle class. As we mark Wright Brothers Day, let us carry their legacy forward by taking on new challenges with tenacity and meeting our hardships with courage, confident that our shared future is bright and our best days are still ahead.

The Congress, by a joint resolution approved December 17, 1963, as amended (77 Stat. 402; 36 U.S.C. 143), has designated December 17 of each year as ''Wright Brothers Day'' and has authorized and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim December 17, 2012, as Wright Brothers Day.

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

[FR Doc. 2012–30894
Filed 12–19–12; 11:15 am]
Billing code 3295–F3

Reader Aids

Federal Register

Vol. 77, No. 245

Thursday, December 20, 2012

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

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Patent Law Treaties Implementation Act of 2012 (Dec. 18, 2012; 126 Stat. 1527)

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