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# Presidential Documents

**Title 3—**

**The President**

**Proclamation 8948 of March 29, 2013**

## National Cancer Control Month, 2013

**By the President of the United States of America**

**A Proclamation**

For more than a decade, Americans have watched the overall cancer death rate drop lower and lower with each passing year. As a Nation, we have measured that progress not just in the lives we have saved, but also in the moments we have shared—patients lifted up by the promise of remission, parents blessed with the chance to watch their children grow up, young people confident that a diagnosis cannot put a limit on their dreams. But even with the gains we have made, we know there is more work to do when more than half a million Americans lose their lives to cancer every year. This month, we rededicate ourselves to securing better outcomes, reducing new cases, and advancing cancer research.

To beat this disease, we must continue our efforts to prevent it. Each of us can reduce our risk of developing cancer by maintaining a healthy weight, exercising regularly, limiting alcohol intake and sun exposure, and living tobacco-free. For help quitting smoking, visit www.BeTobaccoFree.gov. Additional resources on what cancer is and how to prevent it are available at www.Cancer.gov.

Detecting cancer early gives patients the best chance for successful treatment. Thanks to the Affordable Care Act, insurers are required to cover recommended cancer screenings and other preventive services at no out-of-pocket cost to the patient—a provision that has already helped nearly 71 million people. To build on those gains and stop cancer before it takes hold, I encourage all Americans to see their health care providers for regular screenings and check-ups.

Expanding on today's progress also means investing in tomorrow's breakthroughs. My Administration is committed to supporting the kind of medical research that has unlocked decades of new therapies and promising interventions. Beginning in 2014, the Affordable Care Act will also give cancer patients better access to those treatments by preventing insurance companies from denying coverage because of a pre-existing condition or putting annual dollar limits on most benefits.

Together, our Nation is moving forward in the fight against cancer. As we recommit to improving prevention, detection, and treatment, let us honor the memory of the courageous men and women we have lost to the disease, and let us stand with all those facing it today.

The Congress of the United States, by joint resolution approved March 28, 1938 (52 Stat. 148; 36 U.S.C. 103), as amended, has requested the President to issue an annual proclamation declaring April as ''Cancer Control Month.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim April 2013 as National Cancer Control Month. I encourage citizens, government agencies, private businesses, nonprofit organizations, and other interested groups to join in activities that will increase awareness of what Americans can do to prevent and control cancer.

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

[FR Doc. 2013–07919
Filed 4–3–13; 8:45 am]
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# Presidential Documents

**Proclamation 8949 of March 29, 2013**

## National Child Abuse Prevention Month, 2013

**By the President of the United States of America**

**A Proclamation**

America is a country where all of us should be able to pursue our own measure of happiness and live free from fear. But for the millions of children who have experienced abuse or neglect, it is a promise that goes tragically unfulfilled. National Child Abuse Prevention Month is a time to make their struggle our own and reaffirm a simple truth: that no matter the challenges we face, caring for our children must always be our first task.

Realizing that truth in our society means ensuring children know they are never alone—that they always have a place to go and there are always people on their side. Parents and caregivers play an essential part in giving their children that stability. But we also know that keeping our children safe is something we can only do together, with the help of friends and neighbors and the broader community. All of us bear a responsibility to look after them, whether by lifting children toward their full potential or lending a hand to a family in need.

Our Government shares in that obligation, which is why my Administration has made addressing child abuse a priority. Since I took office, we have advocated for responsible parenting and invested in programs that can give our sons and daughters a strong start in life. I was also proud to sign measures into law that equip State and local governments with the tools to take on abuse, like the CAPTA Reauthorization Act and the Violence Against Women Reauthorization Act.

Together, we are making important progress in stopping child abuse and neglect. But we cannot let up—not when children are still growing up looking for a lifeline, and not when more than half a million young people are robbed of their basic right to safety every year. So this month, let us stand up for them and make their voices heard. To learn more about ending child abuse and how to get involved, visit www.ChildWelfare.gov/Preventing.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 2013 as National Child Abuse Prevention Month. I call upon all Americans to observe this month with programs and activities that help prevent child abuse and provide for children's physical, emotional, and developmental needs.

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

[FR Doc. 2013–07920
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# Presidential Documents

**Proclamation 8950 of March 29, 2013**

## National Donate Life Month, 2013

**By the President of the United States of America**

**A Proclamation**

Today, more than 115,000 men, women, and children are on the waiting list for an organ transplant. To help them get the care they need, millions of Americans choose to be organ and tissue donors—a decision that reflects not only profound generosity, but also our commitment to one another. During National Donate Life Month, we renew the call for organ and tissue donation.

Most people can be donors, and the need is great. I encourage Americans of every background to learn the facts about organ and tissue donation, consider signing up for their State's registry, and talk to family and friends about their decision. Information and resources about how to get involved are available at www.OrganDonor.gov.

Together, we can respond to the donor shortage that keeps thousands of patients from getting life-saving care. Let us mark this month by rededicating ourselves to that task, standing with donors and their families, and igniting hope for those in need.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 2013 as National Donate Life Month. I call upon health care professionals, volunteers, educators, government agencies, faith-based and community groups, and private organizations to join forces to boost the number of organ and tissue donors throughout our Nation.

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

[FR Doc. 2013–07921
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# Presidential Documents

**Proclamation 8951 of March 29, 2013**

## National Financial Capability Month, 2013

**By the President of the United States of America**

**A Proclamation**

All Americans deserve the chance to turn their hard work into a decent living for their families and a bright future for their children. Seizing that opportunity takes more than drive and initiative—it also requires smart financial planning. During National Financial Capability Month, we recommit to empowering individuals and families with the knowledge and tools they need to get ahead in today's economy.

My Administration is dedicated to helping people make sound decisions in the marketplace. Last year, we partnered with businesses and community leaders to roll out new public and private commitments to increasing financial literacy. We released a new financial capability toolkit to help schools and employers as they launch their own initiatives. And with our College Scorecard and Financial Aid Shopping Sheet, we are working to give families clear, transparent information on college costs so they can make good choices when they invest in higher education. Together, we can prepare young people to tackle financial challenges—from learning how to budget responsibly to saving for college, starting a business, or opening a retirement account.

Financial capability also means helping people avoid scams and demand fair treatment when they take out a mortgage, use a credit card, or apply for a student loan. My Administration continues to encourage responsibility at all levels of our financial system by cracking down on deceptive practices and ensuring that consumers are informed of their rights.

We also know that too many families are living paycheck-to-paycheck, unable to take advantage of tools that would help them plan for a middle class life. That is why we must build ladders of opportunity for everyone willing to climb them—from a fair minimum wage that lifts working Americans out of poverty to high-quality preschool and early education that gets every child on the right track early. These reforms would encourage the kind of broad-based economic growth that gives everyone a better chance to secure their financial future.

Our history shows that there is no economic engine more powerful than a thriving middle class. Reigniting that engine means giving ordinary citizens the tools to find prosperity, including strong financial capability. To learn more about managing money and navigating the 21st-century marketplace, visit www.MyMoney.gov and www.ConsumerFinance.gov, or call 1–888–MyMoney.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 2013 as National Financial Capability Month. I call upon all Americans to observe this month with programs and activities to improve their understanding of financial principles and practices.

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

[FR Doc. 2013–07922
Filed 4–3–13; 8:45 am]
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# Presidential Documents

**Proclamation 8952 of March 29, 2013**

## National Sexual Assault Awareness and Prevention Month, 2013

**By the President of the United States of America**

**A Proclamation**

In the last 20 years, our Nation has made meaningful progress toward addressing sexual assault. Where victims were once left without recourse, laws have opened a path to safety and justice; where a culture of fear once kept violence hidden, survivors are more empowered to speak out and get help. But even today, too many women, men, and children suffer alone or in silence, burdened by shame or unsure anyone will listen. This month, we recommit to changing that tragic reality by stopping sexual assault before it starts and ensuring victims get the support they need.

Sexual violence is an affront to human dignity and a crime no matter where it occurs. While rape and sexual assault affect all communities, those at the greatest risk are children, teens, and young women. Nearly one in five women will be a victim of sexual assault during college. For some groups, the rates of violence are even higher—Native American women are more than twice as likely to experience sexual assault as the general population. Moreover, we know rape and sexual assault are consistently underreported, and that the physical and emotional trauma they leave behind can last for years.

With Vice President Joe Biden's leadership, we have made preventing sexual violence and supporting survivors a top priority. Earlier this month, I was proud to sign the Violence Against Women Reauthorization Act, which renews and strengthens the law that first made it possible for our country to address sexual assault in a comprehensive way. The Act preserves critical services like rape crisis centers, upholds protections for immigrant victims, gives State and tribal law enforcement better tools to investigate cases of rape, and breaks down barriers that keep lesbian, gay, bisexual, and transgender victims from getting help. It also expands funding for sexual assault nurse examiner programs and sexual assault response teams, helping States deliver justice for survivors and hold offenders accountable.

Just as we keep fighting sexual assault in our neighborhoods, we must also recommit to ending it in our military—because no one serving our country should be at risk of assault by a fellow service member. Where this crime does take place, it cannot be tolerated; victims must have access to support, and offenders must face the consequences of their actions. Members of our Armed Forces and their families can learn more about the resources available to them at 1–877–995–5247 and SafeHelpline.org.

All Americans can play a role in changing the culture that enables sexual violence. Each of us can take action by lifting up survivors we know and breaking the silence surrounding rape and sexual assault. To get involved, visit www.WhiteHouse.gov/1is2many.

Together, our Nation is moving forward in the fight against sexual assault. This month, let us keep working to prevent violence in every corner of America, and let us rededicate ourselves to giving survivors the bright future they deserve.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 2013 as National Sexual Assault Awareness and Prevention Month. I urge all Americans to support survivors of sexual assault and work together to prevent these crimes in their communities.

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

[FR Doc. 2013–07924
Filed 4–3–13; 8:45 am]
Billing code 3295–F3

# Presidential Documents

**Proclamation 8953 of March 29, 2013**

## Cesar Chavez Day, 2013

**By the President of the United States of America**

**A Proclamation**

Every year, Americans all across our country pause on March 31 to remember a man who made justice his life's calling. Growing up the son of migrant farm workers who lost everything in the Great Depression, Cesar Chavez knew hard work and hardship from an early age. He labored long hours for little pay, taking odd jobs to help his family get by and forgoing a formal education to follow the crop cycles. But where others might have given up or given in, Cesar Chavez never lost hope in the power of opportunity. He lived each day by a belief as old as America itself—the idea that with courage and determination, any of us can reach beyond our circumstances and leave our children something better.

More than anything, we remember Cesar Chavez for lending voice to the voiceless. When no one seemed to care about the invisible farm workers who picked our Nation's food, beset by poverty and cheated by growers, a courageous man dedicated to dignity stood up and spoke out. Alongside Dolores Huerta and fellow organizers, he rallied a generation of workers around ''La Causa,'' marching and fasting and boycotting for fair pay and protections on the job. They fought through decades of setbacks and fierce resistance. But through every trial, Cesar Chavez refused to curb his ambitions or scale back his hope. Step by step, march by march, he helped lead a community of farm workers to make the change they sought.

Cesar Chavez's legacy lives on at Nuestra Señora Reina de la Paz, his home and workplace, which I was proud to designate a National Monument last October. It also lives on in those who remember his central teaching: that when workers are treated fairly and humanely, our country grows more just, opportunity becomes more equal, and all of us do better. Because even with the strides we have made, we know there is more left to do when working men and women toil in poverty without adequate protections or simple respect. We know there is more to do when our broken immigration system forces workers into a shadow economy where companies can ignore labor laws and undermine businesses following the rules. Fixing those problems means securing what Cesar Chavez fought for at La Paz. It means taking on injustice, making sure hard work is rewarded, and bringing more Americans into a rising middle class.

In 1966, when Cesar Chavez was struggling to bring attention to his cause, he received a telegram from Dr. Martin Luther King, Jr. ''As brothers in the fight for equality, I extend the hand of fellowship and goodwill,'' he wrote. ''We are with you in spirit and in determination that our dreams for a better tomorrow will be realized.'' It is a story that reminds us how here in America, we are bound together not by the colors of our skin or the languages we speak, but by the values we share and the brighter future we seek for our children. So today, as we honor a man who risked everything to stand up for what he believed in, let us reflect on our common cause and recommit to moving forward together—as one Nation and one people.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution

and the laws of the United States, do hereby proclaim March 31, 2013, as Cesar Chavez Day. I call upon all Americans to observe this day with appropriate service, community, and education programs to honor Cesar Chavez's enduring legacy.

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

[FR Doc. 2013–07925
Filed 4–3–13; 8:45 am]
Billing code 3295–F3

# Presidential Documents

**Memorandum of March 29, 2013**

## Delegation of Authority To Appoint Commissioned Officers of the Ready Reserve Corps of the Public Health Service

**Memorandum for the Secretary of Health and Human Services**

By virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 203 of the Public Health Service Act, as amended by Public Law 111–148, to appoint commissioned officers of the Ready Reserve Corps of the Public Health Service. Commissions issued under this delegation of authority may not be for a term longer than 6 months except for commissions that place officers in the Centers for Disease Control and Prevention's Epidemiological Intelligence Service, the Senior Commissioned Officer Student Training and Extern Program, the Indian Health Service Pharmacy Residency Program, the Indian Health Service Health Professions Scholarship Program, or the National Health Service Corps Scholarship Program, which may not be for a term longer than 2 years. Officers appointed pursuant to this delegation may not be appointed to the Ready Reserve Corps of the Public Health Service for a term greater than those outlined in this memorandum other than by the President. This authority may not be re-delegated.

My memorandum of May 31, 2011 (Delegation of Authority to Appoint Commissioned Officers of the Ready Reserve Corps of the Public Health Service), is hereby revoked.

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

THE WHITE HOUSE,
*Washington, March 29, 2013.*

[FR Doc. 2013–07926
Filed 4–3–13; 8:45 am]
Billing code 4150–42

# Rules and Regulations

Federal Register
Vol. 78, No. 65
Thursday, April 4, 2013

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

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2012–18033; Directorate Identifier 2004–CE–16–AD; Amendment 39–17400; AD 2004–21–08 R1]**

**RIN 2120–AA64**

## Airworthiness Directives; Cessna Aircraft Company Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are revising an existing airworthiness directive (AD) for all Cessna Aircraft Company (Cessna) Models 190, 195 (L–126A,B,C), 195A, and 195B airplanes that are equipped with certain inboard aileron hinge brackets. That AD currently requires you to repetitively inspect the affected inboard aileron hinge brackets for cracks or corrosion and replace them if cracks or corrosion is found. Replacement with aluminum brackets would terminate the need for the repetitive inspections. This new AD retains the actions of AD 2004–21–08 while requiring future compliance following a revised service bulletin that clarifies the casting numbers and part numbers to be inspected. This AD was prompted by reports of confusion between the casting number on the aileron hinge bracket and the part number (P/N) called out in the AD. We are issuing this AD to correct the unsafe condition on these products.

**DATES:** This AD is effective May 9, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 9, 2013.

**ADDRESSES:** For service information identified in this AD, contact Cessna Aircraft Company, Customer service, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; email: *customercare@cessna.textron.com;* Internet: *http://www.cessnasupport.com*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

### Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Gary Park, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4123; fax: (316) 946–4107; email: *gary.park@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to revise AD 2004–21–08, amendment 39–13828 (69 FR 62396, October 26, 2004). That AD applies to the specified products. The NPRM published in the **Federal Register** on January 8, 2013 (78 FR 1155). That NPRM proposed to retain the actions of AD 2004–21–08 while requiring future compliance following a revised service bulletin that clarifies the casting numbers and part numbers to be inspected.

### Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 1155, January 8, 2013) or on the determination of the cost to the public.

### Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 1155, January 8, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 1155, January 8, 2013).

### Costs of Compliance

We estimate that this AD affects 643 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection of the affected inboard aileron hinge brackets for cracks or corrosion. | 1 work-hour × $85 per hour = $85 | Not Applicable ..... | $85 | 643 airplanes × $85 = $54,655. |

The new requirements of this AD add no additional economic burden.

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

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Replacement of left-hand (LH) brackets | 3 work-hours × $85 per hour = $255 | $1,999 | $2,254 |
| Replacement of right-hand (RH) brackets | 3 work-hours × $85 per hour = $255 | 1,592 | 1,847 |
| Replacement of LH and RH brackets | 6 work-hours × $85 per hour = $510 | 4,101 | 4,611 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Amendment 39–13828 (69 FR 62396, October 26, 2004), and adding the following new AD:

**2004–21–08 R1 Cessna Aircraft Company:** Amendment 39–17400; Docket No. FAA–2012–18033; Directorate Identifier 2004–CE–16–AD.

**(a) Effective Date**

This AD is effective May 9, 2013.

**(b) Affected ADs**

This AD revises AD 2004–21–08, Amendment 39–13828, (69 FR 62396, October 26, 2004).

**(c) Applicability**

This AD affects Models 190, 195 (L–126A,B,C), 195A, and 195B airplanes, all serial numbers, that are:

(1) certificated in any category; and

(2) equipped with at least one part number (P/N) 0322709 or P/N 0322709–1 inboard aileron hinge bracket.

**(d) Subject**

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 2710, Aileron Control System.

**(e) Unsafe Condition**

This AD was first prompted by several reports of cracks and corrosion found on the magnesium aileron hinge brackets. Magnesium is known to be susceptible to corrosion. Since issuance of AD 2004–21–08 (69 FR 62396, October 26, 2004), reports of confusion between the casting number on the aileron hinge bracket and the part number called out in the AD have caused us to issue this revision to AD 2004–21–08. We are issuing this AD to correct the unsafe condition on these products.

**(f) Compliance**

Comply with this AD at the times specified following the procedures in Cessna Aircraft Company Single Engine Service Bulletin SEB04–1, Revision 1, dated October 3, 2012, unless already done.

**(g) Credit for Actions Accomplished in Accordance With Previous Service Information**

This paragraph provides credit for the actions required by paragraphs (h), (i), and (j) of this AD, if the actions were performed before the effective date of this AD using Cessna Aircraft Company Single Engine Service Bulletin SEB04–1, dated April 26, 2004. All actions performed after May 9, 2013 (the effective date of this AD) will be required following Cessna Aircraft Company Single Engine Service Bulletin SEB04–1, Revision 1, dated October 3, 2012.

**(h) Inspect Each P/N 0322709 and P/N 0322709–1 Inboard Aileron Hinge Bracket or Any Other Bracket Made From Magnesium for Cracks or Corrosion**

Within the next 100 hours time-in-service (TIS) after November 30, 2004 (the effective date retained from AD 2004–21–08, Amendment 39–13828 (69 FR 62396, October 26, 2004)), and repetitively thereafter at intervals not to exceed 100 hours TIS until each bracket is replaced with aluminum, inspect each P/N 0322709 and P/N 0322709–1 inboard aileron hinge bracket or any other bracket made from magnesium for cracks or corrosion.

**(i) Replace Any Cracked or Corroded Inboard Aileron Hinge Bracket**

Before further flight after any inspection where any cracked or corroded bracket is found, replace any cracked or corroded inboard aileron hinge.

(1) If replacement is with an FAA-approved bracket made from magnesium, do the 100-hour TIS interval repetitive inspections as required in paragraph (h) of this AD.

(2) If replacement is with an FAA-approved bracket that is made from aluminum, then no further inspections are necessary. These can be Cessna parts or non-Cessna parts.

**(j) Terminating Action for the Repetitive Inspections**

(1) As terminating action for the repetitive inspections, you may replace all inboard aileron hinge brackets with FAA-approved brackets that are made from aluminum (as specified in paragraph (i)(2) of this AD) regardless if any corrosion or crack is found.

(2) You may do this replacement at any time, but you must replace any corroded or cracked bracket before further flight after the applicable inspection where any corrosion or crack is found.

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

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the

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

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

(3) All AMOCs approved for AD 2004–21–08 (69 FR 62396, October 26, 2004) are approved for this AD.

**(l) Related Information**

For more information about this AD, contact Gary Park, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4123; fax: (316) 946–4107; email: *gary.park@faa.gov*.

**(m) Material Incorporated by Reference**

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

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

(i) Cessna Aircraft Company Single Engine Service Bulletin SEB04–1, Revision 1, dated October 3, 2012.

(ii) Reserved.

(3) For Cessna Aircraft Company service information identified in this AD, contact Cessna Aircraft Company, Customer service, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; email: *customercare@cessna.textron.com;* Internet: *http://www.cessnasupport.com*.

(4) You may view this service information at FAA,, Small Airplane Directorate, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued in Kansas City, Missouri, on March 14, 2013.

**Earl Lawrence,**

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

[FR Doc. 2013–06589 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2012–0994; Directorate Identifier 2012–NM–119–AD; Amendment 39–17402; AD 2013–06–05]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding an existing airworthiness directive (AD) for all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. That AD currently requires repetitive inspections of the aft attach lugs of the elevator tab control mechanisms, and replacement of any discrepant elevator tab control mechanism. This new AD requires replacing the left and right elevator tab control mechanisms with elevator tab control mechanisms that have the modified attach lugs, which would terminate the existing requirements. This AD was prompted by reports of failure of the aft attach lugs on the elevator tab control mechanisms, which resulted in severe elevator vibration; and reports of gaps in elevator tab control mechanisms and analysis indicating that additional elevator tab control mechanisms might have bearings that will come loose. We are issuing this AD to prevent discrepancies in the aft attach lugs of the elevator tab control mechanism, which could result in severe elevator and tab vibration. Consequent structural failure of the elevator or horizontal stabilizer could result in loss of structural integrity and aircraft control.

**DATES:** This AD is effective May 9, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 9, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of September 9, 2010 (75 FR 52242, August 25, 2010).

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of April 29, 2010 (75 FR 21499, April 26, 2010).

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

**Examining the AD Docket**

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

**FOR FURTHER INFORMATION CONTACT:** Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6490; fax: 425–917–6590; email: *kelly.mcguckin@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). (That AD superseded AD 2010–09–05, Amendment 39–16270 (75 FR 21499, April 26, 2010).) That AD applies to the specified products. The NPRM published in the **Federal Register** on September 20, 2012 (77 FR 58330). That NPRM proposed to continue to require repetitive inspections of the aft attach lugs of the elevator tab control mechanisms, and replacement of any discrepant elevator tab control mechanism. That NPRM also proposed to require replacing the left and right elevator tab control mechanisms with elevator tab control mechanisms that have modified attach lugs, which would terminate the existing requirements.

**Comments**

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 58330, September 20, 2012) and the FAA's response to each comment. Aviation

Partners Boeing stated that the installation of winglets per supplemental type certificate (STC) ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408e012e008616a7862578880060456c/$FILE/ST00830SE.pdf*) does not affect the accomplishment of the manufacturer's service instructions. United Airlines stated that it agrees with the proposal.

**Request To Remove Parts Installation Prohibition**

Boeing requested that we remove paragraph (v) (''New Parts Installation Prohibition'') from the NPRM (77 FR 58330, September 20, 2012). Boeing stated that we should allow installation of mechanisms having part number (P/N) 251A2430–13, –14, –15, –16, –17, or –18 within the compliance time specified in the NPRM, and allow continued operations under the provisions of Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010; and AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). Likewise, Boeing requested that we allow installation of mechanisms having P/N 251A2430–101, –102, –103, –104, –105, or –106 within the compliance time specified in the NPRM, and allow continued operations under the provisions of Boeing Alert Service Bulletin 737–27A1299, dated July 1, 2011; and Boeing Alert Service Bulletin 737–27A1299, Revision 1, dated April 16, 2012; which are approved as alternative methods of compliance (AMOCs) to AD 2010–17–19. The commenter stated that paragraph (v) of the NPRM (which would prohibit installing those parts as of the effective date of the AD) would reduce operator flexibility by prematurely forcing incorporation of Boeing Service Bulletin 737–27–1300, dated April 16, 2012, before the end of the 60-month compliance period. The commenter added that this also would prevent incorporation of Boeing Alert Service Bulletin 737–27A1299, Revision 1, dated April 16, 2012, which Boeing plans to recommend that operators incorporate by April 2013 if they cannot complete terminating action by that date.

We partially agree with the request. We agree to allow operators the continued flexibility of using the noted mechanisms in accordance with the provisions of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010), or AMOCs specified in Boeing Alert Service Bulletin 737–27A1299, dated July 1, 2011, and Boeing Alert Service Bulletin 737–27A1299, Revision 1, dated April 16, 2012, before the replacement specified in paragraph (u) of this AD. That replacement is required for airplanes with line numbers 1 through 3909 inclusive. This will provide flexibility and still maintain an adequate level of safety. We disagree, however, with deleting paragraph (v) of this AD. The referenced mechanisms have contributed to a known unsafe condition and must not be used as a spare after the incorporation of paragraph (u) of this AD (which requires replacement of these mechanisms). We have changed paragraph (v) in this final rule to limit the prohibition against installing the referenced parts to a time after the requirements of paragraph (u) have been accomplished for airplanes with line numbers 1 through 3909 inclusive. For airplanes with line numbers 3910 and subsequent, mechanisms with modified aft attach lugs have been installed in production; for these airplanes, the parts referenced in paragraph (v) of this AD are prohibited from installation as of the effective date of this AD.

**Request To Revise Identity of Referenced Mechanisms**

Boeing requested that we revise paragraph (t) of the NPRM (77 FR 58330, September 20, 2012) to limit the affected mechanisms to mechanism P/Ns ''251A2430–13, –14, –15, –16, –17, or –18.'' Boeing stated that this paragraph should not apply to P/N 251A2430–23 and –24 mechanisms, because their installation is terminating action for the NPRM. The commenter added that paragraph (t) of the NPRM also does not apply to the –101, –102, –103, –104, –105, or –106 mechanism, which have a minimum proposed repetitive inspection requirement of 800 flight hours (not 300 flight hours).

We do not agree to incorporate the requested changes in the final rule. Paragraph (t) of the AD restates the requirements of paragraph (t) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). The replacement required by paragraph (u) of this new AD terminates the requirements of AD 2010–17–19, including paragraph (t). The FAA approved an AMOC to AD 2010–17–19 for Boeing Alert Service Bulletin 737–27A1299, dated July 1, 2011; and Boeing Alert Service Bulletin 737–27A1299, Revision 1, dated April 16, 2012; for the requirements of paragraph (t) for the –101, –102, –103, –104, –105, and –106 mechanisms; as specified in paragraph (x)(4) of this AD, that AMOC still applies. We have not changed the final rule regarding this issue.

**Request To Remove Compliance Time Restriction**

Boeing requested that we revise the NPRM (77 FR 58330, September 20, 2012) to delete ''and until the effective date of this new AD'' from the second sentence of paragraph (t) of the proposed AD. The commenter stated that operators should be allowed to install P/N 251A2430–13, –14, –15, –16, –17, or –18 mechanisms within the compliance period specified in the NPRM and continue operations under the provisions of Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010; and AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010).

We agree with the request and have revised paragraph (t) accordingly in this final rule. We are also clarifying the requirements of paragraph (t) in this final rule for line numbers 3910 and subsequent, which are produced with part numbers that terminate the requirements of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010).

**Request To Revise Cost Estimate**

Delta requested that we revise the estimated costs in the NPRM (77 FR 58330, September 20, 2012). Delta stated that the cost information provided in the NPRM does not reflect the most current information available in Boeing Service Bulletin 737–27–1300 Information Notice (IN) 01, dated April 19, 2012, which gives a total of 16 task hours for each installed mechanism (32 hours per airplane) and 10 hours for each modified component (20 hours per airplane).

We agree, and have revised the cost estimate accordingly in this final rule.

**Request To Extend Compliance Time for Related AMOC**

Delta, American, and Boeing requested that we revise the NPRM (77 FR 58330, September 20, 2012) to extend the compliance time for the AMOC associated with AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). American and Delta stated that we should allow that AMOC to remain valid until the accomplishment of the actions specified in paragraph (u) of the NPRM to allow the fullest benefit of the clip installation. Boeing stated that paragraph (v) of the NPRM conflicts with paragraph (x)(3) of the NPRM regarding the AMOC. Delta stated that Boeing Alert Service Bulletin 737–27A1299, Revision 1, dated April 16, 2012, notes that the AMOC was intended as interim action and has an

expiration date of June 30, 2016; Delta concluded that AMOC approval would therefore expire before the 60-month compliance time specified in the NPRM for the replacement in paragraph (u) of the NPRM.

We agree with the requests, for the reasons provided by the commenters. We have changed paragraph (x)(4) in this final rule to extend the expiration of the referenced AMOCs.

**Request To Clarify Reporting Requirement**

Delta requested that we revise the NPRM (77 FR 58330, September 20, 2012) to clarify the required methods and requirements for reporting completion of the retrofit. Delta noted that paragraph (u) of the NPRM specifies to replace the elevator tab control mechanism in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–27–1300, dated April 16, 2012. Delta stated that the last step of those instructions specifies reporting retrofit completions to Boeing using the service request application on MyBoeingFleet.com. Delta noted that the NPRM does not specifically identify any requirement to report the tab mechanism retrofit completions.

We agree to clarify the reporting requirements: Although Boeing Service Bulletin 737–27–1300, dated April 16, 2012, specifies submitting a report, there is no new reporting requirement to report completion of the replacement required by paragraph (u) of this AD. We have changed paragraph (u) in this final rule to state that there is no reporting requirement as part of the replacement.

**Request To Revise Applicability**

American requested that we revise paragraph (c) (''Applicability'') of the NPRM (77 FR 58330, September 20, 2012) to match the applicability of paragraph (u) (mechanism replacement) of the NPRM (which applied to line numbers 1 through 3909 inclusive). American stated that Boeing Alert Service Bulletin 737–27A1297, Revision 2, dated April 16, 2012; and Boeing Alert Service Bulletin 737–27A1299, Revision 1, dated April 16, 2012; have been revised to limit the effectivity of this issue.

We disagree with the request to revise the applicability. The applicability of this final rule includes the effectivity of those service bulletins. But the applicability of this AD extends to all Model 737–600, -700, -700C, -800, -900, and -900ER series airplanes to account for spares that might also be installed on those airplanes, as specified in paragraph (v) (''New Parts Installation Prohibition'') in this final rule. We have not revised the final rule further regarding this issue.

**Explanation of Change Made to This AD**

We have added paragraph (x)(3) in this final rule to specify that an AMOC that provides an acceptable level of safety may be used for any repair required by this AD if that repair is approved by the Boeing Commercial Airplanes Organizational Designation Authorization (ODA) that has been authorized by the Manager of the Seattle Aircraft Certification Office to make those findings.

**Conclusion**

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 58330, September 20, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 58330, September 20, 2012).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

**Costs of Compliance**

We estimate that this AD affects 1,096 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Retained actions | 7 work-hours × $85 per hour = $595 per inspection cycle. | $0 | $595 per inspection cycle. |
| Mechanism replacement (one option for terminating action). | 32 work-hours × $85 per hour = $2,720. | $58,579[1] $1,140 (installation kit) | $62,439 per airplane. |
| Mechanism modification and replacement (one option for terminating action). | 52 work-hours × $85 per hour = $4,420. | $5,858 (for the modification) $1,140 (installation kit) $2,145 (tooling[2]). | $13,563 per airplane. |

[1] This is the estimated cost for both a left and right mechanism. Boeing is planning a seed/exchange program so operators are not forced to purchase a new mechanism.

[2] Per the Boeing service information, tooling is available from Boeing for $90 per day.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010), and adding the following new AD:

**2013–06–05 The Boeing Company:** Amendment 39–17402; Docket No. FAA–2012–0994; Directorate Identifier 2012–NM–119–AD.

**(a) Effective Date**

This AD is effective May 9, 2013.

**(b) Affected ADs**

This AD supersedes AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010).

**(c) Applicability**

This AD applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by reports of failure of the aft attach lugs on the elevator tab control mechanisms, which resulted in severe elevator vibration. This AD also results from reports of gaps in elevator tab control mechanisms and analysis that additional elevator tab control mechanisms might have bearings that will come loose. We are issuing this AD to prevent discrepancies in the aft attach lugs of the elevator tab control mechanism, which could result in severe elevator and tab vibration. Consequent structural failure of the elevator or horizontal stabilizer could result in loss of structural integrity and aircraft control.

**(f) Compliance**

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

**(g) Retained Repetitive Inspections for Group 1 Airplanes**

This paragraph restates the requirements of paragraph (g) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010: Except as required by paragraph (h) of this AD, within 12 days after April 29, 2010 (the effective date of AD 2010–09–05, Amendment 39–16270 (75 FR 21499, April 26, 2010)), do a detailed inspection for discrepancies of the inboard and outboard aft attach lugs of the left and right elevator tab control mechanisms, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010. Repeat the inspection thereafter at intervals not to exceed 300 flight hours. Doing the replacement specified in paragraph (l) of this AD before September 9, 2010 (the effective date of AD 2010–17–19), terminates the requirements of this paragraph. Doing the inspection required by paragraph (n) of this AD terminates the requirements of this paragraph.

**(h) Retained Extended Twin Operations (ETOPS) Flight Provisions**

This paragraph restates the requirements of paragraph (h) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). For Group 1 airplanes as identified in Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010: Beginning 7 days after April 29, 2010 (the effective date of AD 2010–09–05, Amendment 39–21499 (75 FR 21499, April 26, 2010)), no person may operate an airplane on an ETOPS flight unless the initial inspection required by paragraph (g) of this AD has been accomplished. Doing the inspection required by paragraph (n) of this AD terminates the requirements of this paragraph.

**(i) Retained One-Time Inspection for Group 2, Configuration 1, Airplanes**

This paragraph restates the requirements of paragraph (i) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). For Group 2, Configuration 1, airplanes as identified in Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010: Within 30 days after April 29, 2010 (the effective date of AD 2010–09–05, Amendment 39–16270 (75 FR 21499, April 26, 2010)), do a one-time detailed inspection for discrepancies of the inboard and outboard aft attach lugs of the left and right elevator tab control mechanisms, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010. Doing the inspection required by paragraph (n) of this AD terminates the requirements of this paragraph.

**(j) Corrective Actions for Paragraphs (g), (i), and (k) of This AD**

This paragraph restates the requirements of paragraph (j) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). If, during any inspection required by paragraph (g), (i), or (k) of this AD, any discrepancy is found, before further flight, replace the elevator tab control mechanism by doing the actions specified in paragraphs (j)(1) and (j)(2) of this AD.

(1) Do a detailed inspection for discrepancies of the replacement elevator tab control mechanism; and, if no discrepancy is found, install the replacement elevator tab control mechanism; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010. If any discrepancy is found, then that elevator tab control mechanism cannot be installed and the actions specified in this paragraph must be done before further flight on another replacement elevator tab control mechanism.

(2) Re-inspect the installed elevator tab control mechanism using the inspection procedure specified in paragraph (i) of this AD.

**(k) Retained Repetitive Inspections for Certain Group 2, Configuration 1, Airplanes**

This paragraph restates the requirements of paragraph (k) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). For Group 2, Configuration 1, airplanes as identified in Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010, on which the elevator tab control mechanism is replaced with a mechanism other than a new, Boeing-built mechanism: Within 300 flight hours after doing the replacement, do a detailed inspection for discrepancies of the inboard and outboard aft attach lugs of the left and right elevator tab control mechanisms, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010. Repeat the inspection thereafter at intervals not to exceed 300 flight hours. Doing the replacement specified in paragraph (l) of this AD before September 9, 2010 (the effective date of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010)), is terminating action for this paragraph. Doing the inspection required by paragraph (n) of this AD terminates the requirements of this paragraph.

**(l) Terminating Action Credit for Paragraphs (g), (i), and (k) of This AD**

This paragraph restates the requirements of paragraph (l) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). Replacing an elevator tab control mechanism with a new, Boeing-built mechanism before September 9, 2010 (the effective date of AD 2010–17–19), as specified in paragraphs (l)(1) and (l)(2) of this AD, terminates the inspections required by paragraphs (g), (i), and (k) of this AD. Replacement of the elevator tab control mechanism on or after September 9, 2010 (the effective date of AD 2010–17–19), does not terminate the inspections required by paragraphs (g), (i), and (k) of this AD.

**Note 1 to paragraph (l) of this AD:** Additional guidance can be found in paragraphs 3.B.7.b.(1)(a)(1) and 3.B.7.b.(1)(a)(2) of the Accomplishment Instructions of Boeing Alert Service Bulletin

737–27A1297, dated April 16, 2010, for establishing whether the mechanism is Boeing built.

(1) Do a detailed inspection for discrepancies of the new, Boeing-built replacement elevator tab control mechanism; and, if no discrepancy is found, install the replacement elevator tab control mechanism; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010. If any discrepancy is found, then that elevator tab control mechanism cannot be installed and the actions specified in this paragraph must be done on another new, Boeing-built replacement elevator tab control mechanism.

(2) Re-inspect the installed elevator tab control mechanism using the inspection procedure specified in paragraph (i) of this AD.

**(m) Retained Reporting for Paragraphs (g), (i), and (k) of This AD**

This paragraph restates the requirements of paragraph (m) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). For airplanes identified in Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010: At the applicable time specified in paragraph (m)(1) or (m)(2) of this AD, submit a report of any findings (positive and negative) of the first inspection required by paragraphs (g), (i), and (k) of this AD, and any positive findings from the repetitive inspections required by paragraphs (g) and (k) of this AD, to Boeing Commercial Airplanes Group, Attention: Manager, Airline Support, email: *rse.boecom@boeing.com.* The report must include the inspection results including a description of any discrepancies found, the airplane line number, and the total number of flight cycles and flight hours accumulated on the airplane.

(1) If the inspection was done on or after April 29, 2010 (the effective date of AD 2010–09–05, Amendment 39–16270 (75 FR 21499, April 26, 2010)): Submit the report within 10 days after the inspection.

(2) If the inspection was done before April 29, 2010 (the effective date of AD 2010–09–05, Amendment 39–16270 (75 FR 21499, April 26, 2010)): Submit the report within 10 days after April 29, 2010 (the effective date of AD 2010–09–05).

**(n) Retained Repetitive Inspections**

This paragraph restates the requirements of paragraph (n) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). For airplanes having line numbers 1 through 3909 inclusive: At the applicable time specified in paragraph (n)(1), (n)(2), or (n)(3) of this AD, do a detailed inspection for discrepancies of the inboard and outboard aft attach lugs of the left and right elevator tab control mechanisms, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010. For Groups 1 and 2 airplanes identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010, repeat the inspection thereafter at intervals not to exceed 300 flight hours, except as provided by paragraph (t)(2) of this AD. For Group 3 airplanes identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010, repeat the inspection thereafter at intervals not to exceed 1,800 flight hours, except as required by paragraphs (p) and (t)(2) of this AD. Doing the inspection specified in this paragraph terminates the requirements of paragraphs (g), (h), (i), and (k) of this AD.

(1) For Group 1 airplanes identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010: Within 300 flight hours after doing an inspection in accordance with Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010, or within 30 days after September 9, 2010 (the effective date of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010)), whichever occurs later.

(2) For Group 2 airplanes identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010: At the later of the times specified in paragraphs (n)(2)(i) and (n)(2)(ii) of this AD.

(i) Before the accumulation of 2,000 total flight cycles or 4,000 total flight hours, whichever occurs first.

(ii) Within 14 days after September 9, 2010 (the effective date of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010)).

(3) For Group 3 airplanes identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010: Within 180 days or 1,800 flight hours after September 9, 2010 (the effective date of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010)), whichever occurs first.

**(o) Retained Corrective Actions for Paragraphs (n) and (p) of This AD**

This paragraph restates the requirements of paragraph (o) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). If, during any inspection required by paragraph (n) or (p) of this AD, any discrepancy is found, before further flight, replace the elevator tab control mechanism by doing the actions specified in paragraphs (o)(1) and (o)(2) of this AD.

(1) Do a detailed inspection for discrepancies of the replacement elevator tab control mechanism; and, if no discrepancy is found, install the replacement elevator tab control mechanism; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010. If any discrepancy is found, then that elevator tab control mechanism cannot be installed and the actions specified in this paragraph must be done before further flight on another replacement elevator tab control mechanism.

(2) Re-inspect the installed elevator tab control mechanism using the inspection procedure specified in paragraph (n) of this AD.

**(p) Retained Reduced Repetitive Inspection Interval for Group 3 Airplanes**

This paragraph restates the requirements of paragraph (p) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). For Group 3 airplanes as identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010, on which the elevator tab control mechanism is replaced during the actions required by paragraph (o) of this AD: Within 300 flight hours after doing the replacement, do a detailed inspection for discrepancies of the inboard and outboard aft attach lugs of the replaced elevator tab control mechanism, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010. Repeat the inspection of the replaced elevator tab control mechanism thereafter at intervals not to exceed 300 flight hours, except as provided by paragraph (t)(2) of this AD.

**(q) Retained Credit for Previous Action**

This paragraph restates the provisions specified in paragraph (q) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). For Group 1 airplanes as identified in Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010: Inspections done in accordance with Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010, are acceptable for compliance with only the initial inspection required by paragraph (n) of this AD.

**(r) Retained Reporting for Paragraphs (n) and (p) of This AD**

This paragraph restates the requirements of paragraph (r) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). For airplanes having line numbers 1 through 3909 inclusive: At the applicable time specified in paragraph (r)(1) or (r)(2) of this AD, submit a report of any findings (positive and negative) of the first inspection required by paragraphs (n) and (p) of this AD, except for airplanes on which a report required by paragraph (m) of this AD has been submitted, only submit positive findings; and submit a report of any positive findings from the repetitive inspections required by paragraphs (n) and (p) of this AD; to Boeing Commercial Airplanes Group, Attention: Manager, Airline Support, email: *rse.boecom@boeing.com.* The report must include the inspection results including a description of any discrepancies found, the airplane line number, and the total number of flight cycles and flight hours accumulated on the airplane.

(1) If the inspection was done on or after September 9, 2010 (the effective date of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010)): Submit the report within 10 days after the inspection.

(2) If the inspection was done before September 9, 2010 (the effective date of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010)): Submit the report within 10 days after September 9, 2010 (the effective date of AD 2010–17–19).

**(s) Retained Provision Regarding Not Returning Parts**

This paragraph restates the provision specified in paragraph (s) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010). Although Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010; and Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010; specify to return the affected elevator tab control mechanism to the manufacturer, this AD does not require the return of the part to the manufacturer.

**(t) Retained Parts Installation Limitations**

This paragraph restates the requirements of paragraph (t) of AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010), with revised limitations. As of September 9, 2010 (the effective date of AD 2010–17–19), and until the replacement required by paragraph (u) of this AD for airplanes with line numbers 1 through 3909 inclusive, or until the effective date of this new AD for airplanes with line numbers 3910 and subsequent, as applicable: Comply with the conditions specified in paragraphs (t)(1) and (t)(2) of this AD.

(1) No person may install an elevator tab control mechanism, part number (P/N) 251A2430-(), on any airplane, unless the mechanism has been inspected before and after installation using the inspection procedures specified in paragraphs (o)(1) and (o)(2) of this AD, and no discrepancies have been found.

(2) An elevator tab control mechanism, P/N 251A2430-(), may be installed, provided that the inspection specified in paragraph (n) of this AD is done within 300 flight hours after doing the installation, and that the inspection specified in paragraph (n) of this AD is repeated thereafter at intervals not to exceed 300 flight hours.

**(u) New Replacement**

For airplanes having line numbers 1 through 3909 inclusive: Within 60 months after the effective date of this AD, replace the left and right elevator tab control mechanisms with elevator tab control mechanisms that have new machined aft attach lugs, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–27–1300, dated April 16, 2012. This replacement terminates the requirements of paragraphs (g) through (t) of this AD. Although Boeing Service Bulletin 737–27–1300, dated April 16, 2012, specifies submitting a report, there is no requirement to report completion of the replacement required by paragraph (u) of this AD.

**(v) New Parts Installation Prohibition**

As of the effective date of this AD, no person may install, on any airplane identified in paragraph (v)(1) or (v)(2) of this AD, an elevator tab control mechanism having P/N 251A2430–13, –14, –15, –16, –17, –18, –101, –102, –103, –104, –105, or –106.

(1) Airplanes on which the replacement in paragraph (u) of this AD has been accomplished.

(2) Airplanes with line numbers 3910 and subsequent.

**(w) Paperwork Reduction Act Burden Statement**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(x) 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.

(4) AMOCs approved for AD 2010–17–19, Amendment 39–16413 (75 FR 52242, August 25, 2010), are approved as AMOCs for the corresponding provisions of this AD. The expiration of the AMOCS to AD 2010–17–19, as specified in the service information identified in paragraphs (x)(4)(i) and (x)(4)(ii) of this AD, is extended to remain valid until accomplishment of the requirements of paragraph (u) of this AD.

(i) Boeing Alert Service Bulletin 737–27A1299, dated July 1, 2011 (which is not incorporated by reference in this AD).

(ii) Boeing Alert Service Bulletin 737–27A1299, Revision 1, dated April 16, 2012 (which is not incorporated by reference in this AD).

**(y) Related Information**

For more information about this AD, contact Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6490; fax: 425–917–6590; email: *kelly.mcguckin@faa.gov*.

**(z) Material Incorporated by Reference**

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

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

(3) The following service information was approved for IBR on May 9, 2013.

(i) Boeing Service Bulletin 737–27–1300, dated April 16, 2012.

(ii) Reserved.

(4) The following service information was approved for IBR on September 9, 2010 (75 FR 52242, August 25, 2010).

(i) Boeing Alert Service Bulletin 737–27A1297, Revision 1, dated August 2, 2010.

(ii) Reserved.

(5) The following service information was approved for IBR on April 29, 2010 (75 FR 21499, April 26, 2010).

(i) Boeing Alert Service Bulletin 737–27A1297, dated April 16, 2010.

(ii) Reserved.

(6) 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*.

(7) You may view this service information at FAA, 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.

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

Issued in Renton, Washington, on March 20, 2013.

**Jeffrey E. Duven,**

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

[FR Doc. 2013–07209 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2012–1014; Directorate Identifier 2010–SW–058–AD; Amendment 39–17404; AD 2013–06–07]**

**RIN 2120–AA64**

## Airworthiness Directives; Eurocopter France Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model SA–365N1, AS–365N2, and AS 365 N3

helicopters. This AD requires revising the Limitations section of the Rotorcraft Flight Manual (RFM) to prohibit flight in instrument meteorological conditions (IMC) or night visual flight rules (VFR) for each helicopter with a vertical gyro unit GV76–1 installed upon a non-reinforced shelf in the rear cargo compartment. Also, this AD requires modifying the GV76–1 vertical gyro unit shelf and testing for correct function of the navigation systems. This AD was prompted by flight crew reports of deviations between the displayed attitude on the attitude display screen and the independent electromechanical standby attitude indicator. The actions of this AD are intended to prevent an undetected flight display error of a slow drift in the roll axis, disorientation of the pilot, and subsequent loss of control of the helicopter.

**DATES:** This AD is effective May 9, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of May 9, 2013.

**ADDRESSES:** For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, Texas 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**Examining the AD Docket**

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

**FOR FURTHER INFORMATION CONTACT:** Mark F. Wiley, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *mark.wiley@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

On September 25, 2012, at 77 FR 58971, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to certain Eurocopter Model SA–365N1, AS–365N2, and AS 365 N3 helicopters, with the GV76–1 vertical gyro unit installed on the left-hand (LH) or right-hand (RH) shelf in the rear cargo compartment, pre-MOD 365P081895. That NPRM proposed to require revising the Limitations section of the RFM to prohibit flight in IMC or night VFR until the GV76–1 vertical gyro unit shelf is reinforced and tested. The proposed requirements were intended to prevent an undetected flight display error of a slow drift in the roll axis, disorientation of the pilot, and subsequent loss of control of the helicopter.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2010–0100R1, dated August 4, 2010, and corrected August 11, 2010, to correct an unsafe condition for the specified Eurocopter model helicopters. EASA advises that a slow drift in the roll axis on the pilot's and co-pilot's attitude display screens occurred simultaneously during flight on several helicopters equipped with the GV76–1 vertical gyro unit installed in the rear cargo compartment. EASA advises ''these drifts were caused by a fault in the vertical gyros unit installation in the rear cargo.'' EASA states that in certain configurations, the GV76–1 vertical gyro unit installation has a natural mode close to the main rotor's harmonic frequency that generates rather significant vibratory levels on the GV76–1 unit by amplifying the intrinsic vibration of the aircraft. The faults are caused by these vibratory levels. EASA also states that the critical mode is essentially due to bending on the horizontal cross-members, which support the GV76–1 shelf.

**Comments**

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (77 FR 58971, September 25, 2012).

**FAA's Determination**

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

**Differences Between This AD and the EASA AD**

We do not use the calendar dates, which have already passed. This AD prohibits flight in IMC or night VFR until MOD 365P081895 is accomplished.

**Related Service Information**

Eurocopter issued Alert Service Bulletin (ASB) No. 34.00.31, Revision 1, dated July 28, 2010 (ASB 34.00.31), for FAA type-certificated Model SA–365N1, AS–365N2, and AS 365 N3 helicopters and for military non-FAA type-certificated Model AS–365F, Fi, and K helicopters. ASB 34.00.31 specifies reinforcing the shelves of the vertical gyros GV76–1 (in cargo compartment) on the RH or LH side. EASA classified this ASB as mandatory and issued AD No. 2010–0100R1, dated August 4, 2010, and corrected August 11, 2010, to ensure the continued airworthiness of these helicopters.

**Costs of Compliance**

We estimate that this AD will affect 19 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. It will take about 16 work-hours to install a shelf reinforcement kit per helicopter at an average labor rate of $85 per work-hour. Required parts will cost about $2,560 per helicopter. Based on these figures, we estimate the total cost of this AD on U.S. operators to be $74,480 to reinforce the shelf of the entire fleet.

**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 helicopters identified in this rulemaking action.

**Regulatory Findings**

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2013–06–07 Eurocopter France Helicopters:** Amendment 39–17404; Docket No. FAA–2012–1014; Directorate Identifier 2010–SW–058–AD.

**(a) Applicability**

This AD applies to Model SA–365N1, AS–365N2, and AS 365 N3 helicopters, with the GV76–1 vertical gyro unit installed on the left-hand (LH) or right-hand (RH) shelf in the rear cargo compartment, pre-MOD 365P081895, certificated in any category, all serial numbers except 6698, 6701, 6723, 6737, and 6741.

**(b) Unsafe Condition**

This AD defines the unsafe condition as an undetected flight display error of a slow drift in the roll axis. This condition could result in disorientation of the pilot and subsequent loss of control of the helicopter.

**(c) Effective Date.**

This AD becomes effective May 9, 2013.

**(d) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

**(e) Required Actions**

(1) Before further flight, revise the Limitations section of the Rotorcraft Flight Manual (RFM) by inserting a copy of this AD into the RFM or by pen and ink changes to the RFM that prohibits flight in instrument meteorological conditions (IMC) or night visual flight rules (VFR) for each helicopter with a vertical gyro unit GV76–1 installed on the rear cargo compartment shelf without reinforcement per Modification 365P081895.

(2) Within 110 hours time-in-service, modify the GV76–1 vertical gyro unit shelf as depicted in Figures 1 through 3 and by following the Accomplishment Instructions, paragraphs 2.A. through 2.B.2.e., of Eurocopter Alert Service Bulletin No. 34.00.31, Revision 1, dated July 28, 2010. After reinforcing the shelf, operationally test the GV76–1 vertical gyro unit and functionally test the navigation systems.

(3) After modifying the GV76–1 vertical gyro unit shelf, remove this AD from the Limitations section of the RFM or remove any changes to the Limitations section of the RFM that prohibit flight in IMC or VFR as a result of paragraph (e)(1) of this AD.

(4) Modifying the GV76–1 vertical gyro unit shelf is terminating action for the requirements of this AD.

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

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Mark F. Wiley, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *mark.wiley@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

**(g) Additional Information**

The subject of this AD is addressed in European Aviation Safety Agency AD No. 2010–0100R1, dated August 4, 2010, and corrected August 11, 2010.

**(h) Subject.**

Joint Aircraft Service Component (JASC) Code: 3421, Attitude Gyro and Indicator System.

**(i) Material Incorporated by Reference.**

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

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

(i) Eurocopter Alert Service Bulletin No. 34.00.31, Revision 1, dated July 28, 2010.

(ii) Reserved.

(3) For Eurocopter service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, Texas 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued in Fort Worth, Texas, on March 21, 2013.

**Kim Smith,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2013–07211 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE INTERIOR

## National Indian Gaming Commission

## 25 CFR Part 518

**RIN 3141–AA44**

## Self-Regulation of Class II Gaming

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Final rule.

**SUMMARY:** The National Indian Gaming Commission (NIGC or Commission) amends its regulation for the review and approval of petitions seeking the issuance of a certificate for tribal self-regulation of Class II gaming.

**DATES:** *Effective Date:* The effective date of these regulations is September 1, 2013.

**FOR FURTHER INFORMATION CONTACT:** John Hay, National Indian Gaming

Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202–632–7003.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Indian Gaming Regulatory Act (IGRA or the Act), enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). Pursuant to the Act, the Commission regulates Class II gaming and certain aspects of Class III gaming on Indian lands.

## II. Previous Rulemaking Activity

On November 18, 2010, the Commission issued a Notice of Inquiry and Notice of Consultation (''NOI'') advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment regarding which of its regulations were most in need of revision, in what order the NIGC should review its regulations, and the process the NIGC should utilize to make revisions. 75 FR 70680 (Nov. 18, 2010). On April 4, 2011, after holding eight consultations and reviewing all of the public comments received, the Commission published a Notice of Regulatory Review Schedule (NRR), setting out a consultation schedule and process for review. 76 FR 18457 (April 4, 2011). Part 518 was included in the fourth regulatory group reviewed as part of the NRR.

The Commission conducted numerous tribal consultations as part of its review of part 518—Self-Regulation of Class II Gaming. Tribal consultations were held in every region of the country and were attended by many tribal leaders or their representatives. In addition to tribal consultations, on August 16, 2011, the Commission requested public comment on a preliminary draft of part 518. After considering the written comments received from the public, as well as comments made by participants at tribal consultations, the Commission published a Notice of Proposed Rulemaking on January 31, 2012 (77 FR 4714), proposing changes to part 518 to: (a) focus the criteria for receiving a certificate of self-regulation on a tribe's ability to regulate Class II gaming; and (b) clearly define and streamline the process by which a self-regulation petition is reviewed and a final determination is made by the Commission.

## III. Review of Public Comments

In response to our Notice of Proposed Rulemaking, published January 31, 2012, 77 FR 4714, we received the following comments.

*General Comments*

*Comments:* A few commenters stated that, although self-regulation is a goal for many tribes, the current regulations make the application and annual reporting process overly burdensome. The proposed rule makes self-regulation more available to all tribes.

*Response:* The Commission agrees and has chosen to retain the proposed changes in the final rule.

*Comments:* A few commenters stated that the inclusion of the full Commission in the review and approval process in the proposed rule assures tribes that their applications will be thoroughly vetted and that a final decision will be reached by the appropriate decision-makers.

*Response:* The Commission agrees and has retained the level of Commission involvement in the final rule.

*Comment:* One commenter expressed concern that the Commission will use the petition process to review tribal revenue allocation plans and suggested that a review of these plans be specifically excluded.

*Response:* The regulation does not require tribes to submit their tribal revenue allocation plans to the NIGC for review. However, the Commission is required to determine whether the gaming activity has been conducted in compliance with IGRA, which addresses the use of net gaming revenues. Accordingly, the Commission declines to exclude tribal revenue allocation plans specifically from its review.

*Comment:* One commenter stated that, until the NIGC allows the self-regulation program to function in the manner intended by Congress, tribes will continue to be discouraged from exercising their statutory right to attain self-regulation status.

*Response:* The Commission believes that the changes to the regulation will encourage more tribes to take advantage of the self-regulation program and the benefits of self-regulation.

*518.3 Who is eligible to petition for a certificate of self-regulation?*

*Comment on § 518.3(b):* One commenter suggested that ''all gaming'' be changed to ''Class II gaming,'' submitting that § 518.3(b) strongly implies that, in order for the NIGC to determine eligibility, the Commission will have to verify Class III compact and gaming compliance for those operations that have both Class II and Class III gaming activity.

*Response:* The Commission has declined to incorporate the commenter's suggestion because, first, the majority of tribal gaming operations are both Class II and Class III. Further, the Commission is not aware of any tribe that separates its regulatory body by class of gaming. Therefore, it is appropriate for the Commission to examine the petitioning tribe's regulation of its gaming as a whole. Finally, IGRA does not limit self-regulation certification to only tribes that conduct Class II gaming in a stand-alone facility, but allows tribes with hybrid Class II/Class III gaming operations also to become self-regulating.

*518.4 What must a tribe submit to the Commission as part of its petition?*

*Comments on § 518.4(a)–(c):* A number of commenters stated that any submission requirements in § 518.4 not directly related to a tribe's capacity for self-regulation or the qualifying criteria for petitioning tribes in § 518.5, should be removed entirely or revised to ensure that each requirement is directly related to assessing a tribe's regulatory capacity.

*Response:* The Commission has eliminated superfluous submission requirements and tailored the remaining requirements to elicit information demonstrating a tribe's regulatory framework and capacity to regulate its gaming activities.

*Comments on § 518.4(c)(v):* A number of commenters questioned the benefit and relevance of requiring tribes to submit the resumes tribal regulatory agency employees, recommending that the submission requirements in § 518.4(c)(v) be eliminated. Section 518.4(c)(v) requires that a petitioning tribe submit a list of the current regulators and employees of the tribal regulatory body, their complete resumes, their titles and the dates they began employment. In the commenters' view, the NIGC is not, and should not be, in a position to evaluate the competence of individual staff members employed by a tribal regulatory agency.

*Response:* The resumes of tribal gaming regulators demonstrate the experience and capability of the tribal regulators. The competence of tribal gaming regulators bears directly on a tribe's ability to regulate its gaming. Therefore, the Commission has determined to retain this requirement in the final rule.

*Comments on § 518.4(c)(v):* A few commenters stated that, although a detailed TGRA organizational chart could be a valuable tool in assessing a TGRA's capabilities, there is no value in submitting a list of current regulators and employees of the tribal regulatory

body. Instead, they suggested that the NIGC require only that employee names and background files be made available at the time of the NIGC site visit during the approval process.

*Response:* The Commission agrees with the comments and has revised the regulation to require tribes to make the names and background files of current regulators available to the NIGC, upon request.

*Comments on § 518.4(c)(vii):* A few commenters stated that the provision in § 518.4(c)(vii) requiring a tribe to list all gaming internal controls is not only burdensome, but also unnecessary, because it provides little or no insight into a tribe's capacity for self-regulation. The commenters also submitted that this requirement is redundant, because tribal internal control systems (TICS) are evaluated annually as part of the IGRA-required audit.

*Response:* The Commission disagrees. Each tribe should have readily available a list of internal gaming controls, which is a useful tool in examining the robustness of a tribe's regulatory framework.

*Comment on § 518.4(c)(vii):* One commenter suggested that the agreed-upon-procedures attestation would be sufficient to satisfy the concerns of § 518.4(c)(vii), which requires petitioning tribes to submit a list of internal controls used at the gaming facility.

*Response:* The Commission has determined that, although an agreed-upon-procedures attestation would fulfill some of the purposes of § 518.4(c)(vii), an up-to-date list of the internal gaming controls is beneficial to its review. For purposes of a certificate of self-regulation, IGRA requires that the NIGC determine that the tribe has ''conducted the operation on a fiscally and economically sound basis.'' In that regard, a list of internal controls can be used by the NIGC to examine the effectiveness of the tribe in enforcing compliance with its own controls. Further, the NIGC needs to ascertain the strength of these controls at the time the petition is being reviewed, not at the time of the agreed-upon-procedures attestation.

*Comment on §§ 518.4(c)(v) and (vii):* One commenter suggested eliminating the submission requirements in § 518.4(c)(v) and § 518.4(c)(vii) because they do not focus on a tribal government's capacity for self-regulation.

*Response:* The Commission views the existence and enforcement of internal controls to be an important indicator of the tribe's ability to regulate its gaming activity. Therefore, the Commission has retained those requirements in the final rule.

*518.5 What criteria must a tribe meet to receive a certificate of self-regulation?*

*Comment on § 518.5(a):* A few commenters stated that the criteria in § 518.5(a) remain inundated with subjective terms that do not provide any meaningful guidance as to how they will be interpreted by the NIGC. Without greater objectivity, the subjective terms provide the NIGC too much discretion in deciding whether a petition should be approved.

*Response:* The majority of the criteria set forth in § 518.5(a) are explicitly provided for by Congress in IGRA for purposes of evaluating whether a certificate of self-regulation should be issued. Thus, Congress directed that the Commission conduct an evaluation utilizing such terms.

*Comment on § 518.5(a):* A few commenters stated that § 518.5 simply restates the statute and does not define or clarify how the terms ''safe, fair, and honest,'' ''generally free,'' ''adequate systems,'' and ''fiscally and economically sound'' will be interpreted by the NIGC during the approval process. The commenters noted that, to be effective, regulations must do more than simply restate what the statute requires, and the rulemaking process should result in regulations that provide meaningful guidance to readers as to how a statutory method will be implemented by the agency.

*Response:* The Commission believes that the terms contained in the regulation are clear, and has, therefore, declined to remove them from the regulation. The Commission is available to assist tribes to understand and satisfy the qualifying criteria should tribes have questions or require clarification.

*Comment on § 518.5:* One commenter stated that, in the commenter's view, the purpose of § 518.5 should be two-fold: first, to provide guidance regarding what the many subjective terms used in § 518.5 mean so that tribal governments will understand how to meet the criteria, and second, to reasonably constrain the NIGC's discretion with regard to its approval process.

*Response:* As noted above, the Commission believes that the terms contained in the regulation are clear, and has, therefore, declined to remove them from the regulation. The Commission is available to assist tribes to understand and satisfy the qualifying criteria should tribes have questions or require clarification.. Thus, the Commission intends to provide additional guidance to petitioning tribes upon request.

*Comment on § 518.5(a)(1)(i):* One commenter suggested that the NIGC could require tribal governments to show three years of clean audits, free of any material findings, to demonstrate that it has ''conducted its gaming activity in a manner that has resulted in an effective and honest accounting of all revenues.''

*Response:* The Commission agrees that past audits are an important way for a tribe to demonstrate that it has met the approval criteria. However, the Commission has determined that those tribes having some anomalies in their audits should not be foreclosed from approval. Therefore, although the Commission will take into account audit findings when making its determination, past audits will not be the only way for a tribe to demonstrate that it has ''conducted its gaming activity in a manner that has resulted in an effective and honest accounting of all revenues.''

*Comment on § 518.5(a)(1)(iii):* One commenter stated that, to show that a tribe's gaming activities have been ''generally free of evidence of criminal or dishonest activity,'' a tribal government could certify that it: (1) Maintains a robust system to detect and preclude money laundering activities, pursuant to Title 31; (2) maintains a system designed to ensure the exclusion of unsavory persons from the gaming facility; and (3) effectively deals with any suspected criminal activity relative to employees, customers, and vendors by referring suspected to the appropriate law enforcement agency for investigation and prosecution.

*Response:* The Commission agrees that such a certification would be one way to demonstrate that the tribe's gaming activities have been ''generally free of evidence of criminal or dishonest activity.'' However, the Commission declines to incorporate the suggested change because other, equally acceptable types of evidence exist to demonstrate compliance with the provision, and the Commission believes that tribes should be afforded flexibility when fulfilling the requirements of this section.

*Comments on §§ 518.5(a)(2)–(4):* A few commenters suggested that the term ''gaming operation,'' found in § 518.(a)(2) and § 518.5(a) (4), be changed to ''Class II gaming operation,'' and the term ''gaming activity,'' found in § 518.5(a)(3), be changed to ''Class II gaming activity,'' pointing out that, by not limiting the qualifying criteria to Class II gaming operations or activities, it is implied that the NIGC will have to verify Class III compact and gaming compliance for those operations that

have both Class II and Class III gaming activity.

*Response:* Because the majority of tribal gaming operations are both Class II and Class III, the Commission believes it is appropriate and practical to examine and evaluate a petitioning tribe's regulation of its gaming as a whole. Like petitioning tribes that conduct Class II gaming only, petitioning tribes conducting hybrid operations are also required to comply with IGRA, NIGC regulations, and the tribe's own gaming ordinance and gaming regulations.

*Comment on § 518.5(a)(3):* A commenter expressed concern that the Commission will require petitioning tribal governments to show absolute and perfect compliance with Federal and tribal laws during the requisite 3-year period. The commenter pointed out that IGRA does not require absolute compliance with Federal and tribal laws to receive a self-regulation certificate, instead using the more flexible terms ''generally free'' and ''adequate.''

*Response:* Consistent with 25 U.S.C. 2710(c)(4)(a), the Commission requires a petitioning tribe to demonstrate that it has adopted and is implementing adequate systems for the accounting of all of its Class II gaming activity. When a tribe's operation consists of both Class II and Class III gaming activities, the tribe is required to demonstrate that it has adopted and is implementing adequate systems for the accounting of all gaming activity. The Commission retains the discretion to determine whether or not violations are sufficiently serious to prevent the issuance of a certificate of self-regulation.

*Comment on § 518.5(b):* One commenter stated that § 518.5(b) makes the certification process more difficult by imposing a number of additional requirements, some of which exceed the statutory requirements for conducting tribal gaming.

*Response:* The Commission disagrees. The indicators in the list set forth in §§ 518.5(b)(1)–(9) are not mandatory prerequisites for a tribe to be issued a certificate of self-regulation, but are intended to offer guidance to petitioning tribes as to how they may demonstrate to the Commission that they have met the criteria of § 518.5(a). This list is not intended to be exhaustive or to prevent the Commission from considering other factors.

*Comments on §§ 518.5(b)(ix) and (xii):* A few commenters stated that two of the examples listed in §§ 518.5(b)(ix) and (vii) should be removed because they reference vendor licensing standards and procedures, which are not required by IGRA. Vendor licensing is a matter of tribal, not Federal, law.

*Response:* Although vendor licensing is not addressed in IGRA, except for management contractors, it is a strong indicator that a tribe has the ability to properly regulate its gaming. Section 518.5(b) simply provides guidance to tribes and is not a list of factors that must be present for the tribe's petition for self-regulation to be approved. Thus, the regulation does not require a tribe to have any specific standards or procedures for vendor licensing, and the absence of any standards or procedures is not specifically a grounds for denial.

*518.7 What process will the Commission use to review and certify petitions?*

*Comments on § 518.7(f):* A few commenters stated that they were concerned that the self-regulation process for approving or denying petitions was too rigid, and suggested removing the proposed § 518.7(f) and replacing it with procedures that allow tribes seeking to become self-regulating a more informal and collaborative process.

*Response:* The Commission believes that the inclusion of a formal process in the regulations preserves a tribe's right to due process, and neither precludes informal meetings with the Commission nor prevents collaboration with the Commission throughout the approval process, if requested.

*Comments on § 518.7(f):* A few commenters suggested that § 518.7(f), which designates final Commission determinations as final agency actions, be removed. The commenters maintain that Commission decisions related to self-regulation should never be final agency actions since this designation will either terminate the process or set up an adversarial process of appeal, and, in either event, will foreclose the possibility of further collaborative efforts between the NIGC and petitioning tribes.

*Response:* The Commission disagrees. By allowing a decision to become final agency action, the Commission is ensuring that tribes have the right to challenge the Commission's final decisions, and their underlying rationales, in Federal court. The Commission has determined that this is an important right for tribes and should not be limited.

*Comment on § 518.7(f):* One commenter suggested the inclusion of additional, less formal procedures to facilitate a more informal, collaborative process, which would be more conducive to problem-solving. For example, the procedures for issuing preliminary determinations could be replaced with procedures for developing and entering into intergovernmental agreements that identify deficiencies in a petitioning tribe's application and outline the steps necessary for the tribe to attain self-regulation status. Further, the procedures for hearings could be replaced with procedures for meetings in which the NIGC and the tribe informally discuss perceived shortfalls in the petition and how the shortfalls can be remedied to the NIGC's satisfaction.

*Response:* The regulations do not prevent tribes and the NIGC from meeting informally and engaging in regular communication, outside of the formal process, regarding any aspect of the self-regulation process up to the Commission's final determination. The Commission envisions regular and meaningful collaboration and communication with interested tribes to assist them with achieving certification.

*Comment on § 518.7(g):* One commenter suggested removing § 518.7(g), which allows tribal governments to withdraw and resubmit a petition for self-regulation. It is the commenter's view that tribal governments should only have to submit a petition once, and that any information provided by a tribe in response to identified deficiencies in the petition should be submitted as supplemental materials to the petition. This would prevent a tribe from having to go through the complete certification process multiple times, as well as the unchanged portion of a tribe's petition from repeatedly undergoing the same initial review process. Instead, the NIGC would review only the supplemental materials to verify that the identified deficiencies had been adequately resolved. If the NIGC subsequently found remaining issues in the petition, such issues could similarly be resolved through additional supplementary submissions.

*Response:* The Commission disagrees. Tribal governments should have the right to withdraw a petition for any reason. Further, allowing tribes to complete the certification process piecemeal, potentially over many months or even years, fails to recognize that the status and strength of a tribe's gaming regulation could change after a petition is submitted, thus rendering the Commission's review untimely and ineffective.

*518.10 What must a self-regulating tribe provide the Commission to maintain its self-regulatory status?*

*Comment:* One commenter suggested changing the word ''on'' April 15 in § 518.10(a) to ''by'' April 15, to give self-

regulating tribes more flexibility in satisfying the required annual submission.

*Response:* The Commission agrees and the recommended change has been adopted.

*Comment on § 518.10(a):* One commenter expressed strong support for the proposed change to remove the annual requirement that tribes report the usage of its net gaming revenues.

*Response:* The Commission agrees and this change is reflected in the final rule.

*Comment on § 518.10(a)(2):* One commenter expressed support for the proposed change in § 518.10(a)(2) narrowing the scope of employees covered under this section to include only those employees working for the tribal regulatory body.

*Response:* The Commission agrees that narrowing the scope of this section to employees of the tribal regulatory body, as opposed to *all* employees hired and licensed by the tribe, decreases the burden on self-regulating tribes and properly focuses attention on a tribe's ability to regulate its gaming activity.

*Comment on § 518.10(a)(2):* One commenter stated that the term ''licensed,'' as used in proposed § 518.10(a)(2), should be removed because it is an inaccurate characterization of tribal gaming regulatory employees. In practice, while most employees of tribal regulatory bodies are screened and subjected to background investigations, they are generally not ''hired and licensed'' by the tribe. Nor do they fit within the meaning of the terms ''key employee'' or ''primary management official,'' two categories of employee which are required to be licensed under IGRA. Another commenter stated that because most employees of tribal regulatory bodies are not ''hired *and* licensed,'' under the language in § 518.10(2), there would be very few tribal regulatory employees who would be required to submit complete resumes. The commenter does not see any other option in light of the language of 25 U.S.C. 2710(c)(5)(b), and notes that this requirement alone may dissuade his tribe from pursuing a certificate of self-regulation.

*Response:* The Commission understands the concern over the use of the terms ''hired and licensed.'' However, IGRA, at 25 U.S.C. 2710(c)(5)(B), mandates that self-regulating tribes submit this information for employees ''hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation.'' Since the statute specifically uses the terms ''hired and licensed,'' the Commission declines to make the recommended change. Moreover, some tribes do in fact subject the individuals who work for their gaming regulatory bodies to licensing and, as a consequence, the standard is applicable.

*Comment on § 518.10:* One commenter stated that, because all tribes must comply with the background and licensing regulatory requirements of parts 556 and 558, the NIGC already has suitability reports for all employees who are licensed by the tribal gaming regulatory authority. A tribe's compliance with parts 556 and 558 should be sufficient to satisfy the annual submission requirements of § 518.10.

*Response:* The Commission disagrees. Parts 556 and 558 address licensing for key employees and primary management employees only. IGRA mandates a much broader pool of individuals that must be addressed by self-regulating tribes through their annual submissions.

*518.11 Does a tribe that holds a certificate of self-regulation have a continuing duty to advise the Commission of any additional information?*

*Comments on § 518.11:* A few commenters disagreed with the revision in § 518.11that requires a tribe to report material changes within ''three business days,'' and recommended that the original term, ''immediately,'' be restored. In their view, the proposed time frame of three business days may be too short. The general term of ''immediately'' is seen as being a more reasonable time frame because it is broad enough to allow tribal governments to resolve possible issues on their own before reporting them to the NIGC. As primary regulators, tribes should be given sufficient time and flexibility to resolve possible issues.

*Response:* The Commission disagrees. This provision is designed to allow the Commission to be notified when a material change occurs so that it may make its own determination as to whether the change affects the eligibility of a tribe to maintain its certificate of self-regulation. In many instances, a material change may not affect a tribe's certification, leaving no issue for the tribe to resolve. In addition, reporting a material change after it has been resolved renders the intent of the statutory provision meaningless, because the material change has been addressed without Commission consideration of it and its impact upon the certificate. Notifying the Commission within three business days allows the Commission to assess the situation, to provide technical assistance where appropriate, to monitor how quickly a tribe responds and to consider the ramifications if a tribe fails to take action.

*Comments on § 518.11:* A few commenters stated that they disagreed with some of the ''circumstances'' listed in § 518.11 that may constitute ''changes in circumstances'' requiring notification to the NIGC. The commenters noted that the circumstances listed in § 518.11 do not directly relate to the approval criteria for self-regulation or a tribe's regulatory capacity, and are overly subjective and vague. For example, the circumstance of ''financial instability'' could be construed to cover a range of issues not related to a tribe's regulatory capacity. Additionally, the circumstance of ''a change in management contractor'' is irrelevant to the self-regulation qualifying criteria in § 518.5, which do not include management contractors, and which were already deemed met by any tribe issued a self-regulation certificate. This circumstance is unnecessary to an assessment of a tribe's regulatory capacity, especially since the NIGC is responsible for conducting background investigations of management contractors under IGRA and will already have in its possession the requested information.

*Response:* The Commission agrees that a change in management contractor should not have to be reported to the Commission as a requirement of § 518.11. Therefore, the example of a change in management contractor has been removed. However, the Commission has determined to retain the example of ''financial instability'' because it may have a direct impact on a tribe's ability to regulate, especially in those cases in which a tribal gaming regulatory body is funded from the gaming activity.

*518.12 Which investigative or enforcement powers of the Commission are inapplicable to self-regulating tribes?*

*Comment:* One commenter was pleased that the proposed rule now describes, with specificity, the powers of the NIGC that are inapplicable once a tribe is issued a certificate of self-regulation.

*Response:* The Commission agrees and has retained the provision in the final rule.

**Regulatory Matters**

*Regulatory Flexibility Act*

This final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility

Act, 5 U.S.C. 601 *et seq.* Indian tribes are not considered to be small entities for purposes of the Regulatory Flexibility Act.

*Small Business Regulatory Enforcement Fairness Act*

This final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions, and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*Unfunded Mandate Reform Act*

The Commission, as an independent regulatory agency within the Department of the Interior, is exempt from compliance with the Unfunded Mandates Reform Act. 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

*Takings*

In accordance with Executive Order 12630, the Commission has determined that this proposed rule does not have significant takings implications. A takings implication assessment is not required.

*Civil Justice Reform*

In accordance with Executive Order 12988, the Office of General Counsel has determined that the final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

*National Environmental Policy Act*

The Commission has determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*

*Paperwork Reduction Act*

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget as required by 44 U.S.C. 3501, *et seq.,* and assigned OMB Control Number 3141–0008. The OMB control number expires on October 31, 2013.

**List of Subjects in 25 CFR Part 518**

Gambling, Indian-lands, Indian-tribal government, Reporting and recordkeeping requirements.

Accordingly, for the reasons discussed in the preamble, the Commission revises 25 CFR part 518 to read as follows:

## PART 518 —SELF–REGULATION OF CLASS II GAMING

Sec.

518.1 What does this part cover?
518.2 Who will administer the self-regulation program for the Commission?
518.3 Who is eligible to petition for a certificate of self-regulation?
518.4 What must a tribe submit to the Commission as part of its petition?
518.5 What criteria must a tribe meet to receive a certificate of self-regulation?
518.6 What are the responsibilities of the Office of Self-Regulation in the certification process?
518.7 What process will the Commission use to review and certify petitions?
518.8 What is the hearing process?
518.9 When will a certificate of self-regulation become effective?
518.10 What must a self-regulating tribe provide the Commission to maintain its self-regulatory status?
518.11 Does a tribe that holds a certificate of self-regulation have a continuing duty to advise the Commission of any additional information?
518.12 Which investigative or enforcement powers of the Commission are inapplicable to self-regulating tribes?
518.13 When may the Commission revoke a certificate of self-regulation?
518.14 May a tribe request a hearing on the Commission's proposal to revoke its certificate?

**Authority:** 25 U.S.C. § 2706(b)(10); E.O. 13175.

### § 518.1 What does this part cover?

This part sets forth requirements for obtaining a certificate of self-regulation of Class II gaming operations under 25 U.S.C. 2710(c). When the Commission issues a certificate of self-regulation, the certificate is issued to the tribe, not to a particular gaming operation. The certificate applies to all Class II gaming activity conducted by the tribe holding the certificate.

### § 518.2 Who will administer the self-regulation program for the Commission?

The self-regulation program will be administered by the Office of Self-Regulation. The Chair shall appoint one Commissioner to administer the Office of Self-Regulation.

### § 518.3 Who is eligible to petition for a certificate of self-regulation?

A tribe is eligible to petition the Commission for a certificate of self-regulation of Class II gaming if, for a three (3)-year period immediately preceding the date of its petition:

(a) The tribe has continuously conducted such gaming;

(b) All gaming that the tribe has engaged in, or has licensed and regulated, on Indian lands within the tribe's jurisdiction, is located within a State that permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal law), in accordance with 25 U.S.C. 2710(b)(1)(A);

(c) The governing body of the tribe has adopted an ordinance or resolution that the Chair has approved, in accordance with 25 U.S.C. 2710(b)(1)(B);

(d) The tribe has otherwise complied with the provisions of 25 U.S.C. 2710; and

(e) The gaming operation and the tribal regulatory body have, for the three (3) years immediately preceding the date of the petition, maintained all records required to support the petition for self-regulation.

### § 518.4 What must a tribe submit to the Commission as part of its petition?

A petition for a certificate of self-regulation is complete under this part when it contains:

(a) Two copies on 8½'' x 11'' paper of a petition for self-regulation approved by the governing body of the tribe and certified as authentic by an authorized tribal official;

(b) A description of how the tribe meets the eligibility criteria in § 518.3, which may include supporting documentation; and

(c) The following information with supporting documentation:

(1) A brief history of each gaming operation(s), including the opening dates and periods of voluntary or involuntary closure;

(2) An organizational chart of the tribal regulatory body;

(3) A brief description of the criteria tribal regulators must meet before being eligible for employment as a tribal regulator;

(4) A brief description of the process by which the tribal regulatory body is funded, and the funding level for the three years immediately preceding the date of the petition;

(5) A list of the current regulators and employees of the tribal regulatory body, their complete resumes, their titles, the dates they began employment, and, if serving limited terms, the expiration date of such terms;

(6) A brief description of the accounting system(s) at the gaming operation which tracks the flow of the gaming revenues;

(7) A list of gaming activity internal controls at the gaming operation(s);

(8) A description of the record keeping system(s) for all investigations, enforcement actions, and prosecutions of violations of the tribal gaming ordinance or regulations, for the three (3)-year period immediately preceding the date of the petition; and

(9) The tribe's current set of gaming regulations, if not included in the approved tribal gaming ordinance.

**§ 518.5 What criteria must a tribe meet to receive a certificate of self-regulation?**

(a) The Commission shall issue a certificate of self-regulation if it determines that for a three (3)-year period, the tribe has:

(1) Conducted its gaming activity in a manner that:

(i) Has resulted in an effective and honest accounting of all revenues;

(ii) Has resulted in a reputation for safe, fair, and honest operation of the activity; and

(iii) Has been generally free of evidence of criminal or dishonest activity;

(2) Conducted its gaming operation on a fiscally and economically sound basis;

(3) Conducted its gaming activity in compliance with the IGRA, NIGC regulations in this chapter, and the tribe's gaming ordinance and gaming regulations; and

(4) Adopted and is implementing adequate systems for:

(i) Accounting of all revenues from the gaming activity;

(ii) Investigating, licensing and monitoring of all employees of the gaming activity;

(iii) Investigating, enforcing, prosecuting, or referring for prosecution violations of its gaming ordinance and regulations; and

(iv) Prosecuting criminal or dishonest activity or referring such activity for prosecution.

(b) A tribe may illustrate that it has met the criteria listed in paragraph (a) of this section by addressing factors such as those listed below. The list of factors is not all-inclusive; other factors not listed here may also be addressed and considered.

(1) The tribe adopted and is implementing minimum internal control standards which are at least as stringent as those promulgated by the Commission;

(2) The tribe requires tribal gaming regulators to meet the same suitability requirements as those required for key employees and primary management officials of the gaming operation(s);

(3) The tribe's gaming operation utilizes an adequate system for accounting of all gaming revenues from Class II gaming activity;

(4) The tribe has a dispute resolution process for gaming operation customers and has taken steps to ensure that the process is adequately implemented;

(5) The tribe has a gaming regulatory body which:

(i) Monitors gaming activities to ensure compliance with Federal and tribal laws and regulations;

(ii) Monitors the gaming revenues accounting system for continued effectiveness;

(iii) Performs routine operational or other audits of the Class II gaming activities;

(iv) Routinely receives and reviews gaming revenue accounting information from the gaming operation(s);

(v) Has access to, and may inspect, examine, photocopy and audit, all papers, books, and records of the gaming operation(s) and Class II gaming activities;

(vi) Monitors compliance with minimum internal control standards for the gaming operation;

(vii) Has adopted and is implementing an adequate system for investigating, licensing, and monitoring of all employees of the gaming activity;

(viii) Maintains records on licensees and on persons denied licenses, including persons otherwise prohibited from engaging in gaming activities within the tribe's jurisdiction;

(ix) Establishes standards for, and issues, vendor licenses or permits to persons or entities who deal with the gaming operation, such as manufacturers and suppliers of services, equipment and supplies;

(x) Establishes or approves the rules governing Class II games, and requires their posting;

(xi) Has adopted and is implementing an adequate system for the investigation of possible violations of the tribal gaming ordinance and regulations, and takes appropriate enforcement actions; and

(xii) Takes testimony and conducts hearings on regulatory matters, including matters related to the revocation of primary management officials, key employee and vendor licenses;

(6) The tribe allocates and appropriates a sufficient source of permanent and stable funding for the tribal regulatory body;

(7) The tribe has adopted and is implementing a conflict of interest policy for the regulators/regulatory body and their staff;

(8) The tribe has adopted and is implementing a system for adequate prosecution of violations of the tribal gaming ordinance and regulations or referrals for prosecution; and

(9) The tribe demonstrates that the operation is being conducted in a manner which adequately protects the environment and the public health and safety.

(c) The tribe assists the Commission with access and information-gathering responsibilities during the certification process.

(d) The burden of establishing self-regulation is upon the tribe filing the petition.

**§ 518.6 What are the responsibilities of the Office of Self-Regulation in the certification process?**

The Office of Self-Regulation shall be responsible for directing and coordinating the certification process. It shall provide a written report and recommendation to the Commission as to whether a certificate of self-regulation should be issued or denied, and a copy of the report and recommendation to the petitioning tribe.

**§ 518.7 What process will the Commission use to review and certify petitions?**

(a) Petitions for self-regulation shall be submitted by tribes to the Office of Self-Regulation.

(1) Within 30 days of receipt of a tribe's petition, the Office of Self-Regulation shall conduct a review of the tribe's petition to determine whether it is complete under § 518.4.

(2) If the tribe's petition is incomplete, the Office of Self-Regulation shall notify the tribe by letter, certified mail or return receipt requested, of any obvious deficiencies or significant omissions in the petition. A tribe with an incomplete petition may submit additional information and/or clarification within 30 days of receipt of notice of an incomplete petition.

(3) If the tribe's petition is complete, the Office of Self-Regulation shall notify the tribe in writing.

(b) Once a tribe's petition is complete, the Office of Self-Regulation shall conduct a review to determine whether the tribe meets the eligibility criteria in § 518.3 and the approval criteria in § 518.5. During its review, the Office of Self-Regulation:

(1) May request from the tribe any additional material it deems necessary to assess whether the tribe has met the criteria for self-regulation.

(2) Will coordinate an on-site review and verification of the information submitted by the petitioning tribe.

(c) Within 120 days of notice of a complete petition under § 518.4, the Office of Self-Regulation shall provide a recommendation and written report to

the full Commission and the petitioning tribe.

(1) If the Office of Self-Regulation determines that the tribe has satisfied the criteria for a certificate of self-regulation, it shall recommend to the Commission that a certificate be issued to the tribe.

(2) If the Office of Self-Regulation determines that the tribe has not met the criteria for a certificate of self-regulation, it shall recommend to the Commission that it not issue a certificate to the tribe.

(3) The Office of Self-Regulation shall make all information, on which it relies in making its recommendation and report, available to the tribe, subject to the confidentiality requirements in 25 U.S.C. 2716(a), and shall afford the tribe an opportunity to respond.

(4) The report shall include:

(i) Findings as to whether each of the eligibility criteria is met, and a summary of the basis for each finding;

(ii) Findings as to whether each of the approval criteria is met, and a summary of the basis for each finding;

(iii) A recommendation to the Commission as to whether it should issue the tribe a certificate of self-regulation; and

(iv) A list of any documents and other information received in support of the tribe's petition.

(5) A tribe shall have 30 days from the date of issuance of the report to submit to the Office of Self-Regulation a response to the report.

(d) After receiving the Office of Self-Regulation's recommendation and report, and a tribe's response to the report, the Commission shall issue preliminary findings as to whether the eligibility and approval criteria are met. The Commission's preliminary findings will be provided to the tribe within 30 days of receipt of the report.

(e) Upon receipt of the Commission's preliminary findings, the tribe can request, in writing, a hearing before the Commission, as set forth in § 518.8. Hearing requests shall be made to the Office of Self-Regulation, and shall specify the issues to be addressed by the tribe at the hearing and any proposed oral or written testimony the tribe wishes to present.

(f) The Commission shall issue a final determination 30 days after issuance of its preliminary findings or after the conclusion of a hearing, if one is held. The decision of the Commission to approve or deny a petition shall be a final agency action.

(g) A tribe may withdraw its petition and resubmit it at any time prior to the issuance of the Commission's final determination.

### § 518.8 What is the hearing process?

(a) Within 10 days of receipt of the request for a hearing, the Office of Self-Regulation shall notify the tribe of the date and place of the hearing. The notice shall also set a hearing schedule, the time allotted for testimony and oral argument, and the order of the presentation.

(1) To the extent possible, the hearing will be scheduled not later than 60 days after the notice is issued, and the hearing schedule will be issued at least 30 days prior to the hearing.

(2) [Reserved]

(b) The Commission shall issue a decision on the petition within 30 days after the hearing's conclusion. The decision shall set forth, with particularity, findings regarding the tribe's satisfaction of the self-regulation standards in this Part. If the Commission determines that a certificate will issue, it will do so in accordance with § 518.11.

(c) The decision of the Commission to approve or deny a petition shall be a final agency action.

### § 518.9 When will a certificate of self-regulation become effective?

A certificate of self-regulation shall become effective on January 1 of the year following the year in which the Commission determines that a certificate will issue. Petitions will be reviewed in chronological order based on the date of receipt of a complete petition.

### § 518.10 What must a self-regulating tribe provide the Commission to maintain its self-regulatory status?

Each tribe that holds a certificate of self-regulation shall be required to submit the following information by April 15 of each year following the first year of self-regulation, or within 120 days after the end of each fiscal year of the gaming operation, as required by 25 CFR 571.13:

(a) An annual independent audit, to be filed with the Commission, as required by 25 U.S.C. 2710(b)(2)(c); and

(b) A complete resume for all employees of the tribal regulatory body hired and licensed by the tribe subsequent to its receipt of a certificate of self-regulation, to be filed with the Office of Self-Regulation.

Failure to submit the information required by this section may result in revocation of a certificate of self-regulation.

### § 518.11 Does a tribe that holds a certificate of self-regulation have a continuing duty to advise the Commission of any additional information?

Yes. A tribe that holds a certificate of self-regulation has a continuing duty to advise the Commission within three business days of any changes in circumstances that are material to the approval criteria in § 518.5 and may reasonably cause the Commission to review and revoke the tribe's certificate of self-regulation. Failure to do so is grounds for revocation of a certificate of self-regulation. Such circumstances may include, but are not limited to, a change of primary regulatory official; financial instability; or any other factors that are material to the decision to grant a certificate of self-regulation.

### § 518.12 Which investigative or enforcement powers of the Commission are inapplicable to self-regulating tribes?

During any time in which a tribe has a certificate of self-regulation, the powers of the Commission, as set forth in 25 U.S.C. 2706(b)(1)–(4), shall be inapplicable.

### § 518.13 When may the Commission revoke a certificate of self-regulation?

The Commission may, after an opportunity for a hearing, revoke a certificate of self-regulation by a majority vote of its members if it determines that the tribe no longer meets the eligibility criteria of § 518.3, the approval criteria of § 518.5, the requirements of § 518.10 or the requirements of § 518.11. The Commission shall provide the tribe with prompt notice of the Commission's intent to revoke a certificate of self-regulation under this part. Such notice shall state the reasons for the Commission's action and shall advise the tribe of its right to a hearing under part 584 or right to appeal under part 585. The decision to revoke a certificate is a final agency action and is appealable to Federal District Court pursuant to 25 U.S.C. 2714.

### § 518.14 May a tribe request a hearing on the Commission's proposal to revoke its certificate of self-regulation?

Yes. A tribe may request a hearing regarding the Commission's proposal to revoke a certificate of self-regulation. Such a request shall be filed with the Commission pursuant to part 584. Failure to request a hearing within the time provided by part 584 shall constitute a waiver of the right to a hearing.

Dated: March 28, 2013, Washington, DC.

**Tracie L. Stevens,**

*Chairwoman.*

**Daniel J. Little,**

*Associate Commissioner.*

[FR Doc. 2013–07621 Filed 4–3–13; 8:45 am]

**BILLING CODE 7565–01–P**

## DEPARTMENT OF THE INTERIOR

### Office of Natural Resources Revenue

### 30 CFR Part 1206

### Product Valuation

*CFR Correction*

In FR Doc. 2013–07512, appearing on page 19100, in the **Federal Register** of Friday, March 29, 2013, the subagency heading ''Surface Mining Reclamation and Enforcement'' is corrected to read ''Office of Natural Resources Revenue''.

[FR Doc. 2013–07993 Filed 4–3–13; 8:45 am]

**BILLING CODE 1505–01–D**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R03–OAR–2012–0409; FRL–9797–8]**

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determinations of Attainment of the 1997 8-Hour Ozone Standard for the Pittsburgh-Beaver Valley Moderate Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** EPA is making two separate and independent determinations regarding the Pittsburgh-Beaver Valley 1997 8-hour ozone nonattainment area (the Pittsburgh Area). First, EPA is making a determination that the Pittsburgh Area attained the 1997 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of June 15, 2010. This determination is based upon complete, quality assured, and certified ambient air monitoring data for the 2007–2009 monitoring period showing monitored attainment of the 1997 8-hour ozone NAAQS. Second, EPA is making a determination that the Pittsburgh Area is attaining the 1997 8-hour ozone NAAQS, based on complete, quality assured, and certified ambient air monitoring data for the 2009–2011 monitoring period, and preliminary data for 2012. This final determination suspends the requirement for the Pittsburgh Area to submit an attainment demonstration, reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures related to attainment of the 1997 8-hour ozone NAAQS for so long as the area continues to attain that NAAQS. These determinations do not constitute a redesignation to attainment. The Pittsburgh Area will remain designated nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the Pittsburgh Area meets the Clean Air Act (CAA) requirements for redesignation to attainment, including an approved maintenance plan. These actions are being taken under the CAA.

**DATES:** This final rule is effective on May 6, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2012–0409. 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.

**FOR FURTHER INFORMATION CONTACT:** Maria A. Pino, (215) 814–2181, or by email at *pino.maria@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

On December 10, 2012 (77 FR 73387), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. In the December 10, 2012 rulemaking action, EPA proposed to determine that the Pittsburgh Area attained the 1997 8-hour ozone NAAQS by its attainment date, June 15, 2010. EPA also proposed to make a clean data determination, finding that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS. No comments were received on the December 10, 2012 NPR.

## II. Summary of SIP Revision

These actions do not constitute a redesignation of the Pittsburgh Area to attainment for the 1997 8-hour ozone NAAQS under CAA section 107(d)(3). Neither determination of attainment involves approving a maintenance plan for the Pittsburgh Area, nor determines that the Pittsburgh Area has met all the requirements for redesignation under the CAA, including that the attainment be due to permanent and enforceable measures. Therefore, the designation status of the Pittsburgh Area will remain nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA takes final rulemaking action to determine that the Pittsburgh Area meets the CAA requirements for redesignation to attainment.

### *A. Determination of Attainment by the Attainment Date*

EPA is making a determination that the Pittsburgh Area attained the 1997 8-hour ozone NAAQS by its applicable attainment date of June 15, 2010. This determination is based upon complete, quality assured and certified ambient air monitoring data for the 2007–2009 monitoring period, which is the last full three-year period prior to the June 15, 2010 attainment date. The 2007–2009 data show that the Pittsburgh Area monitored attainment of the 1997 8-hour ozone NAAQS. The effect of a final determination of attainment by the Pittsburgh Area's attainment date is to discharge EPA's obligation under CAA section 181(b)(2) to determine, based on the Pittsburgh Area's air quality as of the attainment date, whether the area attained the standard by that date and to establish that the Pittsburgh Area will not be reclassified.

### *B. ''Clean Data'' Determination of Attainment*

EPA is also making a determination that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS. This determination is based upon complete, quality assured and certified ambient air monitoring data that show the Pittsburgh Area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2009–2011 monitoring period. Preliminary data for 2012 are consistent with continued attainment. Under the provisions of EPA's implementation rule for the 1997 8-hour NAAQS (*see* 40 CFR 51.918), a final determination of attainment suspends the CAA requirements for the Pittsburgh Area to submit an attainment demonstration and the associated RFP plan, contingency measures, RACM analysis, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS required for moderate areas under subpart 2 of the CAA. This suspension would remain in effect until such time, if any,

that EPA (i) redesignates the area to attainment at which time those requirements no longer apply, or (ii) subsequently determines, after notice-and-comment rulemaking, that the Pittsburgh Area has violated the 1997 8-hour ozone NAAQS. This final determination is separate from, and does not influence or otherwise affect, any future designation or requirements for the Pittsburgh Area based on any new or revised ozone NAAQS. It remains in effect regardless of whether EPA designates the Pittsburgh Area as a nonattainment area for purposes of any new or revised ozone NAAQS.

*C. EPA's Analysis of the Relevant Air Quality Data*

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the 8-hour ozone ambient air quality monitoring data for the 2007–2009, 2008–2010, and 2009–2011 monitoring periods for the Pittsburgh Area, as recorded in EPA's Air Quality System (AQS) database. On the basis of that review, EPA has concluded that the Pittsburgh Area attained the 1997 8-hour ozone NAAQS by its attainment date, based on data for the 2007–2009 monitoring period. EPA has also concluded that the Pittsburgh Area continues to attain, based on data for the 2008–2010 and 2009–2011 monitoring periods. Preliminary 2012 data is consistent with continued attainment.

In the Technical Support Document (TSD) prepared for this action, EPA has evaluated the air quality data for the Pittsburgh Area. EPA's review of the data indicates that the Pittsburgh Area has met the 1997 8-hour ozone NAAQS. For details, please refer to EPA's TSD, which can be viewed at *http://www.regulations.gov,* Docket ID No. EPA–R03–OAR–2012–0409. The rationale for EPA's action is explained in the NPR and will not be restated here. No public comments were received on the NPR.

**III. Final Action**

EPA is making two determinations regarding the Pittsburgh Area. First, pursuant to section 181(b)(2)(A) of the CAA, EPA is making a determination that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS by its moderate area attainment date, June 15, 2010. Second, EPA is making a determination that the Pittsburgh Area is attaining the 1997 8-hour ozone NAAQS, based on complete, quality assured, and certified ambient air monitoring data for the 2009–2011 monitoring period, and preliminary data for 2012. This final determination suspends the requirements for the Pittsburgh Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 8-hours ozone NAAQS for so long as the area continues to attain the 1997 8-hour ozone NAAQS. These determinations do not constitute a redesignation to attainment. The Pittsburgh Area will remain designated nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the Pittsburgh Area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan.

**IV. Statutory and Executive Order Reviews**

*A. General Requirements*

This action, which makes determinations of attainment based on air quality, will result in the suspension of certain Federal requirements and/or will not impose any 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 June 3, 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 determination that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS 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, Ozone.

Dated: March 25, 2013.

**W.C. Early,**

*Acting 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 part 52 continues to read as follows:

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

### Subpart NN—Pennsylvania

■ 2. Section 52.2037 is amended by adding paragraph (s) to read as follows:

**§ 52.2037 Control strategy plans for attainment and rate-of-progress: Ozone.**

* * * * *

(s) *Determination of attainment.* EPA has determined, as of April 4, 2013, that based on 2009 to 2011 ambient air quality data, the Pittsburgh-Beaver Valley, PA moderate nonattainment area has attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). This determination, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 8-hour ozone NAAQS.

■ 3. Section 52.2056 is amended by adding paragraph (i) to read as follows:

**§ 52.2056 Determinations of attainment.**

* * * * *

(i) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, the Pittsburgh-Beaver Valley, PA moderate nonattainment area has attained the 1997 8-hour ozone NAAQS by the applicable attainment date of June 15, 2010. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Pittsburgh-Beaver Valley, PA moderate nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

[FR Doc. 2013–07768 Filed 4–3–13; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

**[EPA–R06–OAR–2006–0851; FRL–9796–8]**

## Delegation of National Emission Standards for Hazardous Air Pollutants for the States of Kentucky and Louisiana, Correcting Amendments

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

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** On April 14, 2010, EPA published a direct final rule approving delegations of authority for Louisiana. There was an error in the amendatory language which resulted in errors in the codification of the delegated Federal authorities for Kentucky and Louisiana. This action corrects the errors.

**DATES:** This correction is effective on April 4, 2013.

**FOR FURTHER INFORMATION CONTACT:** Bill Deese, Air Planning Section, (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7253; fax number 214–665–7263; email address *deese.william@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This action corrects errors in 40 CFR part 63 that resulted from an error in the amendatory language in a 40 CFR parts 60, 61, and 63 **Federal Register** direct final rule, delegation of authority, entitled ''Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the State of Louisiana,'' published April 14, 2010 (75 FR 19252). The error resulted in the revised Louisiana 40 CFR part 63 delegation of authority being codified in 40 CFR 63.99(a)(18) for Kentucky rather than in 40 CFR 63.99(a)(19) for Louisiana. Paragraph 63.99(a)(19) for Louisiana remained as previously approved by EPA for Louisiana on April 17, 2006 (71 FR 19652). In this action, EPA is correcting the errors in 40 CFR part 63 by replacing paragraph 63.99(a)(18) with the language approved for Kentucky in a May 13, 2009 (74 FR 22437), direct final rule, and replacing paragraph 63.99(a)(19) with the language approved for Louisiana in the April 14, 2010 Federal Register direct final rule.

EPA has determined that today's action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because today's action to correct errors in 40 CFR part 63 has no substantive impact on EPA's May 13, 2009 (74 FR 22437), and EPA's April 14, 2010 (75 FR 19252), approval of delegation agreements of the 40 CFR part 63 National Emission Standards for Hazardous Air Pollutants for the states of Kentucky and Louisiana. This action makes no substantive difference to EPA's analysis as set out in those rules. In addition, EPA can identify no particular reason why the public would be interested in being notified of the correction of these paragraphs or in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change the meaning of EPA's analysis of Kentucky's submittal approved by EPA May 13, 2009, or Louisiana's submittals approved by EPA April 14, 2010. EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's action merely corrects an error in the regulatory text of a prior rule by correcting the 40 CFR part 63 delegations of authority of the 40 CFR Part 63 National Emission Standards for Hazardous Air Pollutants for the states of Kentucky and Louisiana approved by EPA May 13, 2009, and April 14, 2010, respectively. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

### Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000). This rule also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely corrects states requests to receive delegation of certain Federal standards, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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

Under section 307(b)(1) of the 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 June 3, 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 63**

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

Dated: March 22, 2013.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR part 63 is amended as follows:

## PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

## Subpart E—Approval of State Programs and Delegation of Federal Authorities

■ 2. Section 63.99 is amended by revising paragraph (a)(18) for Kentucky and paragraph (a)(19) for Louisiana to read as follows:

**§ 63.99 Delegated Federal Authorities.**

(a) * * *

(18) Kentucky.

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Kentucky Department of Environmental Protection for all sources. The ''X'' symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards.

PART 63 MAJOR AND AREA SOURCE RULE DELEGATIONS—KENTUCKY [1]

| | Source category | Subpart | KDEP [2] | LAPCD [3] |
|---|---|---|---|---|
| 1 | HON | F,G,H,I | X | X |
| 2 | Polyvinyl Chloride & Co-polymers VACATED on 5/11/05 | J | | |
| 3 | Coke Ovens | L | X | X |
| 4 | Dry Cleaners | M | X | X |
| 5 | Chromium Electroplating | N | X | X |
| 6 | EtO Commercial Sterilization | O | X | X |
| 7 | Chromium Cooling Towers | Q | X | X |
| 8 | Gasoline Distribution (stage 1) | R | X | X |
| 9 | Pulp & Paper I | S | X | X |
| 10 | Halogenated Solvent Cleaning | T | X | X |
| 11 | Polymer & Resins 1 | U | X | X |
| 12 | Polymer & Resins 2 | W | X | X |
| 13 | Secondary Lead Smelters | X | X | X |
| 14 | Marine Tank Vessel Loading | Y | X | X |
| 15 | Phosphoric Acid Mfg | AA | X | X |
| 16 | Phosphate Fertilizers Prod | BB | X | X |
| 17 | Petroleum Refineries | CC | X | X |
| 18 | Offsite Waste & Recovery | DD | X | X |
| | Tanks; Level 1 | OO | X | X |

PART 63 MAJOR AND AREA SOURCE RULE DELEGATIONS—KENTUCKY [1]—Continued

| | Source category | Subpart | KDEP [2] | LAPCD [3] |
|---|---|---|---|---|
| | Containers | PP | X | X |
| | Surface Impoundments | QQ | X | X |
| | Drain Systems | RR | X | X |
| | Oil-Water Separators | VV | X | X |
| 19 | Magnetic Tape | EE | X | X |
| 20 | Aerospace Industry | GG | X | X |
| 21 | Oil & Natural Gas Prod | HH | X | X |
| | Area Source Requirements >>. | X | | |
| 22 | Shipbuilding and Repair | II | X | X |
| 23 | Wood Furniture Mfg | JJ | X | X |
| 24 | Printing & Publishing | KK | X | X |
| 25 | Primary Aluminum | LL | X | |
| 26 | Pulp & Paper II (Combustion sources) | MM | X | X |
| 27 | Generic MACT: | | | |
| | Control Devices | SS | X | X |
| | Eq. Leaks—Level 1 | TT | X | X |
| | Eq. Leaks—Level 2 | UU | X | X |
| | Tanks—Level 2 | WW | X | X |
| 28 | General MACT: | | | |
| | Ethylene Mfg | XX & YY | X | X |
| | Carbon Black | YY | X | X |
| | Spandex Prod | YY | X | X |
| | Cyanide Chemical Mfg | YY | X | X |
| | Acetal Resins | YY | X | X |
| | Acrylic/Modacrylic Fibers | YY | X | X |
| | Hydrogen Fluoride Prod | YY | X | X |
| | Polycarbonates Prod | YY | X | X |
| 29 | Steel Pickling | CCC | X | X |
| 30 | Mineral Wool Prod | DDD | X | X |
| 31 | Hazardous Waste Combustion (Phase I) | EEE | X | X |
| 32 | Boilers that burn Haz. Waste (Phase II) | EEE | X | X |
| 33 | HCL Prod. Furnaces burning Haz. Waste (P II) | EEE | X | X |
| 34 | Pharmaceutical Prod | GGG | X | X |
| 35 | Nat. Gas Transmission & Storage | HHH | X | X |
| 36 | Flexible Polyurethane Foam Prod | III | X | X |
| 37 | Polymer & Resins 4 | JJJ | X | X |
| 38 | Portland Cement | LLL | X | X |
| 39 | Pesticide Active Ingredients | MMM | X | X |
| 40 | Wool Fiberglass | NNN | X | X |
| 41 | Polymer & Resins 3 (Amino & Phenolic) | OOO | X | X |
| 42 | Polyether Polyols Prod | PPP | X | X |
| 43 | Primary Copper | QQQ | X | X |
| 44 | Secondary Aluminum Prod | RRR | X | X |
| 45 | Primary Lead Smelting | TTT | X | |
| 46 | Petro Refineries (FCC units) | UUU | X | X |
| 47 | POTW | VVV | X | X |
| 48 | Ferroalloys | XXX | X | X |
| 49 | Municipal Landfills | AAAA | X | X |
| 50 | Nutritional Yeast | CCCC | X | X |
| 51 | Plywood and Composite Wood Prod. (Partial Vacatur Oct. 07) | DDDD | X | X |
| 52 | Organic Liquids Distribution (non-gas) | EEEE | X | X |
| 53 | Misc. Organic NESHAP | FFFF | X | X |
| 54 | Vegetable Oil | GGGG | X | X |
| 55 | Wet Formed Fiberglass | HHHH | X | X |
| 56 | Auto & Light Duty Truck (coating) | IIII | X | X |
| 57 | Paper & Other Webs | JJJJ | X | X |
| 58 | Metal Can (coating) | KKKK | X | X |
| 59 | Misc. Metal Parts (coating) | MMMM | X | X |
| 60 | Large Appliances (coating) | NNNN | X | X |
| 61 | Printing, Coating, & Dyeing Fabrics | OOOO | X | X |
| 62 | Plastic Parts & Products (coating) | PPPP | X | X |
| 63 | Wood Building Products | QQQQ | X | X |
| 64 | Metal Furniture (coating) | RRRR | X | X |
| 65 | Metal Coil (coating) | SSSS | X | X |
| 66 | Leather Tanning & Finishing | TTTT | X | X |
| 67 | Cellulose Ethers Prod. Misc. Viscose Processes | UUUU | X | X |
| 68 | Boat Manufacturing | VVVV | X | X |
| 69 | Reinforced Plastic Composites | WWWW | X | X |
| 70 | Rubber Tire Mfg | XXXX | X | X |
| 71 | Stationary Combustion Turbines | YYYY | X | X |
| 72 | Reciprocating Int. Combustion Engines | ZZZZ | X | X |
| | Area Source Requirements >>. | X | | |

PART 63 MAJOR AND AREA SOURCE RULE DELEGATIONS—KENTUCKY [1]—Continued

| | Source category | Subpart | KDEP [2] | LAPCD [3] |
|---|---|---|---|---|
| 73 | Lime Manufacturing | AAAAA | X | X |
| 74 | Semiconductor Production | BBBBB | X | X |
| 75 | Coke Ovens: (Push/Quench/Battery/Stacks) | CCCCC | X | X |
| 76 | Industrial/Commercial/Institutional Boilers & Process Heaters, VACATED on 7/30/07. | DDDDD | | |
| 77 | Iron Foundries | EEEEE | X | X |
| 78 | Integrated Iron & Steel | FFFFF | X | X |
| 79 | Site Remediation | GGGGG | X | X |
| 80 | Misc. Coating Manufacturing | HHHHH | X | X |
| 81 | Mercury Cell Chlor-Alkali | IIIII | X | X |
| 82 | Brick & Structural Clay Products, VACATED on 6/18/07 | JJJJJ | | |
| 83 | Clay Ceramics Manufacturing, VACATED on 6/18/07 | KKKKK | | |
| 84 | Asphalt Roofing & Processing | LLLLL | X | X |
| 85 | Flex. Polyurethane Foam Fabrication | MMMMM | X | X |
| 86 | Hydrochloric Acid Prod/Fumed Silica | NNNNN | X | X |
| 87 | Engine & Rocket Test Facilities | PPPPP | X | X |
| 88 | Friction Materials Manufacturing | QQQQQ | X | X |
| 89 | Taconite Iron Ore | RRRRR | X | X |
| 90 | Refactories | SSSSS | X | X |
| 91 | Primary Magnesium | TTTTT | X | X |
| | **Ares Source Rules** | | | |
| 92 | Hospital Sterilizers | WWWWW | X | |
| 93 | Electric Arc Furnaces Stainless and Nonstainless Steel Mfg | YYYYY | X | |
| 94 | Iron & Steel foundries | ZZZZZ | X | |
| 95 | Gasoline Distribution—Bulk | BBBBBB | X | |
| 96 | Gasoline Dispensing Facilities | CCCCCC | X | |
| 97 | PVC & Copolymers Prod | DDDDDD | X | |
| 98 | Primary Copper | EEEEEE | X | |
| 99 | Secondary Copper Smelting | FFFFFF | X | |
| 100 | Primary Nonferrous Metals Paint Stripping | GGGGGG | X | |
| 101 | Auto-Body Refinishing Plastic Parts & Prod. (coating) | HHHHHH | X | |
| 102 | Acrylic/Modacrylic Fibers Prod | LLLLLL | X | |
| 103 | Carbon Black Prod | MMMMMM | X | |
| 104 | Chemical Mfg. Chrom Flex. Polyurethane Foam Fab | NNNNNN | X | |
| 105 | Flex. Polyurethane Foam Prod | OOOOOO | X | |
| 106 | Lead Acid Battery Mfg | PPPPPP | X | |
| 107 | Wood Preserving | QQQQQQ | X | |
| 108 | Clay Ceramics Mfg | RRRRRR | | |
| 109 | Glass Mfg | SSSSSS | | |
| 110 | Secondary Nonferrous Metals | TTTTTT | | |
| 111 | Plating and Polishing | WWWWWW | | |
| 112 | Hearing Eq. Mfg | XXXXXX | | |
| | Industrial Mach. & Eq. Finishing | | | |
| | Elect. & Electronics Eq. Finishing | | | |
| | Fabricated Metal Prod | | | |
| | Fabricated Plate Work (Boiler Shop) | | | |
| | Fabricated Structural Metal Mfg | | | |
| | Iron and Steel Forging | | | |
| | Primary Metals Prod. Mfg | | | |
| | Valves and Pipe Fittings Mfg | | | |
| | Ferroalloys Production | | | |
| 113 | Ferro/Silico Manganese | YYYYYY | | |

[1] State program approved on October 31, 2001. Delegation table last updated on April 1, 2009.
[2] Kentucky Department for Environmental Protection.
[3] Louisville Air Pollution Control District.

(ii) [Reserved]

(19) Louisiana.

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Louisiana Department of Environmental Quality for all sources. The ''X'' symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards. Any amendments made to these rules after the date of adoption are not delegated.

DELEGATION STATUS FOR PART 63 STANDARDS—STATE OF LOUISIANA

| Subpart | Source category | LDEQ [1] |
|---|---|---|
| A | General Provisions | X |
| D | Early Reductions | NO |
| F,G,H & I | SOCMI HON | X |
| J | Polyvinyl Chloride & Copolymers Production | NO [2] |
| L | Coke Oven Batteries | X |
| M | Perchloroethylene—Dry Cleaners | X |
| N | Chromium | X |
| O | Ethylene Oxide Sterilization | X |
| Q | Industrial Process Cooling Towers | X |
| R | Gasoline Distribution | X |
| S | Pulp & Paper MACT I | X |
| T | Halogenated Solvent | X |
| U | Polymers & Resins/Group I | X |
| W | Epoxy Resins and Non-Nylon Polyamides | X |
| X | Secondary Lead Smelting | X |
| Y | Marine Vessel Loading | X |
| AA/BB | Phosphoric Acid/Phosphate Fertilizers | X |
| CC | Petroleum Refineries (MACT I) | X |
| DD | Offsite Waste & Recovery | X |
| EE | Magnetic Tape Mfg | X |
| GG | Aerospace Mfg and Rework | X |
| HH | Oil & Natural Gas Production | X |
| II | Shipbuilding & Ship Repair | X |
| JJ | Wood Furniture Manufacturing | X |
| KK | Printing & Publishing | X |
| LL | Primary Aluminum Reduction Plants | X |
| MM | Combustion Sources at Kraft, Soda, and Sulfite Pulp & Paper Mills | X |
| OO | Storage Vessels (Tanks)—Control Level 1 | X |
| PP | Standards for Containers | X |
| QQ | Standards for Surface Impoundments | X |
| RR | Standards for Individual Drain Systems | X |
| SS | Closed Vent Systems, Control Devices, Recovery Devices & Routing to a Fuel Gas System or a Process | X |
| TT | Equipment Leaks—Control Level 1 | X |
| UU | Equipment Leaks—Control Level 2 | X |
| VV | Standards for Oil-Water Separators & Organic-Water Separators | X |
| WW | Storage Vessels (Tanks)—Control Level 2 | X |
| XX | Ethylene Manufacturing Process Units: Heat Exchange Systems & Waste Operations | X |
| YY | Acetal Resins | X |
| YY | Acrylic/Modacrylic Fibers | X |
| YY | Carbon Black Production | X |
| YY | Cyanide Chemicals Mfg | X |
| YY | Ethylene Production | X |
| YY | Hydrogen Fluoride | X |
| YY | Polycarbonates Production | X |
| YY | Spandex Production | X |
| CCC | Steel Pickling—HCL Process Facilities and Hydrochloric Acid Regeneration Plants | X |
| DDD | Standards for Mineral-Wool Production | X |
| EEE | Standards for Hazardous Waste Combustors | X |
| GGG | Standards for Pharmaceuticals Production | X |
| HHH | Standards for Natural Gas Transmission & Storage | X |
| III | Flexible Polyurethane Foam Production | X |
| JJJ | Polymers & Resins/Group IV | X |
| LLL | Portland Cement Manufacturing | X |
| MMM | Pesticide Active Ingredient Production | X |
| NNN | Wool Fiberglass | X |
| OOO | Polymers & Resins III Amino Resins, Phenolic Resins | X |
| PPP | Polyether Polyols Production | X |
| QQQ | Primary Copper Smelting | X |
| RRR | Secondary Aluminum Production | X |
| TTT | Primary Lead Smelting | X |
| UUU | Petroleum Refineries (Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Plants) | X |
| VVV | Publicly Owned Treatment Works (POTW) | X |
| XXX | Ferroalloys Production | X |
| ZZZ | Plywood/Particle Board Manufacturing | NO |
| AAAA | Municipal Solid Waste Landfills | X |
| CCCC | Nutritional Yeast Manufacturing | X |
| DDDD | Plywood & Composite Wood Products | NO |
| EEEE | Organic Liquids Distribution (Non-Gasoline) | X |
| FFFF | Miscellaneous Organic | X |
| GGGG | Solvent Extraction for Vegetable Oil Production | X |
| HHHH | Wet-Formed Fiberglass Mat Production | X |
| IIII | Auto & Light Duty Truck (Surface Coating) | X |

DELEGATION STATUS FOR PART 63 STANDARDS—STATE OF LOUISIANA—Continued

| Subpart | Source category | LDEQ [1] |
|---|---|---|
| JJJJ | Paper & Other Webs (Surface Coating) | X |
| KKKK | Metal Can (Surface Coating) | X |
| MMMM | Misc. Metal Parts (Surface Coating) | X |
| NNNN | Large Appliances (Surface Coating) | X |
| OOOO | Fabric Printing, Coating & Dyeing (Surface Coating) | X |
| PPPP | Plastic Parts & Products (Surface Coating) | X |
| QQQQ | Wood Building Products (formerly Flat Wood Paneling) (Surface Coating) | X |
| RRRR | Metal Furniture (Surface Coating) | X |
| SSSS | Metal Coil (Surface Coating) | X |
| TTTT | Leather-Finishing Operations | X |
| UUUU | Cellulose Products | X |
| VVVV | Boat Manufacturing | X |
| WWWW | Reinforced Plastics Composites Production | X |
| XXXX | Rubber Tire Manufacturing | X |
| YYYY | Combustion Turbines | X |
| ZZZZ | Reciprocating Internal Combustion Engines (RICE) | X |
| AAAAA | Lime Manufacturing Plants | X |
| BBBBB | Semiconductor Manufacturing | X |
| CCCCC | Coke Oven; Pushing, Quenching, and Battery Stacks | X |
| DDDDD | Industrial, Commercial and Institutional Boilers & Process Heaters | NO [2] |
| EEEEE | Iron & Steel Foundries | X |
| FFFFF | Integrated Iron & Steel Manufacturing Facilities | X |
| GGGGG | Site Remediation | X |
| HHHHH | Miscellaneous Coating Manufacturing | X |
| IIIII | Mercury Cell Chlor-Alkali Plants | NO [2] |
| JJJJJ | Brick & Structural Clay Products Manufacturing | NO [2] |
| KKKKK | Clay Ceramics Manufacturing | NO [2] |
| LLLLL | Asphalt Roofing and Processing | X |
| MMMMM | Flexible Polyurethane Foam Fabrication Operation | X |
| NNNNN | Hydrochloric Acid Production | X |
| PPPPP | Engine Test Cells/Stands (Combined w/Rocket Testing Facilities) | X |
| QQQQQ | Friction Products Manufacturing | X |
| RRRRR | Taconite Ore Processing | X |
| SSSSS | Refractory Products Manufacturing | X |
| TTTTT | Primary Magnesium Refining | X |
| YYYYY | Electric Arc Furnace Steelmaking Facilities | X |
| BBBBBB | Gasoline Distribution Terminals | X |
| CCCCCC | Gasoline Dispensing Facilities | X |
| DDDDDD | Polyvinyl Chloride and Copolymers Production | X |
| EEEEEE | Primary Copper Smelting | X |
| FFFFFF | Secondary Copper Smelting | X |
| GGGGGG | Primary Nonferrous Metals Zinc, Cadmium, and Beryllium | X |
| HHHHHH | Paint Stripping and Miscellaneous Surface Coating | X |
| LLLLLL | Acrylic/Modacrylic Fibor | X |
| MMMMMM | Carbon Black Production | X |
| NNNNNN | Chromium Compounds | X |
| PPPPPP | Lead Acid Battery Mfg. | X |
| QQQQQQ | Wood Preserving | X |
| RRRRRR | Clay Ceramics Mfg. | X |
| SSSSSS | Glass Manufacturing | X |
| TTTTTT | Secondary Nonferrous Metals Processing (Brass, Bronze, Magnesium, & Zinc) | X |
| UUUUUU—VVVVVV. | (Reserved). | ..... |
| WWWWWW | Plating and Polishing Operations | X |
| XXXXXX | Metal Fabrication & Finishing Source Nine Categories | X |
| YYYYYY | Ferroalloys Production Facilities | X |
| ZZZZZZ | (Reserved). | ..... |

[1] Federal Rules Adopted by Louisiana Department of Environmental Quality (LDEQ), unchanged as of June 16, 2006.

[2] Although previously delegated to some States, this standard has been vacated and remanded to EPA by the U.S. Court of Appeals for District of Columbia Circuit. Therefore, this standard is not delegated at this time to any States in Region 6.

* * * * *

[FR Doc. 2013–07540 Filed 4–3–13; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 131**

**[EPA–HQ–OW–2012–0095; FRL–9795–8]**

**RIN 2040–AF33**

## Water Quality Standards; Withdrawal of Certain Federal Water Quality Criteria Applicable to California, New Jersey and Puerto Rico

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to amend the federal regulations to withdraw certain human health and aquatic life water quality criteria applicable to waters of New Jersey, Puerto Rico, and California's San Francisco Bay. In 1992, EPA promulgated the National Toxics Rule or NTR to establish numeric water quality criteria for 12 states and two Territories, including New Jersey, Puerto Rico and parts of California. On May 18, 2000, EPA then promulgated a final rule known as the California Toxics Rule or CTR in order to establish numeric water quality criteria for priority toxic pollutants for the State of California that were not previously in the NTR. These two states and one territory have now adopted, and EPA has approved, water quality criteria for certain pollutants included in the NTR. Since California, New Jersey, and Puerto Rico now have criteria that are applicable water quality standards for purposes of the Clean Water Act, EPA has determined that the federally promulgated criteria are no longer needed for these pollutants. In today's action, EPA is amending the federal regulations to withdraw those certain criteria applicable to California, New Jersey, and Puerto Rico as described in the April 5, 2012 proposed rule. The withdrawal of the federally promulgated criteria will enable New Jersey, Puerto Rico, and California to implement their EPA-approved water quality criteria.

**DATES:** This final rule is effective on June 3, 2013.

**ADDRESSES:** EPA has established a docket for this action identified by Docket ID No. EPA–HQ–OW–2012–0095. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at two Docket Facilities. The Office of Water (''OW'') Docket Center is open from 8:30 a.m. until 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (202) 566–2426 and the Docket address is OW Docket, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744. Publicly available docket materials are also available in hard copy at the U.S. EPA Region 2 and U.S. EPA Region 9 addresses. Docket materials can be accessed from 9:00 a.m. until 3:00 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information with respect to New Jersey, contact Wayne Jackson, U.S. EPA, Region 2, Clean Water Division, 290 Broadway, New York, New York 10007 (telephone: (212) 637–3807 or email: *jackson.wayne@epa.gov*). For information with respect to Puerto Rico, contact Izabela Wojtenko, U.S. EPA, Region 2, Clean Water Division, 290 Broadway, New York, NY 10007 (telephone: (212) 637–3814 or email: *wojtenko.izabela@epa.gov*). For information with respect to California, contact Diane E. Fleck, P.E. Esq., U.S. EPA Region 9, WTR–2, 75 Hawthorne St., San Francisco, CA 94105 (telephone: (415) 972–3480 or email: *fleck.diane@epa.gov*). For general and administrative concerns, contact Bryan ''Ibrahim'' Goodwin, U.S. EPA Headquarters, Office of Science and Technology, 1200 Pennsylvania Avenue NW., Mail Code 4305T, Washington, DC 20460 (telephone: (202) 566–0762 or email: *goodwin.bryan@epa.gov*).

**SUPPLEMENTARY INFORMATION:**

### I. General Information

No one is regulated by this rule. This rule withdraws certain federal water quality criteria applicable to New Jersey, Puerto Rico, and California. The withdrawal of the federal water quality criteria applicable to New Jersey and Puerto Rico in this action, in combination with previous federal withdrawal actions, results in the complete removal of New Jersey and Puerto Rico from the NTR.

#### Background

In 1992, EPA promulgated the NTR to establish numeric water quality criteria for 12 states and two Territories, including New Jersey, Puerto Rico and parts of California (hereafter ''States'') that had failed to comply fully with Section 303(c)(2)(B) of the Clean Water Act or CWA, 33 U.S.C. 1313(c)(2)(B) (57 FR 60848, December 22, 1992). The criteria codified at 40 CFR 131.36 became the applicable water quality standards in those 14 States for all purposes and programs under the CWA effective February 5, 1993.

On May 18, 2000, EPA then promulgated a final rule known as the CTR at 40 CFR 131.38 in order to establish numeric water quality criteria for priority toxic pollutants for the State of California that were not previously in the NTR, because the State had not complied fully with Section 303(c)(2)(B) of the CWA (65 FR 31682). At that time, any criteria promulgated as part of the NTR for California were codified in the criteria tables for the CTR at 40 CFR 131.38. The water quality standards program was developed with an emphasis on state primacy. Although in the NTR and CTR EPA promulgated toxic criteria for the certain States, EPA prefers that states maintain primacy and revise their own standards to achieve full compliance with the CWA (see 57 FR 60860, December 22, 1992). As described in the preamble to the final NTR and CTR, when a State adopts, and EPA approves, water quality criteria that meet the requirements of the CWA, EPA issues a rule amending the NTR and/or CTR to withdraw the federal criteria applicable to that State. On April 5, 2012, EPA proposed the withdrawal of certain criteria for New Jersey, Puerto Rico and California's San Francisco Bay (see 77 FR 20585; April 5, 2012). EPA received comments for the proposed rule and a listing of the comments and EPA's responses are contained in the document ''Response to Comments for Water Quality Standards; Withdrawal of Certain Federal Water Quality Criteria Applicable to California, New Jersey and Puerto Rico.'' Today, EPA is taking final action on its proposal. This rule does not remove any water quality protections. Rather, it removes a federal regulation that essentially duplicates State regulation.

*New Jersey*

As discussed in the proposal (77 FR 20585; April 5, 2012), this final rule

withdraws criteria for New Jersey related to two separate approval actions: August 16, 2002 and December 20, 2006. EPA's action approving New Jersey's adopted criteria (including a rationale for approving criteria that are less stringent than the federally promulgated criteria) can be accessed at OW docket number EPA–HQ–OW–2012–0095.

Today, EPA is withdrawing the federal water quality criteria listed below, as the state's criteria have been determined to meet the requirements of the CWA and EPA's implementing regulations at 40 CFR 131.

- Arsenic (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Cadmium (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Chromium III (aquatic life—freshwater (acute and chronic))
- Chromium VI (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Copper (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Lead (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Mercury (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Nickel (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Selenium (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Silver (aquatic life—freshwater (acute) and marine water (acute))
- Zinc (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Chlorodibromomethane (human health—organisms only)
- 1,1–Dichloroethylene (human health—organisms only).
- 1,1,2,2–Tetrachloroethane (human health—organisms only).
- 1,1,2–Trichloroethane (human health—organisms only).
- Fluorene (human health—organisms only)
- Hexachlorbutadiene (human health—organisms only)
- Isophrone (human health—organisms only)
- gamma-BHC (human health—organisms only)
- PCBs (human health—water & organisms and organisms only)

The finalization of this action for New Jersey results in the complete removal of New Jersey from the NTR.

*Puerto Rico*

As discussed in the proposal (77 FR 20585; April 5, 2012), this final rule withdraws criteria for Puerto Rico related to one approval action on August 4, 2010. EPA's actions approving Puerto Rico's adopted criteria (including a rationale for approving criteria that are less stringent than the federally promulgated criteria) can be accessed at OW docket number EPA–HQ–OW–2012–0095.

Today, EPA is withdrawing the federal water quality criteria listed below, as Puerto Rico's criteria have been determined to meet the requirements of the CWA and EPA's implementing regulations at 40 CFR part 131.

- Chromium VI (aquatic life—marine water (acute and chronic))
- Mercury (aquatic life—freshwater (chronic) and marine water (chronic))
- Thallium (human health –water & organisms and organisms only)
- Dioxin (human health—water & organisms and organisms only)
- Dichlorobromomethane (human health—water & organisms and organisms only)
- Benzo(a)Anthracene (human health—water & organisms and organisms only)
- Benzo(a)Pyrene (human health—water & organisms and organisms only)
- Benzo(b)Flouranthene (human health—water & organisms and organisms only)
- Benzo(k)Flouranthene (human health—water & organisms and organisms only)
- Chrysene (human health—water & organisms and organisms only)
- Dibenzo(a,h)Anthracene (human health—water & organisms and organisms only)
- Fluorene (human health—organisms only)
- Indeno(1,2,3-cd) Pyrene (human health—water & organisms and organisms only)
- Isophrone (human health—water & organisms and organisms only)
- alpha-BHC (human health—water & organisms and organisms only)
- beta-BHC (human health—water & organisms and organisms only)
- gamma-BHC (aquatic life—freshwater (chronic))
- alpha-Endosulfan (aquatic life—marine water (acute and chronic))
- beta-Endosulfan (aquatic life—marine water (acute and chronic))
- Endosulfan Sulfate (human health—water & organisms and organisms only)
- Endrin (aquatic life—freshwater (chronic))
- Endrin Aldehyde (human health—water & organisms and organisms only)
- Heptachlor Epoxide (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic) (human health—water & organisms and organisms only)
- PCBs (aquatic life—freshwater (chronic) and marine water (chronic)) (human health—water & organisms and organisms only)

The finalization of the proposed actions for Puerto Rico results in the complete removal of Puerto Rico from the NTR.

*California*

As discussed in the proposal (77 FR 20585; April 5, 2012), this final rule withdraws cyanide criteria applicable to San Francisco Bay, California, which EPA approved on July 22, 2008, from the NTR and makes conforming edits to the CTR regulations found in 40 CFR part 131. EPA's actions which approve California's adopted objectives can be accessed at OW docket number EPA–HQ–OW–2012–0095.

Today, EPA is withdrawing those federal water quality criteria for which California's criteria have been determined to meet the requirements of the CWA and EPA's implementing regulations at 40 CFR part 131. This final rule will result in the withdrawal of saltwater aquatic life cyanide [1] criteria for San Francisco Bay under the NTR (with conforming changes to the CTR). However, other criteria for cyanide for waters in California that are currently part of the NTR or CTR will remain unchanged in the federal regulations.

## II. Statutory and Executive Order Reviews

### *A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)*

This action withdraws certain federal requirements applicable to California, New Jersey, and Puerto Rico, and imposes no regulatory requirements or costs on any person or entity, does not interfere with the action or planned action of another agency, and does not have any budgetary impacts or raise novel legal or policy issues. Thus it has been determined that this rule is not a

[1] In the regulatory text, saltwater criteria for cyanide are identified as Columns C1 and C2 of ''Compound 14'' in National Toxics Rule at 40 CFR 131.36(b)(1), therefore, the proposed withdrawal will remove Column C1 ''pollutant 14'' and Column C2 ''pollutant 14'' from the applicable criteria to Waters of San Francisco Bay, at 40 CFR 131.36(d)(10)(ii).

''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

*B. Paperwork Reduction Act*

This rule does not impose any new information-collection burden because it is administratively withdrawing federal requirements that are no longer needed in New Jersey, Puerto Rico, and California. It does not include any information-collection, reporting, or recordkeeping requirements. The Office of Management and Budget (''OMB'') has, however, previously approved the information-collection requirements contained in the existing regulations 40 CFR Part 131 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0049. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act or RFA (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

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

This rule imposes no regulatory requirements or costs on any small entity. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

*D. Unfunded Mandates Reform Act*

Title III of the Unfunded Mandates Reform Act or UMRA (Pub. L. 104–4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Tribal, and local governments and the private sector. Today's rule contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 or UMRA, 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any state, local, or tribal governments, or the private sector. Thus, this rule is not subject to the requirements of UMRA Sections 202 and 205 for a written statement and small government agency plan. Similarly, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and is, therefore, not subject to UMRA Section 203.

*E. Executive Order 13132 (Federalism)*

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure State and local government officials have an opportunity to provide input in the development of regulatory policies that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments. This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 of August 4, 1999, entitled ''Federalism'' (64 FR 43255, August 10, 1999). This rule imposes no regulatory requirements or costs on any state or local governments. Thus, Executive Order 13132 does not apply to this action.

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

This rule does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule imposes no regulatory requirements or costs on any tribal government. It does not have substantial direct effects on tribal governments, the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045 (Protection of Children From Environmental Health and Safety Risks)*

This rule 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 it is not economically significant as defined in Executive Order 12866 and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

*H. Executive Order 13211 (Actions That Significantly Affect Energy Supply, Distribution, or Use)*

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

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

populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because: (1) New Jersey's, Puerto Rico's, and California's criteria apply to all marine waters in the State, and thus EPA does not believe that this action would disproportionately affect any one group over another, and (2) EPA has previously determined, based on the most current science and EPA's CWA Section 304(a) recommended criteria, that New Jersey's, Puerto Rico's, and California's adopted and EPA-approved criteria are protective of human health and aquatic life.

*K. Congressional Review Act*

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 rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective June 3, 2013.

**List of Subjects in 40 CFR Part 131**

Environmental protection, Administrative practice and procedure, Reporting and recordkeeping requirements, Water pollution control.

Dated: March 22, 2013.

**Bob Perciasepe,**

*Acting Administrator.*

For the reasons set out in the preamble title 40, Chapter I, part 131 of the Code of Federal Regulations is amended as follows:

## PART 131—WATER QUALITY STANDARDS

■ 1. The authority citation for part 131 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 2. Section 131.36 is amended as follows:

■ a. Removing and reserving paragraphs (d) (3) and (d) (4).

■ b. Amending the table in paragraph (d)(10)(ii) as follows:

■ i. Adding a new first entry ''Waters of the Sacramento-San Joaquin Delta within Regional Water Board 5''; and

■ ii. Revising the entry for ''Waters of San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta.''

The additions and revisions read as follows:

**§ 131.36 Toxics criteria for those states not complying with Clean Water Act section 303 (c)(2)(B).**

* * * * *

(d) * * *

(10) * * *

(ii) * * *

| Water and use classification | Applicable criteria |
|---|---|
| Waters of the Sacramento-San Joaquin Delta within Regional Water Board 5. | Column C1—polluntant 14.<br>Column C2—pollutant 14. |
| * * * * | * * * |
| Waters of San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta. | These waters are assigned the criteria in:<br>Column B1—pollutants 5a, 10* and 14.<br>Column B2—pollutants 5a, 10* and 14.<br>Column D2—pollutants 1, 12, 17, 18, 21, 22, 29, 30, 32, 33, 37, 38, 42–44, 46, 48, 49, 54, 59, 66, 67, 68, 78–82, 85, 89, 90, 91, 93, 95, 96, 98. |
| * * * * | * * * |

**§ 131.38 [Amended]**

■ 3. Section 131.38 is amended by revising footnote ''r'' in the ''Footnotes to Table in Paragraph (b) (1)'' to read as follows:

**§ 131.38 Establishment of numeric criteria for priority toxic pollutants for the State of California.**

* * * * *

r. These criteria were promulgated for specific waters in California in the NTR. The specific waters to which the NTR criteria apply include: Waters of the State defined as bays or estuaries including the Sacramento-San Joaquin Delta within California Regional Water Board 5, but excluding the San Francisco Bay. This section does not apply instead of the NTR for these criteria.

* * * * *

[FR Doc. 2013–07784 Filed 4–3–13; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

**[MB Docket No. 07–42; FCC 07–208]**

### Leased Commercial Access

**AGENCY:** Federal Communications Commission.

**ACTION:** Technical amendments.

**SUMMARY:** The Federal Communications Commission (FCC) is making a technical amendment to correct a final rule that appeared in the **Federal Register** of February 28, 2008. The document revised rules concerning Leased Commercial Access. Some of the revised rules contained information collections that required approval by OMB. Some other revised rules were held in abeyance pending OMB approval. Finally, some rule revisions were effective without OMB approval. The entire order, FCC 07–208, was judicially stayed pending judicial review, which is being held in abeyance, and no rule revisions have become effective. Therefore, the previously published rules are still in effect. This document makes a technical amendment so that the rules that are published in the **Federal Register** reflect the Leased Commercial Access rules that have remained in effect continuously and are currently still in effect.

**DATES:** Effective April 4, 2013.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Katie Costello, *Katie.Costello@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2233.

**SUPPLEMENTARY INFORMATION:** We published a final rule document at 73 FR 10675, February 28, 2008, revising rules sections 76.970 and 76.975, and adding sections 76.972 and 76.978, concerning Leased Commercial Access. These rules contained information collections that required approval by OMB which was denied. The entire Order [FCC 07–208] was judicially stayed pending judicial review by the United States Court of Appeals for the Sixth Circuit in *United Church of Christ* v. *FCC,* 6th Cir. No. 08–3245 (and consolidated cases) (order issued May 22, 2008). OMB disapproved the requested revisions to the rules that were subject to OMB approval by Notice of Action dated July 9, 2008. Subsequently the Court issued an order granting an FCC motion to hold the judicial review in abeyance pending further action by the FCC in response to OMB's disapproval. The Federal court stay of the Order and the hold on further judicial review remain in effect. Our previous rules 76.970 and 76.975 remain in effect and are re-published herein. New sections 76.972 and 76.978 are removed entirely. Accordingly, the following correcting amendments are made to restore the rules that are still in effect. The OMB Control Number for this information collection is 3060–0568.

**List of Subjects in 47 CFR Part 76**

Administrative practice and procedure and Cable television.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

Accordingly, 47 CFR part 76 is corrected by making the following technical amendments:

## PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

**Authority:** 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572 and 573.

■ 2. Revise § 76.970 to read as follows:

**§ 76.970 Commercial leased access rates.**

(a) Cable operators shall designate channel capacity for commercial use by persons unaffiliated with the operator in accordance with the requirement of 47 U.S.C. 532. For purposes of 47 U.S.C. 532(b)(1)(A) and (B), only those channels that must be carried pursuant to 47 U.S.C. 534 and 535 qualify as channels that are required for use by Federal law or regulation. For cable systems with 100 or fewer channels, channels that cannot be used due to technical and safety regulations of the Federal Government (e.g., aeronautical channels) shall be excluded when calculating the set-aside requirement.

(b) In determining whether an entity is an ''affiliate'' for purposes of commercial leased access, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(c) Attributable interest shall be defined by reference to the criteria set forth in Notes 1–5 to § 76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and;

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

(d) The maximum commercial leased access rate that a cable operator may charge for full-time channel placement on a tier exceeding a subscriber penetration of 50 percent is the average implicit fee for full-time channel placement on all such tier(s).

(e) The average implicit fee identified in paragraph (c) of this section for a full-time channel on a tier with a subscriber penetration over 50 percent shall be calculated by first calculating the total amount the operator receives in subscriber revenue per month for the programming on all such tier(s), and then subtracting the total amount it pays in programming costs per month for such tier(s) (the ''total implicit fee calculation''). A weighting scheme that accounts for differences in the number of subscribers and channels on all such tier(s) must be used to determine how much of the total implicit fee calculation will be recovered from any particular tier. The weighting scheme is determined in two steps. First, the number of subscribers is multiplied by the number of channels (the result is the number of ''subscriber-channels'') on each tier with subscriber penetration over 50 percent. For instance, a tier with 10 channels and 1,000 subscribers would have a total of 10,000 subscriber-channels. Second, the subscriber-channels on each of these tiers is divided by the total subscriber-channels on all such tiers. Given the percent of subscriber-channels for the particular tier, the implicit fee for the tier is computed by multiplying the subscriber-channel percentage for the tier by the total implicit fee calculation. Finally, to calculate the average implicit fee per channel, the implicit fee for the tier must be divided by the corresponding number of channels on the tier. The final result is the maximum rate per month that the operator may charge the leased access programmer for a full-time channel on that particular tier. The average implicit fee shall be calculated by using all channels carried on any tier exceeding 50 percent subscriber penetration (including channels devoted to affiliated programming, must-carry and public, educational and government access channels). In the event of an agreement to lease capacity on a tier with less than 50 percent penetration, the average implicit fee should be determined on the basis of subscriber revenues and programming costs for that tier alone. The license fees for affiliated channels used in determining the average implicit fee shall reflect the prevailing company prices offered in the marketplace to third parties. If a prevailing company price does not exist, the license fee for that programming shall be priced at the programmer's cost or the fair market value, whichever is lower. The average implicit fee shall be based on contracts in effect in the previous calendar year. The implicit fee for a contracted service may not include fees, stated or implied, for services other than the provision of channel capacity (e.g., billing and collection, marketing, or studio services).

(f) The maximum commercial leased access rate that a cable operator may charge for full-time channel placement as an a la carte service is the highest implicit fee on an aggregate basis for full-time channel placement as an a la carte service.

(g) The highest implicit fee on an aggregate basis for full-time channel placement as an a la carte service shall be calculated by first determining the total amount received by the operator in subscriber revenue per month for each non-leased access a la carte channel on its system (including affiliated a la carte channels) and deducting the total amount paid by the operator in programming costs (including license and copyright fees) per month for programming on such individual channels. This calculation will result in implicit fees determined on an aggregate

basis, and the highest of these implicit fees shall be the maximum rate per month that the operator may charge the leased access programmer for placement as a full-time a la carte channel. The license fees for affiliated channels used in determining the highest implicit fee shall reflect the prevailing company prices offered in the marketplace to third parties. If a prevailing company price does not exist, the license fee for that programming shall be priced at the programmer's cost or the fair market value, whichever is lower. The highest implicit fee shall be based on contracts in effect in the previous calendar year. The implicit fee for a contracted service may not include fees, stated or implied, for services other than the provision of channel capacity (e.g., billing and collection, marketing, or studio services). Any subscriber revenue received by a cable operator for an a la carte leased access service shall be passed through to the leased access programmer.

(h) The maximum commercial leased access rate that a cable operator may charge for part-time channel placement shall be determined by either prorating the maximum full-time rate uniformly, or by developing a schedule of and applying different rates for different times of the day, provided that the total of the rates for a 24-hour period does not exceed the maximum daily leased access rate.

(i)(1) Cable system operators shall provide prospective leased access programmers with the following information within 15 calendar days of the date on which a request for leased access information is made:

(i) How much of the operator's leased access set-aside capacity is available;

(ii) A complete schedule of the operator's full-time and part-time leased access rates;

(iii) Rates associated with technical and studio costs; and

(iv) If specifically requested, a sample leased access contract.

(2) Operators of systems subject to small system relief shall provide the information required in paragraph (h)(1) of this section within 30 calendar days of a bona fide request from a prospective leased access programmer. For these purposes, systems subject to small system relief are systems that either:

(i) Qualify as small systems under § 76.901(c) and are owned by a small cable company as defined under § 76.901(e); or

(ii) Have been granted special relief.

(3) Bona fide requests, as used in this section, are defined as requests from potential leased access programmers that have provided the following information:

(i) The desired length of a contract term;

(ii) The time slot desired;

(iii) The anticipated commencement date for carriage; and

(iv) The nature of the programming.

(4) All requests for leased access must be made in writing and must specify the date on which the request was sent to the operator.

(5) Operators shall maintain, for Commission inspection, sufficient supporting documentation to justify the scheduled rates, including supporting contracts, calculations of the implicit fees, and justifications for all adjustments.

(j) Cable operators are permitted to negotiate rates below the maximum rates permitted in paragraphs (c) through (g) of this section.

**§ 76.972 [Removed]**

■ 3. Remove § 76.972.

■ 4. Revise § 76.975 to read as follows:

**§ 76.975 Commercial leased access dispute resolution.**

(a) Any person aggrieved by the failure or refusal of a cable operator to make commercial channel capacity available in accordance with the provisions of Title VI of the Communications Act may bring an action in the district court of the United States for the Judicial district in which the cable system is located to compel that such capacity be made available.

(b)(1) Any person aggrieved by the failure or refusal of a cable operator to make commercial channel capacity available or to charge rates for such capacity in accordance with the provisions of Title VI of the Communications Act, or our implementing regulations, §§ 76.970 and 76.971, may file a petition for relief with the Commission. Persons alleging that a cable operator's leased access rate is unreasonable must receive a determination of the cable operator's maximum permitted rate from an independent accountant prior to filing a petition for relief with the Commission.

(2) Parties to a dispute over leased access rates shall have five business days to agree on a mutually acceptable accountant from the date on which the programmer provides the cable operator with a written request for a review of its leased access rates. Parties that fail to agree on a mutually acceptable accountant within five business days of the programmer's request for a review shall each be required to select an independent accountant on the sixth business day. The two accountants selected shall have five business days to select a third independent accountant to perform the review. Operators of systems subject to small system relief shall have 14 business days to select an independent accountant when an agreement cannot be reached. For these purposes, systems subject to small system relief are systems that either:

(i) Qualify as small systems under § 76.901(c) and are owned by a small cable company as defined under § 76.901(e); or

(ii) Have been granted special relief.

(3) The final accountant's report must be completed within 60 days of the date on which the final accountant is selected to perform the review. The final accountant's report must, at a minimum, state the maximum permitted rate, and explain how it was determined without revealing proprietary information. The report must be signed, dated and certified by the accountant. The report shall be filed in the cable system's local public file.

(4) If the accountant's report indicates that the cable operator's leased access rate exceeds the maximum permitted rate by more than a de minimis amount, the cable operator shall be required to pay the full cost of the review. If the final accountant's report does not indicate that the cable operator's leased access rate exceeds the maximum permitted rate by more than a de minimis amount, each party shall be required to split the cost of the final accountant's review, and to pay its own expenses incurred in making the review.

(5) Parties may use alternative dispute resolution (ADR) processes to settle disputes that are not resolved by the final accountant's report.

(c) A petition must contain a concise statement of the facts constituting a violation of the statute or the Commission's rules, the specific statute(s) or rule(s) violated, and certify that the petition was served on the cable operator. Where a petition is based on allegations that a cable operator's leased access rates are unreasonable, the petitioner must attach a copy of the final accountant's report. In proceedings before the Commission, there will be a rebuttable presumption that the final accountant's report is correct.

(d) Where a petition is not based on allegations that a cable operator's leased access rates are unreasonable, the petition must be filed within 60 days of the alleged violation. Where a petition is based on allegations that the cable operator's leased access rates are unreasonable, the petition must be filed within 60 days of the final accountant's report, or within 60 days of the termination of ADR proceedings.

Aggrieved parties must certify that their petition was filed within 60 days of the termination of ADR proceedings in order to file a petition later than 60 days after completion of the final accountant's report. Cable operators may rebut such certifications.

(e) The cable operator or other respondent will have 30 days from the filing of the petition to file a response. If a leased access rate is disputed, the response must show that the rate charged is not higher than the maximum permitted rate for such leased access, and must be supported by the affidavit of a responsible company official. If, after a response is submitted, the staff finds a prima facie violation of our rules, the staff may require a respondent to produce additional information, or specify other procedures necessary for resolution of the proceeding.

(f) The Commission, after consideration of the pleadings, may grant the relief requested, in whole or in part, including, but not limited to ordering refunds, injunctive measures, or forfeitures pursuant 47 U.S.C. 503, denying the petition, or issuing a ruling on the petition or dispute.

(g) To be afforded relief, the petitioner must show by clear and convincing evidence that the cable operator has violated the Commission's leased access provisions in 47 U.S.C. 532 or §§ 76.970 and 76.971, or otherwise acted unreasonably or in bad faith in failing or refusing to make capacity available or to charge lawful rates for such capacity to an unaffiliated leased access programmer.

(h) During the pendency of a dispute, a party seeking to lease channel capacity for commercial purposes, shall comply with the rates, terms and conditions prescribed by the cable operator, subject to refund or other appropriate remedy.

**§ 76.978 [Removed]**

■ 5. Remove § 76.978.

[FR Doc. 2013–03940 Filed 4–3–13; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 635

**[Docket No. 120306154–2241–02]**

**RIN 0648–XC593**

### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

**ACTION:** Temporary rule; inseason Angling category retention limit adjustment; southern area trophy fishery closure.

**SUMMARY:** NMFS has determined that the Atlantic bluefin tuna (BFT) daily retention limit that applies to vessels permitted in the Highly Migratory Species (HMS) Charter/Headboat category (when fishing recreationally for BFT) should be adjusted for the remainder of 2013, based on consideration of the regulatory determination criteria regarding inseason adjustments and based on preliminary 2013 landings data. The adjusted limit for HMS Charter/Headboat vessels is one school BFT and one large school/small medium BFT per vessel per day/trip when fishing recreationally for BFT (i.e., one BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). This retention limit is effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeted fishing for BFT. NMFS also closes the southern area Angling category fishery for large medium and giant (''trophy'') BFT. These actions are being taken consistent with the BFT fishery management objectives of the 2006 Consolidated HMS Fishery Management Plan (Consolidated HMS FMP) and to prevent overharvest of the 2013 Angling category quota.

**DATES:** Effective April 4, 2013, through December 31, 2013.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin or Brad McHale, 978–281–9260.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the Consolidated HMS FMP (71 FR 58058, October 2, 2006) and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The 2013 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2013. The Angling category season opened January 1, 2013, and continues through December 31, 2013. Currently, the default Angling category daily retention limit of one school, large school, or small medium BFT (measuring 27 to less than 73 inches (68.5 to less than 185 cm)) applies (50 CFR 635.23(b)(2)). An annual limit of one large medium or giant BFT (73 inches or greater) per vessel also applies (§ 635.23(b)(1)). These retention limits apply to HMS Angling and HMS Charter/Headboat category permitted vessels (when fishing recreationally for BFT).

The currently codified Angling category quota is 182 mt (94.9 mt for school BFT, 82.9 mt for large school/small medium BFT, and 4.2 mt for large medium/giant BFT).

#### Adjustment of Angling Category Daily Retention Limit

Under § 635.23(b)(3), NMFS may increase or decrease the retention limit for any size class of BFT based on consideration of the criteria provided under § 635.27(a)(8), which include: the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)); effects of the adjustment on BFT rebuilding and overfishing (§ 635.27(a)(8)(v)); effects of the adjustment on accomplishing the objectives of the Consolidated HMS FMP (§ 635.27(a)(8)(vi)); variations in seasonal BFT distribution, abundance, or migration patterns (§ 635.27(a)(8)(vii)); effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota (§ 635.27(a)(8)(viii)); and a review of daily landing trends and availability of the BFT on the fishing grounds (§ 635.27(a)(8)(ix)). Retention limits may be adjusted separately for specific vessel type, such as private vessels, headboats, or charterboats.

NMFS has considered the set of criteria at § 635.27(a)(8) and their applicability to the Angling category BFT retention limit for the 2013 Angling category fishery. These considerations include, but are not limited to, the following: This action, which is taken consistent with the quotas previously established and analyzed in the 2011 BFT quotas final rule (76 FR 39019, July 5, 2011) and consistent with objectives of the Consolidated HMS FMP, is not expected to negatively impact stock health. Biological samples collected

from BFT landed by recreational fishermen continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. A principal consideration is the objective of providing opportunities to harvest the Angling category quota without exceeding it based upon the Consolidated HMS FMP goal: ''Consistent with other objectives of this FMP, to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems.'' It is important that NMFS constrain landings to BFT subquotas both to adhere to the current FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (e.g., fish caught at each age) that was assumed in the projections of stock rebuilding.

NMFS examined the results of the 2009 through 2012 fishing seasons under the applicable daily retention limits, as well as the observed trend in the recreational fishery over that time period (i.e., a shift in availability from primarily large school BFT, which measure 47 to less than 59 inches (119 to less than 150 cm) in 2008 to small medium BFT (59 to less than 73 inches) in 2009 through 2011). Large school and small medium BFT traditionally have been managed as one size class (47 to less than 73 inches). In 2010 and 2011, based on considerations of the available quota, fishery performance in recent years, and the availability of BFT on the fishing grounds, NMFS adjusted the Angling category retention limit from the default level to prohibit the retention of small medium BFT for the remainder of the respective fishing years (75 FR 33531, June 14, 2010, and 76 FR 18416, April 4, 2011). Recognizing the different nature, socio-economic needs, and recent landings results of private and charter/headboat vessels, NMFS implemented separate limits for each. Effective June 12 through December 31, 2010, and effective April 2 through December 31, 2011, the limit was one school or large school BFT per vessel per day/trip for private vessels (i.e., those with HMS Angling category permits), and was one school BFT and one large school BFT per vessel per day/trip for charter vessels (i.e., those with HMS Charter/Headboat permits, when fishing recreationally for BFT).

In 2012, based on the annual BFT growth rate and preliminary recreational catch information, NMFS found it was reasonable to assume that the cohort of fish described above largely had grown to greater than 73 inches (i.e., had moved through the recreational large school/small medium size class), and adjusted the retention limit for HMS Charter/Headboat vessels from the default level to one school and one large school/small medium BFT per vessel per day/trip.

Given the considerations above, NMFS has determined that the Angling category retention limit applicable to HMS Charter/Headboat category participants (when fishing recreationally) should be adjusted from the default level, and that implementation of separate limits for private and charter/headboat vessels is appropriate, recognizing the different nature, socio-economic needs, and recent landings results of the two components of the recreational BFT fishery. For example, charter operators historically have indicated that a multi-fish retention limit is vital to their ability to attract customers. In addition, 2012 Large Pelagics Survey estimates indicate that charter/headboat BFT landings constitute approximately 30 percent of recent recreational landings, with the remaining 70 percent landed by private vessels.

Therefore, for private vessels (i.e., those with HMS Angling category permits), the limit is maintained at one school, large school, or small medium BFT per vessel per day/trip (i.e., one BFT measuring 27 to less than 73 inches). For charter vessels (i.e., those with HMS Charter/Headboat permits), the limit is one school BFT and one large school/small medium BFT per vessel per day/trip when fishing recreationally for BFT (i.e., one BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). These retention limits are effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeted fishing for BFT. Regardless of the duration of a fishing trip, the daily retention limit applies upon landing.

NMFS anticipates that the BFT daily retention limits in this action will result in landings during 2013 that would not exceed the available subquotas as codified in 2011. A lower retention limit could result in substantial underharvest of the codified Angling category subquota, and increasing the daily limit further may risk exceeding the available quota, contrary to the objectives of the Consolidated HMS FMP. NMFS will monitor 2013 landings closely and will make further adjustments, including closure, with an inseason action if warranted.

**Angling Category Large Medium and Giant Southern ''Trophy'' Fishery Closure**

The codified BFT quotas provide for 4.2 mt of large medium and giant (trophy) BFT (measuring greater than 73 inches) to be harvested from the regulatory area by vessels fishing under the Angling category quota, with 1.4 mt for the area north of 39°18′ N. lat. (off Great Egg Inlet, NJ) and 2.8 mt for the area south of 39°18′ N. lat.

Based on information from the NMFS Automated Landings Reporting System and the North Carolina Tagging Program, NMFS has determined that the codified Angling category trophy BFT subquota has been taken and that a closure of the southern area trophy BFT fishery is warranted at this time. Therefore, retaining, possessing, or landing large medium or giant (''trophy'') BFT south of 39°18′ N. lat. by persons aboard vessels permitted in the HMS Angling category and the HMS Charter/Headboat category (when fishing recreationally) must cease at 11:30 p.m. local time on April 4, 2013. This action is taken consistent with the regulations at § 635.28(a)(1).

These Angling category actions are intended to provide a reasonable opportunity to harvest the U.S. quota of BFT without exceeding it, while maintaining an equitable distribution of fishing opportunities; and to be consistent with the objectives of the Consolidated HMS FMP.

HMS Angling and HMS Charter/Headboat category permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize survivability, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *www.nmfs.noaa.gov/sfa/hms/.*

If needed, subsequent Angling category adjustments will be published in the **Federal Register.** In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872–8862 or (978) 281–9260, or access *www.hmspermits.noaa.gov,* for updates.

**Classification**

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the Consolidated HMS FMP provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Based on available BFT quotas, fishery performance in recent years, the availability of BFT on the fishing grounds, among other considerations, an adjustment to the recreational BFT daily retention limit is warranted. Analysis of available data shows that adjustment to the BFT daily retention limit from the default level would result in minimal risks of exceeding the ICCAT-allocated quota. Further, closure of the southern area Angling category trophy fishery is necessary to ensure sufficient quota remains available to ensure overall 2013 fishing year landings are consistent with ICCAT recommendations and the Consolidated HMS FMP. NMFS provides notification of closures and retention limit adjustments by publishing the notice in the **Federal Register,** emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *www.hmspermits.noaa.gov.*

These fisheries are currently underway and delaying this action would be contrary to the public interest as it could result in excessive trophy BFT landings that may result in future potential quota reductions for the Angling category and potentially other BFT quota categories, depending on the magnitude of a potential Angling category overharvest. NMFS must close the southern area trophy BFT fishery before additional landings of these sizes of BFT accumulate. Delays in increasing the daily recreational BFT retention limits would adversely affect those Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one school, large school, or small medium BFT per day/trip and may exacerbate the problem of low catch rates and quota rollovers. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.23(b)(3) and 635.28(a)(1), and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: April 1, 2013.

**Kara Meckley,**

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

[FR Doc. 2013–07845 Filed 4–1–13; 4:15 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 120822383–3277–02]**

**RIN 0648–BC48**

## Fisheries of the Northeastern United States; Northeast Multispecies Fishery Management Plan; Amendment 19

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements Amendment 19 to the Northeast Multispecies Fishery Management Plan. The New England Fishery Management Council developed Amendment 19 to modify management measures that currently govern the small-mesh multispecies fishery, including the accountability measures, the year-round possession limits, and total allowable landings process. Amendment 19 was approved by NMFS on January 15, 2013.

**DATES:** Effective May 6, 2013.

**ADDRESSES:** An environmental assessment (EA) was prepared for Amendment 19 that describes the proposed action and other considered alternatives, and provides an analysis of the impacts of the proposed measures and alternatives. Copies of Amendment 19, including the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from the New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at *http://www.nefmc.org.*

**FOR FURTHER INFORMATION CONTACT:** Moira Kelly, Fishery Policy Analyst, (978) 281–9218.

**SUPPLEMENTARY INFORMATION:**

### Background

The small-mesh multispecies complex is composed of five stocks of three species of hakes (northern silver hake, southern silver hake, northern red hake, southern red hake, and offshore hake), and the fishery is managed through a series of exemptions from the other provisions of the Northeast (NE) Multispecies Fishery Management Plan (FMP). None of the small-mesh multispecies stocks are overfished, and overfishing is not occurring. Amendment 19 to the FMP was initiated by the New England Fishery Management Council (Council) in 2009 to establish a mechanism for specifying annual catch limits (ACLs) and accountability measures (AMs) for the small-mesh multispecies fishery, as required by the 2007 reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). However, the Council postponed developing the amendment in order to include the results of an updated stock assessment in November 2010. Due to this delay, and in order to bring the small-mesh multispecies portion of the NE Multispecies FMP into compliance with the Magnuson-Stevens Act requirements for ACLs and AMs, NMFS implemented a Secretarial Amendment in time for the start of the 2012 fishing year (March 30, 2012; 77 FR 19138).

The Secretarial Amendment was based on the preliminary work the Council had done on Amendment 19 up to that point, including the overfishing limits (OFL), acceptable biological catches (ABC), and ACLs. The Council, through Amendment 19, is adopting those limits (Table 1), as well as the process that describes how those values are calculated, as was implemented in the Secretarial Amendment. As described in the Secretarial Amendment, the ABCs are based on the OFLs and, to account for scientific uncertainty, are set equal to the 40th percentile of the OFL distribution for both red hake stocks, and the 25th percentile for both silver hake stocks.

Offshore hake, which does not have an overfishing definition, are caught incidentally in the southern silver hake fishery and are marketed together with silver hake as ''whiting.'' In order to account for offshore hake, the southern silver hake ABC is increased by 4 percent, which is the average amount of offshore hake landed on a typical ''whiting'' trip, based on information presented during the most recent stock assessment. It is not feasible for fishermen to separate silver and offshore hake on a given trip, and there is not enough information to establish a distinct set of offshore hake catch limits. Therefore, this combined ABC, ACL, and TAL in the southern whiting fishery is deemed adequate to account for and manage the southern silver hake and offshore hake stocks. This combined

fishery is referred throughout this rule as ''southern whiting.''

The ACLs are set equal to 95 percent of the respective ABC, to account for management uncertainty. This process was recommended by the SSC.

TABLE 1—OFL, ABC, AND ACL FOR 2012–2014

| | Northern red hake (mt) | Northern silver hake (mt) | Southern red hake (mt) | Southern whiting (mt) |
|---|---|---|---|---|
| Overfishing Limit (OFL) | 314 | 24,840 | 3,448 | 62,301 |
| Acceptable Biological Catch (ABC) | 280 | 13,177 | 3,259 | 33,940 |
| Annual Catch Limit (ACL) | 266 | 12,518 | 3,096 | 32,295 |

Amendment 19 changes some of the other measures implemented in the Secretarial Amendment, as well as management measures that the Secretarial Amendment did not address. A full description of the justifications and rationale behind each measure being implemented in this final rule was included in the proposed rule published on November 2, 2012 (77 FR 66169) and is not repeated here.

*Final Measures*

1. Revised Overfishing Definitions

The overfishing definitions were derived from the most recent stock assessment for the small-mesh multispecies that was conducted in November 2010 (SAW 51). There is no overfishing definition for offshore hake because there is insufficient information for a stock assessment. SAW 51 concluded that the existing biological reference points should be rejected and could not recommend an alternative. Therefore, this action removes the overfishing definition for offshore hake implemented in Amendment 12 until such time that the best available scientific information provides an acceptable overfishing definition for this stock. In the meantime, offshore hake will be accounted for in the southern silver hake fishery, because it is caught in conjunction with and cannot be separated from silver hake. This approach to managing the offshore hake fishery was recommended by the Council's Scientific and Statistical Committee (SSC) and is considered consistent with National Standard 1 for a stock in a stock complex for which it is not possible to calculate reference points.

The new overfishing definitions for red hake and silver hake are as follows:

*Red Hake*

Red hake is overfished when the 3-yr moving average of the spring survey weight per tow (i.e., the biomass threshold) is less than one-half of the biomass at maximum sustainable yield ($B_{MSY}$ proxy), where the $B_{MSY}$ proxy is defined as the average observed biomass from 1980–2010. The current estimates of the biomass thresholds for the northern and southern stocks are 1.27 kg/tow and 0.51 kg/tow, respectively.

Overfishing occurs when the ratio between the catch and spring survey biomass exceeds 0.163 kt/kg and 3.038 kt/kg, respectively, derived from An Index Method (AIM) analyses from 1980–2009.

*Silver Hake*

Silver hake is overfished when the 3-yr moving average of the fall survey weight per tow is less than one-half the $B_{MSY}$ proxy, where the $B_{MSY}$ proxy is defined as the average observed biomass from 1973–1982. The most recent estimates of the biomass thresholds are 3.21 kg/tow for the northern stock and 0.83 kg/tow for the southern stock.

Overfishing occurs when the ratio between the catch and the arithmetic fall survey biomass index from the most recent 3 yr exceeds the overfishing threshold. The most recent estimates of the overfishing thresholds are 2.78 kt/kg for the northern stock and 34.19 kt/kg for the southern stock.

2. Adjustments to the Specifications Process and Frameworkable Measures, and Monitoring Procedures and Requirements

Amendment 19 modifies the specifications process and the list of frameworkable measures implemented by the Secretarial Amendment, as well as the process by which the fishery is monitored. The specifications process instructs the Council as to when it needs to make a recommendation on the catch limits, possession limits, and other measures deemed to be part of the specifications package. In addition, the list of items that may be considered for adjustment in a framework is modified slightly.

This final rule also implements a measure that requires NMFS to prepare, and the appropriate Council technical group (such as a plan development team (PDT)) to review, a report on the small-mesh multispecies fishery, including trends in the fishery and changes in stock size. The PDT or other appropriate Council technical group would be responsible for making recommendations to the Council, should any management changes be deemed necessary.

Finally, this final rule requires vessels fishing for small-mesh multispecies to send their vessel trip reports (VTR) to NMFS on a weekly basis. Amendment 16 to the NE Multispecies FMP implemented the requirement that vessels fishing with a NE multispecies permit have a weekly VTR requirement; however, that amendment had no other small-mesh multispecies measures associated with it. As a result, the Council and the Whiting Oversight Committee wanted to ensure through this action it is clear that the weekly submission of VTRs is required for small-mesh multispecies vessels, in order to facilitate more effective monitoring of the stock-area based total allowable landings (TALs.)

3. Stock Area Total Allowable Landings

The Secretarial Amendment implemented annual, stock-wide TALs for northern and southern red hake, as well as for northern silver hake and southern whiting. The TALs are calculated by deducting the most recent 3-yr moving average of discards from the ACL, and then deducting an additional 3 percent to account for state-waters landings.

TABLE 2—2012–2014 TOTAL ALLOWABLE LANDINGS

| | Northern red hake | Northern silver hake | Southern red hake | Southern whiting |
|---|---|---|---|---|
| ACL | 266 mt | 12,518 mt | 3,096 mt | 32,295 mt |
| Discard Estimate (2008–2010) | 65% (173 mt) | 26% (3,255 mt) | 56% (1,718 mt) | 13% (4,198 mt) |
| State-Waters Landings (3%) | 2.8 mt | 278 mt | 42 mt | 842 mt |
| Federal TAL (mt) | 90.3 mt | 8,985 mt | 1,336 mt | 27,255 mt |
| Federal TAL (lb) | 199,077.4 lb | 19,809,243 lb | 2,945,376 lb | 60,086,990 lb |

Amendment 19 maintains an annual, stock-wide TAL for the northern area. In the southern stock area, however, the TALs will be monitored annually initially, until two-thirds of a TAL is harvested in a given year. If landings in a given year exceed two-thirds of the TAL, NMFS would consult with the Council during the following year, and, if the Council agrees, NMFS would implement a rule to switch the TAL to a quarterly system for the next year. That is, if two-thirds of the red hake TAL were landed in 2013, and the Council agreed, quarterly TALs would be implemented for the start of the 2015 fishing year and would be maintained until the Council chooses, through specifications or a Framework Adjustment, to revert back to an annual TAL. The incidental possession limit trigger (as described in the in-season a.m. section, below) would be applied for each quarter. The quarterly allocations would be based on the average proportion of dealer-reported landings from 2008–2010, as follows:

TABLE 3—QUARTERLY ALLOCATIONS FOR THE SOUTHERN STOCK AREA

| | May–Jul % | Aug–Oct % | Nov–Jan % | Feb–Apr % |
|---|---|---|---|---|
| Southern red hake | 33.3 | 25.3 | 17.7 | 23.7 |
| Southern whiting | 27 | 21.4 | 22.8 | 28.8 |

Included in this measure is a ''roll-up'' procedure that would be used for in-season monitoring of the quarterly TALs. In each quarter, the cumulative landings to date that fishing year would be monitored against a quarterly TAL represented by the sum of that quarter's allocation, plus the allocations from prior quarters (e.g., during quarter 2, the cumulative landings of southern red hake to date would be monitored against a quota equal to 58.6 percent of the annual TAL, which is the sum of the quarter 1 allocation of 33.3 percent plus the quarter 2 allocation of 25.3 percent). The possession limit trigger for each stock would apply in each quarter, and the incidental possession limit would remain in effect until the end of that quarter. At the start of the next quarter, the possession limit would reset to the appropriate default possession limit. This procedure allows for unused quota from a quarter to be available immediately to the fleet, without unnecessary delays from rulemaking to formally transfer quota between quarters.

4. Accountability Measures

The Secretarial Amendment implemented two types of AMs for the small-mesh multispecies fishery. The in-season a.m. would reduce the possession limit to an incidental amount for a stock if 90 percent of that stock's TAL is projected to be harvested. For both red hake stocks, the possession limit would be reduced to 400 lb (181 kg), and for northern silver hake and southern whiting, the possession limit would be reduced to 1,000 lb (454 kg). In the event that an ACL is exceeded in a given year, the post-season a.m. implemented in the Secretarial Amendment would reduce a subsequent year's ACL by the exact amount, by weight, by which the ACL was exceeded.

*In-Season AMs*

This final rule maintains the overall structure of the in-season a.m. (i.e., the 90-percent trigger, with a reduced possession limit), but changes the incidental possession limit for northern silver hake and southern whiting from 1,000 lb (454 kg) to 2,000 lb (907 kg), while maintaining the 400-lb (181-kg) incidental possession limit for both stocks of red hake.

*Post-Season AM*

This final rule replaces the post-season AM implemented by the Secretarial Amendment with one that would decrease the TAL trigger by the same percentage by which the ACL is exceeded. That is, if an ACL is exceeded by 5 percent in fishing year 2013, the incidental possession limit trigger starting in fishing year 2015 would be reduced to 85 percent. An ACL overage that occurred in fishing year 2012 would be subject to this AM, which would be applied to the 2014 fishing year.

This reduction in the TAL trigger would remain in effect until the Council chooses to modify it through the specifications process or in a framework adjustment.

5. Trip Limits

This final rule implements a 5,000-lb (2,268-kg) trip limit for red hake in both the northern and southern stock areas for all gear types. This final rule also increases the southern whiting trip limit from 30,000 lb (13,608 kg) to 40,000 lb (18,144 kg) for vessels fishing in the Southern New England and Mid-Atlantic Exemption Areas using mesh that is 3 inches (7.62 cm) or greater.

*Other Regulatory Changes*

This final rule also clarifies some of the regulations governing the small-mesh multispecies fishery. The language of the regulations pertaining to the small-mesh multispecies exemption programs were unclear as to what gear was allowed in these programs. This final rule clarifies the regulatory language so that it is clear that only a raised footrope trawl is allowed in the Small Mesh Area I and II Exemption Programs and the Gulf of Maine Grate Raised Footrope Trawl Area Exemption Program, and that no other fishing gears may be used while a vessel is fishing in these exemption programs. The regulations are further clarified with the

citation for each of the incidental catch limits for other species in the small-mesh multispecies exemption programs. An incorrect citation in the regulations pertaining to small-mesh multispecies transfers-at-sea is also corrected in this rule.

The proposed rule incorrectly referenced northern silver hake and southern whiting instead of northern and southern red hake in the proposed changes to 50 CFR 648.90(b)(2)(i)(C)(*1*). The regulations in this final rule correct that error.

*Public Comments*

NMFS only received two comments to the proposed action. Neither of these comments resulted in a change to the final rule.

*Comments:* A comment on the Notice of Availability (October 19, 2012; 77 FR 64303) recommended that NMFS set the quotas to zero for all of the small-mesh multispecies stocks. A comment was received on the proposed rule stating that the rule would allow overfishing to continue.

*Response:* Neither of these commenters presented credible evidence in support of their claim. The quotas were developed using the best available science, which also indicates that overfishing is not occurring on any of the small-mesh multispecies stocks. In addition, none of the small-mesh multispecies stocks are overfished. The quotas implemented by this final rule are consistent with scientific advice and do not allow for overfishing.

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the NE Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), this final rule includes a Final Regulatory Flexibility Analysis (FRFA) in support of Amendment 19 analyzing the rule's impact on small entities. This FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, relevant analyses in the Amendment and its EA, and a summary of the analyses completed to support the action implemented through this rule. A copy of the analyses done in the Amendment and EA is available from the Council (see **ADDRESSES**). A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this rule is contained in the preamble to the proposed rule and this final rule and is not repeated here.

*A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments*

Two comments were received on the proposed rule and the amendment. However, neither addressed the IRFA or economic analysis contained in Amendment 19, and neither resulted in any changes to the rule.

*Description and Estimate of Number of Small Entities to Which the Final Rule Will Apply*

This rule affects those vessels and vessel owners that fish for small-mesh multispecies in the northeast Atlantic Ocean. The Small Business Administration (SBA) considers commercial fishing entities (NAICS code 114111) to be small entities if they have no more than $4 million in annual sales, while the size standard for charter/party operators (part of NAICS cod 487210) is $7 million in sales. The participants in the commercial small-mesh multispecies fishery are those vessels issued limited or open access NE multispecies permits that land any of the small-mesh multispecies. Because any vessel at any time may be issued an open access NE multispecies permit, it is difficult to determine how many vessels or owners will participate in this fishery in a given year. Also, because some firms own more than one vessel, available data make it difficult to reliably identify ownership control over more than one vessel. For this analysis, the number of vessels landing at least 1 lb (0.45 kg) of any of the small-mesh multispecies (red hake, silver hake, or offshore hake) is considered to be a maximum estimate of the number of small business entities. The average number of permitted vessels landing at least 1 lb (0.45 kg) of small-mesh multispecies from 2005–2010 was 562 vessels per year. All of the entities (fishing vessels) affected by this action are considered small entities under the SBA size standards for small fishing businesses ($4.0 million in annual gross sales). Therefore, there are no disproportionate effects on small versus large entities.

Information on costs in the fishery is not readily available, and individual vessel profitability cannot be determined directly; therefore, expected changes in gross revenues were used as a proxy for profitability. In general, the economic impacts from the measures implemented in Amendment 19 are neutral. There may be slightly negative impacts if the in-season or post-season AMs are triggered. The AMs would reduce the amount of fish available to the fleet, which in turn would reduce vessel revenues. On the other hand, there are likely to be positive long-term impacts on the fishery, as these measures are intended to ensure the sustainable harvesting of the small-mesh multispecies stocks. Further, other measures implemented by Amendment 19 are likely to have positive economic impacts, specifically increasing the incidental trip limit for northern silver hake and southern whiting should the in-season a.m. be triggered, and increasing the southern whiting trip limit for vessels using mesh that is 3 in (7.62 cm) or greater. The implementation of a trip limit for red hake is likely to have neutral impacts, as the intent of the trip limit is to cap landings at approximately the current level and discourage sudden increases in catch.

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

There are no compliance requirements associated with this final rule. The rule clarifies the requirement that vessels landing small-mesh multispecies must submit their VTRs on a weekly basis, but this is not a new requirement. This final rule contains reporting and recordkeeping requirements and associated information collections subject to the Paperwork Reduction Act that have been previously approved by OMB under control number 0648–0212.

This final rule does not duplicate, overlap, or conflict with other Federal rules.

*Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes*

The management measures implemented in Amendment 19 were developed to improve the overall management of the small-mesh multispecies fishery. None of the measures being implemented in Amendment 19 reduces fishing opportunities or flexibility. These measures promote efficiency within the

fishery by increasing trip limits or reduce waste associated with regulatory discards by establishing incidental and year-round possession limits that take into account the existing behavior of the fleet and setting the possession limits at or above the current, market-driven level.

Therefore, by implementing management measures that provide flexibility and efficiency and reduce waste, NMFS has taken the steps necessary to minimize the impacts of this action on small entities consistent with the stated objectives of applicable statutes.

*Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Northeast Regional Office, and the guide, i.e., permit holder letter, will be sent to all holders of permits for the Northeast multispecies fishery. The guide and this final rule will be available upon request, and posted on the Northeast Regional Office's Web site at *www.nero.noaa.gov*.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 29, 2013.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.7, paragraph (f)(2)(i) is revised to read as follows:

**§ 648.7 Recordkeeping and reporting requirements.**

* * * * *

(f) * * *

(2) *Fishing vessel log reports.* (i) For any vessel not issued a NE multispecies permit, Atlantic herring permit, or Tier 3 Limited Access mackerel permit, fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received by NMFS within 15 days after the end of the reporting month. If no fishing trip is made during a particular month for such a vessel, a report stating so must be submitted, as instructed by the Regional Administrator. For any vessel issued a NE multispecies permit, including vessels fishing for small-mesh multispecies or whiting, an Atlantic herring permit, or a Tier 3 Limited Access mackerel permit, fishing vessel log reports must be postmarked or received by midnight of the first Tuesday following the end of the reporting week. If no fishing trip is made during a reporting week for such a vessel, a report stating so must be submitted and received by NMFS by midnight of the first Tuesday following the end of the reporting week, as instructed by the Regional Administrator. For the purposes of this paragraph (f)(2)(i), the date when fish are offloaded will establish the reporting week or month that the VTR must be submitted to NMFS, as appropriate. Any fishing activity during a particular reporting week (i.e., starting a trip, landing, or offloading catch) will constitute fishing during that reporting week and will eliminate the need to submit a negative fishing report to NMFS for that reporting week. For example, if a vessel issued a NE multispecies permit, Atlantic herring permit, or Tier 3 Limited Access Mackerel Vessel begins a fishing trip on Wednesday, but returns to port and offloads its catch on the following Thursday (i.e., after a trip lasting 8 days), the VTR for the fishing trip would need to be submitted by midnight Tuesday of the third week, but a negative report (i.e., a ''did not fish'' report) would not be required for either earlier week.

* * * * *

■ 3. In § 648.13, paragraph (e) is revised to read as follows:

**§ 648.13 Transfers at sea.**

* * * * *

(e) Vessels issued a letter of authorization from the Regional Administrator to transfer small-mesh multispecies at sea for use as bait will automatically have 500 lb (226.8 kg) deducted from the vessel's combined silver hake and offshore hake possession limit, as specified under § 648.86(d), for every trip during the participation period specified on the letter of authorization, regardless of whether a transfer of small-mesh multispecies at sea occurred or whether the actual amount that was transferred was less than 500 lb (226.8 kg). This deduction shall be noted on the transferring vessel's letter of authorization from the Regional Administrator.

* * * * *

■ 4. In § 648.80, paragraphs (a)(6)(i)(B), (a)(6)(i)(F), (a)(9)(i)(A), (a)(9)(ii), (a)(15)(i)(B), (a)(16)(i)(A), and (a)(16)(ii)(A) are revised to read as follows:

**§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.**

(a) * * *

(6) * * *

(i) * * *

(B) An owner or operator of a vessel fishing in this area may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 30,000 lb (13,608 kg), except for the following, with the restrictions noted, as allowable incidental species: Atlantic herring, up to the amount specified in § 648.204; longhorn sculpin; squid, butterfish, and Atlantic mackerel, up to the amounts specified in § 648.26; spiny dogfish, up to the amount specified in § 648.235; red hake, up to the amount specified in § 648.86(d), monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

* * * * *

(F) A vessel fishing in the Cultivator Shoal Whiting Fishery Exemption Area may fish for small-mesh multispecies in exempted fisheries outside of the Cultivator Shoal Whiting Fishery Exemption Area, provided that the vessel complies with the more restrictive gear, possession limit, and other requirements specified in the regulations of that exempted fishery for the entire participation period specified on the vessel's letter of authorization and consistent with paragraph (a)(15)(i)(G) of this section. For example, a vessel may fish in both the Cultivator

Shoal Whiting Fishery Exemption Area and the Southern New England or Mid-Atlantic Exemption Areas, and would be restricted to a minimum mesh size of 3 in (7.62 cm) and a maximum trip limit of 30,000 lb (13,607.77 kg) for silver hake and offshore hake, combined, as required in the Cultivator Shoal Whiting Fishery Exemption Area.

* * * * *

(9) *Small Mesh Area 1/Small Mesh Area 2*—(i) *Description.* (A) Unless otherwise prohibited in § 648.81, a vessel subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements of paragraphs (a)(5)(ii) or (a)(9)(ii) of this section, and § 648.86(d), from July 15 through November 15, when fishing in Small Mesh Area 1; and from January 1 through June 30, when fishing in Small Mesh Area 2. While lawfully fishing in these areas with mesh smaller than the minimum size, an owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake, combined, and red hake—up to the amounts specified in § 648.86(d); butterfish, Atlantic mackerel, squid, up the amounts specified in § 648.26; spiny dogfish, up to the amount specified in § 648.235; Atlantic herring, up to the amount specified in § 648.204; and scup, up to the amount specified in § 648.128.

* * * * *

(ii) *Raised footrope trawl.* Vessels fishing in the Small Mesh Areas I and II Exemption Programs described in § 648.80(a)(9)) must configure the vessel's gear with a raised footrope trawl, configured in such a way that, when towed, the gear is not in contact with the ocean bottom. Vessels are presumed to be fishing in such a manner if their trawl gear is designed as specified in paragraphs (a)(9)(ii)(A) through (D) of this section and is towed so that it does not come into contact with the ocean bottom.

* * * * *

(15) * * *

(i) * * *

(B) All nets must be no smaller than a minimum mesh size of 2.5-in (6.35-cm) square or diamond mesh, subject to the restrictions as specified in paragraph (a)(15)(i)(D) of this section. An owner or operator of a vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than silver hake, offshore hake, and red hake, subject to the applicable possession limits as specified in § 648.86(d), except for the following allowable incidental species: Butterfish, Atlantic mackerel, and squid, up to the amounts specified in § 648.26; scup, up to the amount specified in § 648.128; spiny dogfish, up to the amount specified in § 648.235, and Atlantic herring, up to the amount specified in § 648.204.

* * * * *

(16) * * *

(i) *Mesh requirements and possession restrictions.* (A) All nets must comply with a minimum mesh size of 2.5-in (6.35-cm) square or diamond mesh, subject to the restrictions specified in paragraph (a)(16)(i)(B) of this section. An owner or operator of a vessel participating in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery may not fish for, possess on board, or land any species of fish, other than silver hake and offshore hake, subject to the applicable possession limits as specified in paragraph (a)(16)(i)(C) of this section, and red hake, subject to the possession limit specified in § 648.86, except for the following allowable incidental species: Butterfish, Atlantic mackerel, and squid, up to the amounts specified in § 648.26; Atlantic herring, up to the amount specified in § 648.204; and alewife.

* * * * *

(ii) * * *

(A) An owner or operator of a vessel fishing in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery must configure the vessel's gear with a raised footrope trawl as specified in paragraphs (a)(9)(ii)(A) through (C) of this section. In addition, the restrictions specified in paragraphs (a)(16)(ii)(B) and (C) of this section apply to vessels fishing in the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery.

* * * * *

■ 5. In § 648.86, paragraphs (d)(1)(i) introductory text, (d)(1)(ii) introductory text, (d)(1)(iii) introductory text, and (d)(4)(ii) are revised to read as follows:

**§ 648.86 NE Multispecies possession restrictions.**

* * * * *

(d) * * *

(1) * * *

(i) *Vessels possessing on board or using nets of mesh size smaller than 2.5 in (6.35 cm).* Owners or operators of a vessel may possess and land not more than 5,000 lb (2,268 kg) of red hake, and not more than 3,500 lb (1,588 kg) of combined silver hake and offshore hake, if either of the following conditions apply:

* * * * *

(ii) *Vessels possessing on board or using nets of mesh size equal to or greater than 2.5 in (6.35 cm) but less than 3 in (7.62 cm).* Owners or operators of a vessel that is not subject to the possession limit specified in paragraph (d)(1)(i) of this section may possess and land not more than 5,000 lb (2,268 kg) of red hake, and not more than 7,500 lb (3,402 kg) of combined silver hake and offshore hake if either of the following conditions apply:

* * * * *

(iii) *Vessels possessing on board or using nets of mesh size equal to or greater than 3 in (7.62 cm).* An owner or operator of a vessel that is not subject to the possession limits specified in paragraphs (d)(1)(i) and (ii) of this section may possess and land not more than 5,000 lb (2,268 kg) of red hake, and not more than 30,000 lb (13,608 kg) of combined silver hake and offshore hake when fishing in the Gulf of Maine or Georges Bank Exemption Areas, as described in § 648.80(a), and not more than 40,000 lb (18,144 kg) of combined silver hake and offshore hake when fishing in the Southern New England or Mid-Atlantic Exemption Areas, as described in §§ 648.80(b)(10) and 648.80(c)(5), respectively, if both of the following conditions apply:

* * * * *

(4) * * *

(ii) *Silver hake and offshore hake.* If a possession limit reduction is needed for a stock area, the incidental possession limit for silver hake and offshore hake, combined, in that stock area will be 2,000 lb (907 kg) for the remainder of the fishing year.

* * * * *

■ 6. In § 648.90, paragraphs (b)(1) introductory text, (b)(1)(i) through (iii), (b)(1)(iv)(A), (b)(2) introductory text, (b)(2)(i)(C), (b)(2)(ii)(C), (b)(3), (b)(4), (b)(5)(ii), and (c)(1) are revised to read as follows:

**§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.**

* * * * *

(b) *Small-mesh multispecies*—(1) *Three-year specifications process, annual review, and specifications package.* The Council shall specify on at least a 3-year basis the OFL, ABC, ACLs, and TALs for each small-mesh multispecies stock in accordance with the following process.

(i) At least every 3 years, based on the annual review, described below in paragraph (b)(3) of this section, and/or the specifications package, described in paragraph (b)(4) of this section, recommendations for ABC from the

SSC, and any other relevant information, the Whiting PDT shall recommend to the Whiting Oversight Committee and Council specifications including the OFL, ABC, ACL, and TAL for each small-mesh multispecies stock for a period of at least 3 years. The Whiting PDT and the Council shall follow the process in paragraph (b)(2) of this section for setting these specifications.

(ii) The Whiting PDT, after reviewing the available information on the status of the stock and the fishery, may recommend to the Council any measures necessary to assure that the specifications will not be exceeded, as well as changes to the appropriate specifications.

(iii) Taking into account the annual review and/or specifications package described in paragraphs (b)(2) and (b)(4), respectively, of this section, the advice of the SSC, and any other relevant information, the Whiting PDT may also recommend to the Whiting Oversight Committee and Council changes to stock status determination criteria and associated thresholds based on the best scientific information available, including information from peer-reviewed stock assessments of small-mesh multispecies. These adjustments may be included in the Council's specifications for the small-mesh multispecies fishery.

(iv) *Council recommendation.* (A) The Council shall review the recommendations of the Whiting PDT, Whiting Oversight Committee, and SSC, any public comment received thereon, and any other relevant information, and make a recommendation to the Regional Administrator on appropriate specifications and any measures necessary to assure that the specifications will not be exceeded.

* * * * *

(2) *Process for specifying ABCs, ACLs, and TALs.* The Whiting PDT shall calculate the OFL and ABC values for each small-mesh multispecies stock based on the control rules established in the FMP. These calculations shall be reviewed by the SSC, guided by terms of reference developed by the Council. The ACLs and TALs shall be calculated based on the SSC's approved ABCs, as specified in paragraphs (a)(2)(i)(A) through (C), and (a)(2)(ii)(A) through (C) of this section.

(i) * * *

(C) *TALs.* (*1*) The red hake TALs are equal to the northern red hake and southern red hake ACLs minus a discard estimate based on the most recent 3 years of data and then reduced by 3 percent to account for silver hake and offshore hake landings that occur in state waters.

(*2*) If more than two-thirds of the southern red hake TAL is harvested in a single year, the Regional Administrator shall consult with the Council and will consider implementing quarterly TALs in the following fishing year, as proscribed in the FMP and in a manner consistent with the requirements of the Administrative Procedure Act.

* * * * *

(ii) * * *

(C) *TALs.* (*1*) The northern silver hake and southern whiting TALs are equal to the northern silver hake and southern whiting ACLs minus a discard estimate based on the most recent 3 years of data and then reduced by 3 percent to account for silver hake and offshore hake landings that occur in state waters.

(*2*) If more than two-thirds of the southern whiting TAL is harvested in a single year, the Regional Administrator shall consult with the Council and will consider implementing quarterly TALs in the following fishing year, as proscribed in the FMP and in a manner consistent with the requirements of the Administrative Procedure Act.

* * * * *

(3) *Annual Review.* (i) Using a report provided by NMFS that includes trends in the fishery, changes in stock biomass, and total catch data, the Whiting PDT shall meet at least once annually to review the status of the stock and the fishery and the adequacy of the 3-year specifications. Based on such review, the PDT shall provide a report to the Council on any changes or new information about the small-mesh multispecies stocks and/or fishery, and it shall recommend whether the specifications for the upcoming year(s), established pursuant to paragraph (b)(1) of this section, need to be modified. At a minimum, this review should include a review of at least the following data, if available: Commercial catch data; discards; stock status (exploitation rate and survey biomass); sea sampling, port sampling, and survey data or, if sea sampling data are unavailable, length frequency information from port sampling and/or surveys; impact of other fisheries on the mortality of small-mesh multispecies; and any other relevant information.

(ii) If new and/or additional information becomes available, the Whiting PDT shall consider it during this annual review. Based on this review, the Whiting PDT shall provide guidance to the Whiting Oversight Committee and the Council regarding the need to adjust measures for the small-mesh multispecies fishery to better achieve the FMP's objectives. After considering this guidance, the Council may submit to NMFS its recommendations for changes to management measures, as appropriate, through the specifications process described in this section, the process specified in paragraph (c) of this section, or through an amendment to the FMP.

(4) *Specifications Package.* (i) The Whiting PDT shall prepare a specification package, including a SAFE Report, at least every 3 years. Based on the specification package, the Whiting PDT shall develop and present to the Council recommended specifications as defined in paragraph (a) of this section for up to 3 fishing years. The specifications package shall be the primary vehicle for the presentation of all updated biological and socio-economic information regarding the small-mesh multispecies fishery. The specifications package shall provide source data for any adjustments to the management measures that may be needed to continue to meet the goals and objectives of the FMP.

(ii) In any year in which a specifications package, including a SAFE Report, is not completed by the Whiting PDT, the annual review process described in paragraph (a) of this section shall be used to recommend any necessary adjustments to specifications and/or management measures in the FMP.

(5) * * *

(ii) *Post-season adjustment for an overage.* If NMFS determines that a small-mesh multispecies ACL was exceeded in a given fishing year, the in-season accountability measure adjustment trigger, as specified in paragraph (b)(5)(i) of this section, shall be reduced in a subsequent fishing year by 1 percent for each 1 percent by which the ACL was exceeded through notification consistent with the Administrative Procedure Act. For example, if the in-season adjustment trigger is 90 percent, and an ACL is exceeded by 5 percent, the adjustment trigger for the stock whose ACL was exceeded would be reduced to 85 percent for subsequent fishing years.

* * * * *

(c) * * *

(1) *Adjustment process.* (i) After a management action has been initiated, the Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and

the analyses and opportunity to comment on them prior to and at the second Council meeting. The Council's recommendation on adjustments or additions to management measures, other than to address gear conflicts, must come from one or more of the following categories: DAS changes; effort monitoring; data reporting; possession limits; gear restrictions; closed areas; permitting restrictions; crew limits; minimum fish sizes; onboard observers; minimum hook size and hook style; the use of crucifer in the hook-gear fishery; sector requirements; recreational fishing measures; area closures and other appropriate measures to mitigate marine mammal entanglements and interactions; description and identification of EFH; fishing gear management measures to protect EFH; designation of habitat areas of particular concern within EFH; and any other management measures currently included in the FMP.

(ii) The Council's recommendation on adjustments or additions to management measures pertaining to small-mesh NE multispecies, other than to address gear conflicts, must come from one or more of the following categories: Quotas and appropriate seasonal adjustments for vessels fishing in experimental or exempted fisheries that use small mesh in combination with a separator trawl/grate (if applicable); modifications to separator grate (if applicable) and mesh configurations for fishing for small-mesh NE multispecies; adjustments to whiting stock boundaries for management purposes; adjustments for fisheries exempted from minimum mesh requirements to fish for small-mesh NE multispecies (if applicable); season adjustments; declarations; participation requirements for any of the Gulf of Maine/Georges Bank small-mesh multispecies exemption areas; OFL and ABC values; ACL, TAL, or TAL allocations, including the proportions used to allocate by season or area; small-mesh multispecies possession limits, including in-season AM possession limits; changes to reporting requirements and methods to monitor the fishery; and biological reference points, including selected reference time series, survey strata used to calculate biomass, and the selected survey for status determination.

(iii) *Adjustment process for whiting DAS.* The Council may develop recommendations for a whiting DAS effort reduction program through the framework process outlined in paragraph (c) of this section only if these options are accompanied by a full set of public hearings that span the area affected by the proposed measures in order to provide adequate opportunity for public comment.

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[FR Doc. 2013–07865 Filed 4–3–13; 8:45 am]

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# Proposed Rules

Federal Register
Vol. 78, No. 65
Thursday, April 4, 2013

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 HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 876, 882, and 892

**[Docket No. FDA–2013–N–0195]**

## Effective Date of Requirement for Premarket Approval for Three Class III Preamendments Devices; Reclassification of Sorbent Hemoperfusion Devices for the Treatment of Poisoning and Drug Overdose

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed order.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a proposed administrative order to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the following three class III preamendments devices: Sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; and transilluminator for breast evaluation. FDA is also announcing the opportunity for interested persons to request that the Agency change the classification of any of the aforementioned devices based on new information. In addition, FDA is proposing to reclassify sorbent hemoperfusion devices for the treatment of poisoning and drug overdose, a preamendments class III device, into class II (special controls) based on new information respecting the device. This action implements certain statutory requirements.

**DATES:** Submit written or electronic comments on this proposed order by May 6, 2013. FDA intends that, if a final order based on this proposed order is issued, anyone who wishes to continue to market the sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; or transilluminator for breast evaluation will need to file a PMA or a notice of completion of a PDP within 90 days of the effective date of the final order. See section XIII of this document for the proposed effective date of any final order that may publish based on this proposed order.

**ADDRESSES:** You may submit comments, identified by Docket No. FDA–2013–N–0195 by any of the following methods:

*Electronic Submissions*

Submit electronic comments in the following way:

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

*Written Submissions*

Submit written submissions in the following way:

- *Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]:* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

*Instructions:* All submissions received must include the Agency name and Docket Number FDA–2013–N–0195 for this action. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

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

**FOR FURTHER INFORMATION CONTACT:** Michael Ryan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1615, Silver Spring, MD 20993, 301–796–6283.

**SUPPLEMENTARY INFORMATION:**

### I. Background-Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (Pub. L. 101–629), the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), the Medical Devices Technical Corrections Act (Pub. L. 108–214), the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), and the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144), among other amendments, established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513(d) of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices), are automatically classified by section 513(f) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new

devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and 21 CFR part 807.

A preamendments device that has been classified into class III and devices found substantially equivalent by means of premarket notification (510(k)) procedures to such a preamendments device or to a device within that type (both the preamendments and substantially equivalent devices are referred to as preamendments class III devices) may be marketed without submission of a PMA until FDA takes final action under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval.

Although, under the FD&C Act, the manufacturer of class III preamendments device may respond to the call for PMAs by filing a PMA or a notice of completion of a product development protocol (PDP), in practice, the option of filing a notice of completion of a PDP has not been used. For simplicity, although corresponding requirements for PDPs remain available to manufacturers in response to a final order under section 515(b) of the FD&C Act, this document will refer only to the requirement for the filing and receiving approval of a PMA.

On July 9, 2012, FDASIA was enacted. Section 608(b) of FDASIA (126 Stat. 1056) amended section 515(b) of the FD&C Act changing the process for requiring premarket approval for a preamendments class III device from rulemaking to an administrative order. Prior to the enactment of FDASIA, FDA published four proposed rules under section 515(b) to require PMAs for the sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; shortwave diathermy for all uses other than the generation of deep heat within the body tissues for the treatment of selected medical conditions; and transilluminator for breast evaluation (76 FR 48062, August 8, 2011; 77 FR 9610, February 17, 2012; 77 FR 39953, July 6, 2012; 75 FR 52294, August 25, 2010). FDA is issuing this proposed administrative order to comply with the new procedural requirement created by FDASIA when requiring premarket approval for preamendments class III devices. Shortwave diathermy for all uses other than the generation of deep heat within the body tissues for the treatment of selected medical conditions is not included in this proposed administrative order due to an approaching panel meeting on the classification of this device scheduled for April 5, 2013 (77 FR 71195, November 29, 2012). Because of the level of interest in the classification of shortwave diathermy for all uses other than the generation of deep heat within the body tissues for the treatment of selected medical conditions and because this technology was last considered by a panel December 13, 1979, FDA is electing to hold the panel meeting required by sections 513(e) and 515(b) of the FD&C Act before issuing a proposed order on this device. FDA believes a new panel meeting will be useful to consider significant new developments in the technology class III shortwave diathermy devices use since that time and the large volume of new information on the use of these devices. In addition, the 1979 Panel's deliberations focused on class II shortwave diathermy devices that achieve their affect through use of therapeutic deep heat instead of those class III shortwave diathermy devices that are the subject of FDA's July 6, 2012, proposed rule.

Comments submitted in response to the proposed rules on sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; and transilluminator for breast evaluation will be considered under this proposed administrative order and do not need to be resubmitted. Similarly, FDA continues to review the merits of the requests for reclassification submitted in response to the proposed rules. Any preliminary decisions on those requests are not reflected in this proposed administrative order to require the filing of a PMA for sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; and transilluminator for breast evaluation. This action is intended solely to fulfill the procedural requirements for reclassification implemented by FDASIA.

Section 515(b)(1) of the FD&C Act sets forth the process for issuing a final administrative order. Specifically, prior to the issuance of a final order requiring premarket approval for a preamendments class III device, the following must occur: Publication of a proposed order in the **Federal Register**; a meeting of a device classification panel described in section 513(b) of the FD&C Act; and consideration of comments from all affected stakeholders, including patients, payors, and providers. FDA has held a meeting of a device classification panel described in section 513(b) of the FD&C Act with respect to cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia and transilluminator for breast evaluation, and therefore, has met this requirement under section 515(b)(1) of the FD&C Act.

Section 515(b)(2) of the FD&C Act provides that a proposed order to require premarket approval shall contain: (1) The proposed order, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed order and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed order, consideration of any comments received, and a meeting of a device classification panel described in section 513(b) of the FD&C Act, issue a final order to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the FD&C Act, unless the reason for termination is that the device is a banned device under section 516 of the FD&C Act (21 U.S.C. 360(f).

A preamendments class III device may be commercially distributed without a PMA until 90 days after FDA issues a final order (a final rule issued under section 515(b) of the FD&C Act prior to the enactment of FDASIA is considered to be a final order for purposes of section 501(f) of the FD&C Act (21 U.S.C. 351(f))) requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the FD&C Act, whichever is later. For the preamendments class III devices that are the subject of this proposal, the later of these two time periods is the 90-day period. Since the sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; and transilluminator for breast evaluation were classified in 1983, 1979, and 1995, respectively, the 30-month period has

expired (48 FR 53028, November 23, 1983; 44 FR 51770, September 4, 1979; and 60 FR 36639, July 18, 1995, respectively). Therefore, if the proposal to require premarket approval for sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; or transilluminator for breast evaluation is finalized, section 501(f)(2)(B) of the FD&C Act requires that a PMA for such device be filed within 90 days of the date of issuance of the final order. If a PMA is not filed for such device within 90 days after the issuance of a final order, the device would be deemed adulterated under section 501(f) of the FD&C Act.

Also, a preamendments device subject to the order process under section 515(b) of the FD&C Act is not required to have an approved investigational device exemption (IDE) (see part 812 (21 CFR part 812)) contemporaneous with its interstate distribution until the date identified by FDA in the final order requiring the filing of a PMA for the device. At that time, an IDE is required only if a PMA has not been filed. If the manufacturer, importer, or other sponsor of the device submits an IDE application and FDA approves it, the device may be distributed for investigational use. If a PMA is not filed by the later of the two dates, and the device is not distributed for investigational use under an IDE, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the FD&C Act, and subject to seizure and condemnation under section 304 of the FD&C Act (21 U.S.C. 334) if its distribution continues. Other enforcement actions include, but are not limited to, the following: Shipment of devices in interstate commerce will be subject to injunction under section 302 of the FD&C Act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the FD&C Act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA has been filed and may determine that such a request is appropriate for the class III devices that are the subject of this proposed order, if finalized.

In accordance with section 515(b)(2) of the FD&C Act, interested persons are being offered the opportunity to request reclassification of sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; and transilluminator for breast evaluation that are the subject of this proposal. Requests for reclassification previously submitted in response to the proposed rules (76 FR 48062, August 8, 2011; 75 FR 52294, August 25, 2010; 77 FR 9610, February 17, 2012) will be considered under this proposed administrative order and do not need to be resubmitted.

Along with proposing to require PMAs for sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; and transilluminator for breast evaluation, FDA is also publishing this document to propose the reclassification of sorbent hemoperfusion devices for the treatment of poisoning and drug overdose from class III to class II. Section 513(e) of the FD&C Act governs reclassification of classified preamendments devices. This section provides that FDA may, by administrative order, reclassify a device based upon ''new information.'' FDA can initiate a reclassification under section 513(e) or an interested person may petition FDA to reclassify a preamendments device. The term ''new information,'' as used in section 513(e) of the FD&C Act, includes information developed as a result of a reevaluation of the data before the Agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland-Rantos Co.* v. *United States Department of Health, Education, and Welfare,* 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch,* 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard,* 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the Agency is an appropriate basis for subsequent action where the reevaluation is made in light of newly available authority (see *Bell,* 366 F.2d at 181; *Ethicon, Inc.* v. *FDA,* 762 F. Supp. 382, 388–91 (D.D.C. 1991)), or in light of changes in ''medical science'' (*Upjohn,* 422 F.2d at 951). Whether data before the Agency are old or new data, the ''new information'' to support reclassification under section 513(e) must be ''valid scientific evidence,'' as defined in section 513(a)(3) of the FD&C Act and 21 CFR 860.7(c)(2). (See, e.g., *General Medical Co.* v. *FDA,* 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Association* v. *FDA,* 766 F.2d 592 (D.C. Cir. 1985), cert. denied, 474 U.S. 1062 (1986).)

FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the ''valid scientific evidence'' upon which the Agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending PMA. (See section 520(c) of the FD&C Act (21 U.S.C. 360j(c)).) Section 520(h)(4) of the FD&C Act (21 U.S.C. 360j(h)(4)), added by FDAMA, provides that FDA may use, for reclassification of a device, certain information in a PMA 6 years after the application has been approved. This includes information from clinical and preclinical tests or studies that demonstrate the safety or effectiveness of the device but does not include descriptions of methods of manufacture or product composition and other trade secrets.

On July 9, 2012, FDASIA was enacted. Section 608(a) of FDASIA (126 Stat. 1056) amended section 513(e) of the FD&C Act changing the process for reclassifying a preamendments class III device from rulemaking to an administrative order. Prior to the enactment of FDASIA, FDA published a proposed rule under section 513(e) proposing the reclassification of sorbent hemoperfusion devices for the treatment of poisoning and drug overdose. The same device is the subject of this proposed order so that FDA can comply with the new procedural requirement created by FDASIA when reclassifying a preamendments class III device.

Section 513(e)(1) of the FD&C Act sets forth the process for issuing a final order. Specifically, prior to the issuance of a final order reclassifying a device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments to a public docket.

FDAMA added section 510(m) to the FD&C Act. Section 510(m) of the FD&C Act provides that a class II device may be exempted from the premarket notification requirements under section 510(k) of the FD&C Act, if the Agency determines that premarket notification is not necessary to assure the safety and effectiveness of the device.

## II. Dates New Requirements Apply

In accordance with section 515(b) of the FD&C Act, FDA is proposing to require that a PMA be filed with the Agency for three preamendments class III devices, sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the

treatment of depression, anxiety, and insomnia; and transilluminator for breast evaluation, within 90 days after issuance of any final order based on this proposal. An applicant whose device was legally in commercial distribution before May 28, 1976, or whose device has been found to be substantially equivalent to such a device, will be permitted to continue marketing such class III device during FDA's review of the PMA provided that the PMA is timely filed. FDA intends to review any PMA for the device within 180 days of the date of filing. FDA cautions that under section 515(d)(1)(B)(i) of the FD&C Act, the Agency may not enter into an agreement to extend the review period for a PMA beyond 180 days unless the Agency finds that ''the continued availability of the device is necessary for the public health.''

FDA intends that under § 812.2(d), the publication in the **Federal Register** of any final order based on this proposal will include a statement that, as of the date on which a PMA is required to be filed, the exemptions from the requirements of the IDE regulations for preamendments class III devices in § 812.2(c)(1) and (c)(2) will cease to apply to any device that is: (1) Not legally on the market on or before that date or (2) legally on the market on or before that date but for which a PMA is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA for a class III device is not filed with FDA within 90 days after the date of issuance of any final order requiring premarket approval for the device, the device would be deemed adulterated under section 501(f) of the FD&C Act. The device may be distributed for investigational use only if the requirements of the IDE regulations are met. The requirements for significant risk devices include submitting an IDE application to FDA for review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued under § 812.30. FDA, therefore, recommends that IDE applications be submitted to FDA at least 30 days before the end of the 90-day period after the issuance of the final order to avoid interrupting any ongoing investigations.

Because sorbent hemoperfusion devices for the treatment of poisoning and drug overdose can currently be marketed after receiving clearance of an application for premarket notification and FDA is proposing to reclassify these devices as class II requiring clearance of an application for premarket notification, this order, if finalized, will not impose any new requirements on sorbent hemoperfusion devices for the treatment of poisoning and drug overdose.

## III. Proposed Findings With Respect to Risks and Benefits for Devices Subject to the Proposal To Require PMA

As required by section 515(b) of the FD&C Act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring that these devices have an approved PMA and (2) the benefits to the public from the use of the devices.

These findings are based on the reports and recommendations of the advisory committee (panel) for the classification of these devices along with information submitted in response to the 515(i) Order (74 FR 16214, April 9, 2009), and any additional information that FDA has obtained. Additional information regarding the risks as well as classification associated with these device types can be found in the following proposed and final rules and notices published in the **Federal Register**: Cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia, 43 FR 55716 (November 28, 1974), 44 FR 51770 (September 4, 1979), 54 FR 550 (January 6, 1989), 58 FR 45865 (August 31, 1993), 60 FR 43967 (August 24, 1995), 61 FR 59448 (November 22, 1996), 62 FR 4023 (January 28, 1997), 62 FR 30456 and 62 FR 30600 (June 4, 1997), and 76 FR 48062 (August 8, 2011); classification of transilluminators (Diaphanoscopes or Lightscanners) for breast evaluation, 60 FR 3168 (January 13, 1995), 60 FR 36639 (July 18, 1995), and 75 FR 52294, (August 25, 2010); and sorbent hemoperfusion for the treatment of hepatic coma and metabolic disturbances (46 FR 7630, 46 FR 7562, and 48 FR 53023).

The proposed findings concerning the degree of risk of illness or injury for each of these devices is set out in section IV, as well as information concerning known benefits, if any for these devices. FDA notes, however, that there is limited scientific evidence regarding the effectiveness of the sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; and transilluminator for breast evaluation devices. Because the benefits of these devices for the indications specified are unknown, it is impossible to estimate the direct effect of the devices on patient outcomes. However, claims for the devices state the devices have the potential to benefit the public in the following ways:

- *Cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia.* CES devices are marketed as a treatment for insomnia, anxiety, or depression (either symptoms thereof or the underlying disorder).
- *Sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances.* Disorders that affect the liver can result in metabolic disturbances and a decrease in brain function due to the accumulation of toxins in the blood. This reduced brain function may eventually result in hepatic coma and death. Sorbent hemoperfusion systems are marketed as a treatment device to compensate for liver failure by removing toxins from the blood.
- *Transilluminator for breast evaluation.* Transilluminator for breast evaluation is marketed as an aid in breast self examination as an addition to normal breast health routine by visualizing translucent tissue for the diagnosis of cancer, other conditions, diseases, or abnormalities.

## IV. Devices Subject to the Proposal To Require PMA

### *A. Sorbent Hemoperfusion System for the Treatment of Hepatic Coma and Metabolic Disturbances (21 CFR 876.5870(c))*

1. Identification

A sorbent hemoperfusion system is a device that consists of an extracorporeal blood system and a container filled with adsorbent material that removes a wide range of substances, both toxic and normal, from blood flowing through it. The adsorbent materials are usually activated-carbon or resins, which may be coated or immobilized to prevent fine particles entering the patient's blood. The generic type of device may include lines and filters specifically designed to connect the device to the extracorporeal blood system. Sorbent hemoperfusion systems may also include the machine or instrument used to drive and manage blood and fluid flow within the extracorporeal circuit, as well as any accompanying controllers, monitors, or sensors.

2. Summary of Data

For the treatment of hepatic coma and metabolic disturbances, FDA concludes that the safety and effectiveness of these devices have not been established by adequate scientific evidence, and the Agency continues to agree with the Gastroenterology-Urology Device Panel's recommendation. The review of the published scientific literature

revealed mostly observational studies performed with sorbent hemoperfusion devices. Only a few randomized, controlled trials were found, but sample sizes were small and not adequately powered, and etiologies and control group criteria were varied. Furthermore, based on FDA's experience reviewing these devices for use in the treatment of hepatic coma and metabolic disturbances, bench testing is not adequate in establishing the devices' safety and effectiveness, particularly since characterizing a sorbent hemoperfusion system's performance and adsorption capabilities has not correlated to patient outcomes, such as resolution of the patients' hepatic coma, or improvements in mortality. The scientific literature also revealed that there is no consensus on the clinical endpoints necessary to adequately evaluate sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances or on the patient populations who will benefit the most from the use of these devices.

3. Risks to Health

- *Extracorporeal leaks (blood loss)*—Rupture of the extracorporeal circuit, cartridge, filters, and/or tubing, as well as disconnections, may lead to blood leaks and blood loss.
- *Platelet loss and thrombocytopenia*—The adsorption characteristics of the device may cause large losses of platelets during hemoperfusion.
- *Leukopenia*—The materials used, or the design of the device, may cause absorption of leukocytes, leading to the transient loss of leukocytes in a patient.
- *Hemolysis*—The materials used, or the design of the blood pathways in the device, may cause the lysis of red blood cells.
- *Leak of adsorbent agent into fluid path (release of emboli)*—Fine particles leached from the sorbent column of the device may be deposited in the arterioles of the lungs and other organ as particulate emboli.
- *Lack of sterility*—Improper sterilization or compromise of the device packaging may lead to the introduction of microorganisms, which may be transmitted to a patient during use.
- *Toxic and/or pyrogenic reactions*—Toxic substances may be leached from the device, causing a patient to have a pyrogenic reaction (sudden fever with collapse and chills).
- *Infection*—Defects in the design or construction of the device preventing adequate cleaning and/or sterilization may allow pathogenic organisms to be introduced and may cause an infection in a patient.
- *Hypotension*—Sudden fluid shifts within the patient, due to pressures exerted by the device, or to fluid being removed by the device, may cause sudden decreases in a patient's blood pressure.
- *Lack of biocompatibility in materials or solutions contacting blood*—The patient-contacting materials of the device may cause an adverse immunological or allergic reaction in a patient.
- *Clotting (blood loss)*—The materials used, or the design of the device, may cause a patient's blood to form clots, which may obstruct the device's extracorporeal circuit, interrupting or terminating treatments, and also leading to blood loss, because the blood entrapped in the clotted blood circuit often cannot be returned to the patient.
- *Removal or depletion of vital nutrients, hormones, vitamins, substances. and drugs (e.g., adsorption of glucose, unspecific removal characteristics, drop in patients' hematocrit), due to device's lack of specificity*—The adsorption characteristics of the device may cause removal or depletions of nutrients, hormones, and other necessary substances.
- *Metabolic disturbances*—The removal of normal metabolites along with undesirable substances may lead to metabolic disturbances.
- *Lack of effectiveness*—The adsorption characteristics of the device may lead to the failure to remove drugs in the treatment of poisoning or drug overdose, or to bring on clinical improvement in hepatic coma and metabolic disturbances.
- *Treatment interruptions or discontinuations*—Inadequate safeguards in the device may lead to treatment interruptions or discontinuations in the case of power failures.
- *Electrical shock due to lack of electrical safety*—Inadequate safeguards in the device may lead to electrical shocks in patients using them.
- *Electromagnetic interference, which may lead to adverse interactions with other patient systems*—Inadequate safeguards in the device may lead to its interference with other patient systems, causing adverse events in the patient, as well as adversely affecting the performance of the other patient systems.

*B. Cranial Electrotherapy Stimulator (21 CFR 882.5800)*

1. Identification

A cranial electrotheraphy stimulator is a device that applies electrical current to a patient's head to treat depression, anxiety, or insomnia.

2. Summary of Data

The Neurological Devices Panel that discussed original classification for the cranial electrotherapy stimulator (CES) device in 1977 and 1978 ultimately recommended that the device be classified into class III because satisfactory device effectiveness had not been demonstrated. The panel considered information from the National Research Council, which reviewed 88 published studies on CES and concluded that the device has not been shown to be effective in treating any of the conditions for which it was prescribed. In addition, the panel indicated that it was not possible to establish an adequate performance standard for CES because the characteristics of the electrical current necessary for potential effectiveness were not known. The panel believed that general controls would not provide sufficient control over these characteristics, and that the device presented a potential unreasonable risk of illness or injury to the patient if the practitioner relied on the device, and it was ineffective in treating the patient's illness. Therefore, the panel recommended that premarket approval was necessary to assure the safety and effectiveness of CES devices.

In support of a subsequent proposed rule in 1993 for classification of CES into class III, FDA performed a literature review and identified additional studies that had been performed for CES. After a review of the scientific literature, FDA concluded that the effectiveness of CES had still not been established by adequate scientific evidence. While this rule was finalized in 1995 (60 FR 43969), it was withdrawn in 1997 (62 FR 30456). FDA performed additional literature searches for studies of CES published after the 1993 proposed rule in support of the proposed rule to retain CES devices in class III and a call for PMAs issued on August 8, 2011 (76 FR 48062), as well as in preparation for the panel meeting described in the paragraphs that follow.

FDA received three petitions requesting a change in the classification of CES devices in response to the August 8, 2011, proposed rule (76 FR 48062). FDA received a petition from Electromedical Products International, Inc., dated August 19, 2011 [FDA–2011–

N–0504–0029], requesting the Agency to reclassify from class III into class II the CES for the ''treatment of insomnia, depression, or anxiety.'' FDA received petitions from Fisher Wallace Laboratories, LLC, dated August 22, 2011 [FDA–2011–N–0504–0031], and Neuro-Fitness LLC, dated August 22, 2011 [FDA–2011–N–0504–0033], both requesting the Agency to reclassify from class III into class II the CES for the ''treatment of depression, anxiety, and insomnia in adult substance abuse patients who have failed to achieve satisfactory improvement from one prior antidepressant or sleep medication at or above the minimal effective dose and duration in the current episode, or are unable to tolerate such medication.'' The petition from Neuro-Fitness also mentioned ''general treatment of anxiety, depression, and insomnia as part of an approved program of medical care when conventional approaches have failed or are deemed inappropriate'' and ''treatment of the primary symptoms of substance abuse: Anxiety, depression, and insomnia when conventional approaches have failed or are deemed inappropriate.'' FDA continues to review the merits of the previous requests for reclassification submitted in response to the proposed rules and any preliminary decisions on those requests are not reflected in this proposed administrative order proposing to require the filing of a PMA for the cranial electrotherapy stimulator device for the treatment of depression, anxiety, and insomnia.

Consistent with then-section 515(b)(2)(B) of the FD&C Act as it stood at the time and 21 CFR 860.125, FDA referred the petitions to the Panel for its recommendation on the requested change in classification in February 2012. FDA provided the panel members with the three reclassification petitions and FDA's executive summary (Ref. 1). Based on its review of the data and information as well as information presented during its February 10, 2012, open meeting (Ref. 2), the Neurological Devices Panel recommended that the CES device for treatment of insomnia, depression, and anxiety should remain in class III requiring PMAs. The Panel consensus was that there was not adequate scientific evidence to provide a reasonable assurance of effectiveness for the CES device for any of the indications proposed by the petitioners. Although the panel expressed some reservations regarding several of the risks that FDA had identified as being associated with CES, the Panel consensus was that given the lack of adequate effectiveness data, the probable benefits of the CES device did not outweigh the probable risks. The Panel also suggested that the list of risks in the proposed rule was not accurate. While there was consensus for including the risks of skin irritation, headaches, and dizziness, the panel did not agree that seizures and blurred vision were risks associated with CES as it is characterized today by the devices on the market and the comparable devices studied in clinical trials. The Panel also suggested that worsening of the condition being treated, though a risk, could be adequately addressed through patient supervision by a medical professional.

While the panel did not recommend a classification for the focused indication in the substance abuse population for which two petitioners requested class II, the panel concluded that the substance abuse population did adequately define a target population and that there were no significant additional risks associated with use of the device in the substance abuse population as compared to the population of patients who are not substance abusers. The panel also recommended there was not adequate scientific evidence to provide a reasonable assurance of effectiveness for the CES device for treatment of insomnia, depression, or anxiety in the substance abuse population.

3. Risks to Health

- *Worsening of the condition being treated*—If the device is not effective and the patient is not treated in a conventional manner, the patient's psychological condition may worsen.
- *Skin irritation*—The electrodes or the conductive cream used with the electrodes may cause skin irritation.
- *Headaches*—Reported cases of adverse effects of CES devices include headaches following treatment with electrical stimulation.
- *Potential adverse effects from electrical stimulation of the brain*—The physiological effects associated with electrical stimulation of the brain by these devices have not been studied systematically; therefore, adverse effects which may be caused by these electrical stimuli remain unknown.

*C. Transilluminator for Breast Evaluation (21 CFR 892.1990)*

1. Identification

A transilluminator, also known as a diaphanoscope or lightscanner, is an electrically powered device that uses low intensity emissions of visible light and near-infrared radiation (approximately 700–1050 nanometers (nm)), transmitted through the breast, to visualize translucent tissue for the diagnosis of cancer, other conditions, diseases, or abnormalities.

2. Summary of Data

On January 11, 1991, the Obstetrics and Gynecology Devices Panel recommended that transilluminator devices for breast evaluation be classified into class III and subject to premarket approval to provide reasonable assurance of the safety and effectiveness of the device. The panel concluded that there were no published studies or clinical data demonstrating the safety and effectiveness of the device. The panel indicated that the device presents a potential unreasonable risk of illness or injury to the patient if the clinician relies on the device and that although the device's illumination level, wavelength, and image quality can be controlled through tests and specifications, insufficient evidence exists to determine that special controls can be established to provide reasonable assurance of the safety and effectiveness of the device for its intended use.

In addition, the Radiologic Devices Panel considered the classification of the device on April 12, 2012 (Ref. 3), and expressed concerns regarding the effectiveness of the device which may result in delayed diagnosis and determined that general controls and special controls are not sufficient to provide a reasonable assurance of safety and effectiveness of the device for the diagnosis of cancer, other conditions, diseases, or abnormalities. Accordingly, the panel concluded that the device should remain in class III. FDA agreed and continues to agree with the recommendations of both panels and is aware of no information submitted in response to the 515(i) Order (74 FR 16214, April 9, 2009) or otherwise available to FDA that would support a different classification. The Agency notes that the device has fallen into disuse and that the published data are not adequate to demonstrate the safety and effectiveness of the device.

3. Risks to Health

a. *Missed or delayed diagnosis*—As a result of the questionable device performance of breast transilluminators, missed or delayed diagnosis are the most catastrophic risks to health for a woman. These devices depend on the users' visual interpretation of their own breast illumination. One scenario may result when a woman incorrectly interprets her transillumination as a tumor and suffers the ensuing anxiety from her belief that she has a cancer. Another scenario may result when a

woman incorrectly dismisses the findings of her transillumination and then suffers from a missed diagnosis or delayed diagnosis and delayed treatment. Ultimately, missed or delayed diagnoses could result in the need for more aggressive treatment and a potentially higher risk of death.

b. *Electrical shock*—If a breast transilluminator is not designed properly, the user may receive an electrical shock.

c. *Optical radiation*—Prolonged gazing directly into the light of a breast illuminator while engaged in ''bright light mode'' may result in retinal damage.

## V. PMA Requirements

A PMA for sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, or insomnia; and transilluminator for breast evaluation must include the information required by section 515(c)(1) of the FD&C Act. Such a PMA should also include a detailed discussion of the risks identified previously, as well as a discussion of the effectiveness of the device for which premarket approval is sought. In addition, a PMA must include all data and information on: (1) Any risks known, or that should be reasonably known, to the applicant that have not been identified in this document; (2) the effectiveness of the device that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought.

A PMA must include valid scientific evidence to demonstrate reasonable assurance of the safety and effectiveness of the device for its intended use (see § 860.7(c)(1) (21 CFR 860.7(c)(1))). Valid scientific evidence is ''evidence from well-controlled investigations, partially controlled studies, studies and objective trials without matched controls, well-documented case histories conducted by qualified experts, and reports of significant human experience with a marketed device, from which it can fairly and responsibly be concluded by qualified experts that there is reasonable assurance of the safety and effectiveness of a device under its conditions of use * * * Isolated case reports, random experience, reports lacking sufficient details to permit scientific evaluation, and unsubstantiated opinions are not regarded as valid scientific evidence to show safety or effectiveness.'' (see § 860.7(c)(2)).

## VI. Opportunity To Request a Change in Classification

Before requiring the filing of a PMA for a device, FDA is required by section 515(b)(2)(D) of the FD&C Act to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to the classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the FD&C Act.

A request for a change in the classification of sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; and transilluminator for breast evaluation devices is to be in the form of a reclassification petition containing the information required by 21 CFR 860.123, including new information relevant to the classification of the device.

Requests for reclassification submitted in response to the proposed rules will be considered under this proposed administrative order and do not need to be resubmitted. FDA continues to review the merits of the previous requests for reclassification submitted in response to the proposed rules and any preliminary decisions on those requests are not reflected in this proposed administrative order proposing to require the filing of a PMA for sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances; cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia; and transilluminator for breast evaluation.

## VII. Proposed Reclassification

FDA is proposing that sorbent hemoperfusion systems intended for the treatment of poisoning and drug overdose be reclassified from class III to class II. FDA is also proposing to create a separate classification for these devices to differentiate them from sorbent hemoperfusion systems for the treatment of hepatic coma and metabolic disturbances. FDA believes sorbent hemoperfusion devices for the treatment of poisoning and drug overdose can be useful in the treatment of emergent poisoning and drug overdose events by reducing the level of related toxic substances in the bloodstream, thereby reducing or preventing damage to the liver and resultant negative patient outcomes.

FDA has considered sorbent hemoperfusion systems intended for the treatment of poisoning and drug overdose in accordance with the reserved criteria and determined that these devices require premarket notification. The Agency does not intend to exempt this proposed class II device from premarket notification (510(k)) submission as provided for under section 510(m) of the FD&C Act.

## VIII. Summary of Reasons for Reclassification

FDA believes that sorbent hemoperfusion systems intended for the treatment of poisoning and drug overdose should be reclassified into class II because special controls, in addition to general controls, are necessary to provide reasonable assurance of the safety and effectiveness of the device. In addition, there is now sufficient information to establish special controls to provide such assurance.

## IX. Summary of Data Upon Which the Reclassification is Based

FDA believes that the identified special controls, in addition to general controls, are necessary to provide reasonable assurance of safety and effectiveness. Therefore, in accordance with sections 513(e) and 515(i) of the FD&C Act and 21 CFR 860.130, based on new information with respect to the device, FDA, on its own initiative, is proposing to reclassify this preamendments class III device intended for the treatment of poisoning and drug overdose into class II. The Agency has identified special controls that would provide reasonable assurance of their safety and effectiveness. Sorbent hemoperfusion systems intended for the treatment of poisoning and drug overdose are prescription devices restricted to patient use only upon the authorization of a practitioner licensed by law to administer or use the device. (Proposed § 876.5870(a); see section 520(e) of the FD&C Act and 21 CFR 801.109 (Prescription devices)). Prescription-use restrictions are a type of general controls authorized under section 520(e) and defined as a general control in section 513(a)(1)(A)(i) of the FD&C Act.

Sorbent hemoperfusion is used in a small number of poisoning and drug overdose cases each year. Due to the emergent nature of poisoning and drug overdose events, it is expected that the published clinical literature is limited and that randomized, controlled, clinical trials are not practical to conduct. Since the time of the original Gastroenterology-Urology Device Classification Panel recommendation in 1981, sufficient new evidence has been developed to support a reclassification

of sorbent hemoperfusion system to class II with special controls for the treatment of poisoning and hepatic coma. There is valid scientific evidence which demonstrate that these devices are of clinical value in treating poisoning and drug overdose patients (Refs. 4 to 11). In this patient population, which is often relatively healthy prior to the poisoning or overdose event, quick removal of the poison or drug can greatly impact clinical outcomes, whereas in the hepatic coma and encephalopathy population, which typically exhibit severe underlying disease, comorbidities, and high mortality there is no substantive evidence on what substances need to be removed or decreased to bring on patient improvements or change clinical outcomes.

Unlike sorbent hemoperfusion devices for the treatment of hepatic coma and metabolic disturbances, appropriate bench testing methodologies have also been developed to provide assurance that the device can remove a particular poison or drug from the bloodstream. FDA has developed sufficient confidence in these bench tests via review of 510(k) submissions for these devices. In addition, a review of the available literature, FDA's MAUDE adverse event reporting database, and the manufacturer's submission to the 515(i) docket (74 FR 16214, April 9, 2009) did not present evidence of significant reports of adverse events associated with the use of the sorbent hemoperfusion despite the longstanding use of these devices.

Given the low occurrence of adverse events, the valid scientific evidence to support sorbent hemoperfusion for this use, and FDA's review experience with these devices, FDA believes that the identified special controls, including performance testing to ensure that the device is effective in removing particular poisons or drugs and is adequately designed and includes adequate safeguards, and labeling to inform users of inappropriate use conditions, in addition to general controls, provide reasonable assurance of effectiveness for this device for the treatment of poisoning and drug overdose.

## X. Environmental Impact

The Agency has determined under 21 CFR 25.30(h) and 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## XI. Paperwork Reduction Act of 1995

This proposed order refers to collections of information that 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 21 CFR part 814 have been approved under OMB control number 0910–0231. The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120. The effect of this order, if finalized, is to shift certain devices from the 510(k) premarket notification process to the PMA process. To account for this change, FDA intends to transfer some of the burden from OMB control number 0910–0120, which is the control number for the 510(k) premarket notification process, to OMB control number 0910–0231, which is the control number for the PMA process. FDA estimates that it will receive 16 new PMAs as a result of this order, if finalized. Based on FDA's most recent estimates, this will result in a 4,842 hour burden increase. FDA also estimates that there will be 14 fewer 510(k) submissions as a result of this order, if finalized, because two manufacturers have not introduced their device to market yet. Based on FDA's most recent estimates, this will result in a 726 hour burden decrease. Therefore, on net, FDA expects a burden hour increase of 4,116 due to this proposed regulatory change.

The collections of information in part 812 have been approved under OMB control number 0910–0078.

## XII. Codification of Orders

Prior to the amendments by FDASIA, section 513(e) of the FD&C Act provided for FDA to issue regulations to reclassify devices and section 515(b) of the FD&C Act provided for FDA to issue regulations to require approval of an application for premarket approval for preamendments devices or devices found to be substantially equivalent to preamendments devices. Because sections 513(e) and 515(b) as amended require FDA to issue final orders rather than regulations, FDA will continue to codify reclassifications and requirements for approval of an application for premarket approval, resulting from changes issued in final orders, in the Code of Federal Regulations. Therefore, under section 513(e)(1)(A)(i) of the FD&C Act, as amended by FDASIA, in this proposed order, we are proposing to revoke the requirements in 21 CFR 876.5870 related to the classification of sorbent hemoperfusion devices for the treatment of poisoning and drug overdose as class III devices and to codify the reclassification of sorbent hemoperfusion devices for the treatment of poisoning and drug overdose into class II.

## XIII. Proposed Effective Date

FDA is proposing that any final order based on this proposed order become effective 90 days after date of publication of the final order in the **Federal Register**.

## XIV. Comments

Comments submitted to the previous dockets for the relevant devices (cranial electrotherapy stimulator for the treatment of depression, anxiety, and insomnia FDA–2011–N–0504; transilluminator for breast evaluation FDA–2010–N–0412; sorbent hemoperfusion devices to treat hepatic coma and metabolic disturbances; and sorbent hemoperfusion devices for the treatment FDA–2012–M–0076) have been officially noted and do not need to be resubmitted. FDA will consider previous docket comments in issuing any final orders for these devices. Interested persons may submit either written comments regarding this document 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.*

## XV. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**), and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* (FDA has verified the Web site addresses, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. FDA Executive Summary prepared for the February 10, 2012, meeting of the Neurologic Devices Panel—Petitions to Request Change in Classification for Cranial Electrotherapy Stimulators.
2. Transcript, Center for Devices and Radiological Health Medical Devices Advisory Committee, Neurological

Devices Panel, February 10, 2012, 8 a.m., Hilton Washington DC North, 620 Perry Pkwy., Gaithersburg, MD. Available at *http://www.fda.gov/AdvisoryCommittees/Calendar/ucm279941.htm.*

3. Transcript, Center for Devices and Radiological Health Medical Devices Advisory Committee, Radiological Devices Panel, April 12, 2012, 8 a.m., Hilton Washington DC North, 620 Perry Pkwy., Gaithersburg, MD. Available at *http://www.fda.gov/AdvisoryCommittees/Calendar/ucm293275.htm.*

4. Evenepoel, P., et al., ''Detoxifying Capacity and Kinetics of the Molecular Adsorbent Recycling System, Contribution of the Different Inbuilt Filters.'' *Blood Purification,* 21(3): p. 244–52, 2003.

5. Ash, S. R., et al., ''Treatment of Acetaminophen-Induced Hepatitis and Fulminant Hepatic Failure With Extracorporeal Sorbent-Based Devices,'' *Advances in Renal Replacement Therapy,* 9(1): p. 42–53, 2002.

6. Akdogan, M., et al., ''Experience With Liver Dialysis in Acetaminophen Induced Fulminant Hepatic Failure: A Preliminary Report,'' *Turkish Journal of Gastroenterology,* 14(3): p. 164–7, 2003.

7. Ash, S. R., et al., ''Treatment of Severe Tricyclic Antidepressant Overdose With Extracorporeal Sorbent Detoxification.'' *Advances in Renal Replacement Therapy,* 9(1): p. 31–41, 2002.

8. De Schoenmakere, G., et al., ''Phenytoin Intoxication in Critically Ill Patients,'' *American Journal of Kidney Diseases,* 45(1): p. 189–92, 2005.

9. Covic, A., et al., ''Successful Use of Molecular Absorbent Regenerating System (MARS) Dialysis for the Treatment of Fulminant Hepatic Failure in Children Accidentally Poisoned by Toxic Mushroom Ingestion,'' *Liver International,* 23 Suppl 3: p. 21–7, 2003.

10. Shi, Y., et al., ''MARS: Optimistic Therapy Method in Fulminant Hepatic Failure Secondary to Cytotoxic Mushroom Poisoning—A Case Report,'' *Liver,* 22 Suppl 2: p. 78–80, 2002.

11. Wu, B .F. and M. M. Wang, Molecular Adsorbent Recirculating System In Dealing With Maternal *Amanita* Poisoning During the Second Pregnancy Trimester: A Case Report, *Hepatobiliary and Pancreatic Diseases International,* 3(1): p. 152–4, 2004.

**List of Subjects**

*21 CFR Part 876*

Medical devices.

*21 CFR Part 882*

Medical devices, Neurological devices.

*21 CFR Part 892*

Medical devices, Radiation protection, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 876, 882, and 892 be amended as follows:

## PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

■ 1. The authority citation for 21 CFR part 876 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Section 876.5870 is revised to read as follows:

**§ 876.5870 Sorbent hemoperfusion system.**

(a) *Identification.* A sorbent hemoperfusion system is a prescription device that consists of an extracorporeal blood system similar to that identified in the hemodialysis system and accessories (§ 876.5820) and a container filled with adsorbent material that removes a wide range of substances, both toxic and normal, from blood flowing through it. The adsorbent materials are usually activated-carbon or resins which may be coated or immobilized to prevent fine particles entering the patient's blood. The generic type of device may include lines and filters specifically designed to connect the device to the extracorporeal blood system. The device is used in the treatment of poisoning, drug overdose, hepatic coma, or metabolic disturbances.

(b) *Classification.* (1) Class II (special controls) when the device is intended for the treatment of poisoning and drug overdose. The special controls for this device are:

(i) The device must be demonstrated to be biocompatible;

(ii) Performance data to demonstrate the mechanical integrity of the device (e.g., tensile, flexural, and structural strength), including testing for the possibility of leaks, ruptures, release of particles, and/or disconnections;

(iii) Performance data to demonstrate device sterility and shelf life;

(iv) Bench performance data to demonstrate device functionality in terms of substances, toxins, and drugs removed by the device, and the extent that these are removed when the device is used according to its labeling, and to validate the device's safeguards;

(v) Summary of clinical experience with the device that discusses and analyzes device safety and performance, including a list of adverse events observed during the testing;

(vi) Labeling controls, including appropriate warnings, precautions, cautions, and contraindications statements to alert and inform users of proper device use and potential clinical adverse effects, including blood loss, platelet loss, leukopenia, hemolysis, hypotension, clotting, metabolic disturbances, and loss of vital nutrients and substances; labeling recommendations must be consistent with the performance data obtained for the device, and must include a list of the drugs and/or poisons the device has been demonstrated to remove, and the extent for removal/depletion; and

(vii) For those devices that incorporate electrical components, appropriate analysis and testing to validate electrical safety and electromagnetic compatibility.

(2) Class III (premarket approval) when the device is intended for the treatment of hepatic coma and metabolic disturbances.

(c) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or notice of completion of a PDP is required to be filed with FDA by [DATE 90 DAYS AFTER DATE OF PUBLICATION OF THE FINAL ORDER IN THE **FEDERAL REGISTER**], for any sorbent hemoperfusion system indicated for treatment of hepatic coma or metabolic disturbances that was in commercial distribution before May 28, 1976, or that has, by [DATE 90 DAYS AFTER DATE OF PUBLICATION OF THE FINAL ORDER IN THE FEDERAL REGISTER], been found to be substantially equivalent to any sorbent hemoperfusion device indicated for treatment of hepatic coma or metabolic disturbances that was in commercial distribution before May 28, 1976. Any other sorbent hemoperfusion system device indicated for treatment of hepatic coma or metabolic disturbances shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

## PART 882—NEUROLOGICAL DEVICES

■ 3. The authority citation for 21 CFR part 882 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 4. Section 882.5800 is amended by revising paragraph (c) to read as follows:

**§ 882.5800 Cranial electrotherapy stimulator.**

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration by [A DATE WILL BE ADDED 90 DAYS AFTER DATE OF PUBLICATION OF A FUTURE FINAL ORDER IN THE **FEDERAL REGISTER**],

for any cranial electrotherapy stimulator device that was in commercial distribution before May 28, 1976, or that has, by [A DATE WILL BE ADDED 90 DAYS AFTER DATE OF PUBLICATION OF A FUTURE FINAL ORDER IN THE **FEDERAL REGISTER**], been found to be substantially equivalent to any cranial electrotherapy stimulator device that was in commercial distribution before May 28, 1976. Any other cranial electrotherapy stimulator device shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

## PART 892—RADIOLOGY DEVICES

■ 5. The authority citation for 21 CFR part 892 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 6. Section 892.1990 is amended by revising paragraph (c) to read as follows:

### § 892.1990 Transilluminator for breast evaluation.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration by [A DATE WILL BE ADDED 90 DAYS AFTER DATE OF PUBLICATION OF A FUTURE FINAL ORDER IN THE **FEDERAL REGISTER**], for any transilluminator for breast evaluation that was in commercial distribution before May 28, 1976, or that has, by [A DATE WILL BE ADDED 90 DAYS AFTER DATE OF PUBLICATION OF A FUTURE FINAL ORDER IN THE **FEDERAL REGISTER**], been found to be substantially equivalent to any transilluminator for breast evaluation that was in commercial distribution before May 28, 1976. Any other transilluminator for breast evaluation shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: March 29, 2013.

**Peter Lurie,**

*Acting Associate Commissioner for Policy and Planning.*

[FR Doc. 2013–07730 Filed 4–3–13; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Parts 100 and 165

**[Docket No. USCG–2012–1036]**

**RIN 1625–AA00; 1625–AA08**

## Safety Zones & Special Local Regulations; Recurring Marine Events in Captain of the Port Long Island Sound Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Coast Guard proposes to add, delete, and modify safety zones and special local regulations and add language to clarify time frames and notification requirements for annual marine events in the Sector Long Island Sound Captain of the Port (COTP) Zone. When these regulated areas are activated and subject to enforcement, this rule would restrict vessels from portions of water areas during these recurring events. The safety zones and special local regulations will facilitate public notification of events and provide protective measures for the maritime public and event participants from the hazards associated with these recurring events.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 6, 2013.

Requests for public meetings must be received by the Coast Guard on or before April 25, 2013.

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

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

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

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Joseph Graun, Waterways Management Division at Coast Guard Sector Long Island Sound, telephone 203–468–4544, email *joseph.l.graun@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### Table of Acronyms

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

### A. Public Participation and Request for Comments

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

*1. Submitting comments*

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

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2012–1036] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received

during the comment period and may change the rule based on your comments.

*2. Viewing comments and documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2012–1036) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Open Docket Folder'' on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*3. Privacy Act*

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

*4. Public meeting*

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES** on or before April 25, 2013. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**B. Regulatory History and Information**

The Coast Guard promulgated safety zones and special local regulations for most of these events in the past and received no public comments. The most recently promulgated rulemaking was on April 4, 2012 when the Coast Guard published a notice of proposed rulemaking entitled, (NPRM) Special Local Regulation and Safety Zones; Marine Events in Captain of the Port Sector Long Island Sound Zone in the **Federal Register** (77 FR 20324). A final rule was published on July 5, 2012, entitled, ''Special Local Regulation and Safety Zones; Marine Events in Captain of the Port Sector Long Island Sound Zone'' in the **Federal Register** (77 FR 39633).

**C. Basis and Purpose**

The legal basis for the proposed rule is 33 U.S.C. 1231, 1233; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

This regulation proposes to: (1) Establish new marine event regulated areas, (2) remove old safety zones that are no longer needed, (3) modify and update some existing regulated areas and (4) clarify event time frames and marine event application requirements. This will account for new events, remove events that are no longer held, and to account for modifications to several of the recurring marine events that have occurred since last year.

**D. Discussion of Proposed Rule**

The Coast Guard proposes to revise sections 33 CFR 165.151 ''Safety Zones; Fireworks Displays, Air Shows and Swim Events in the Captain of the Port Long Island Sound Zone'' and 33 CFR 100.100 ''Special Local Regulations; Regattas and Boat Races in the Coast Guard Sector Long Island Sound Captain of the Port Zone.'' By establishing 41 permanent marine events regulated areas, removing four, modifying one marine event safety zone and adding language to clarify event time frames and marine event application requirements. By proposing these permanent regulation updates, we are providing the public with an opportunity to comment on these changes. This rulemaking limits the unnecessary burden of continually establishing temporary rules every year for events that occur on an annual basis.

*(1) Establishing New Marine Event Regulated Areas*

This rule proposes to establish 39 permanent marine event safety zones under 33 CFR 165.151 and two permanent marine events special local regulations under 33 CFR 100.100. These events include fireworks displays, swimming events, and regattas that take place throughout the Long Island Sound Captain of the Port Zone. Event locations and details are listed below in the text of the regulation. Because large numbers of spectator vessels are expected to congregate around the location of these events, these regulated areas are needed to protect both spectators and participants from the safety hazards created by them—including large numbers of swimmers, hard to see and unstable small boats, unexpected pyrotechnics detonation, and burning debris. This rule would permanently establish regulated areas that restrict vessel movement around the location of each marine event to reduce the safety risks associated with them.

During the enforcement period of the regulated areas, persons and vessels would be prohibited from entering, transiting through, remaining, anchoring or mooring within the regulated area unless specifically authorized by the COTP or the designated representative. Persons and vessels would be able to request authorization to enter, transit through, remain, anchor or moor within the regulated areas by contacting the COTP Sector Long Island Sound by telephone at (203) 468–4401, or designated representative via VHF radio on channel 16. If authorization to enter, transit through, remain, anchor, or moor within any of the regulated areas is granted, all persons and vessels receiving authorization would be required to comply with the instructions of the COTP or designated representative.

The Coast Guard COTP Sector Long Island Sound or designated representatives would enforce the regulated areas. These designated representatives are comprised of commissioned, warrant, and petty officers of the Coast Guard. The Coast Guard may be assisted by other federal, state and local agencies in the enforcement of these regulated areas.

To aid the public in identifying the launch platforms; fireworks barges used for these displays will have a sign on their port and starboard side labeled ''FIREWORKS—STAY AWAY.'' This sign will consist of 10 inch high by 1.5 inch wide red lettering on a white background. Shore launch sites will display a sign labeled ''FIREWORKS—STAY AWAY'' with the same dimensions.

Certain safety zones and special local regulations are listed without known dates or times. Coast Guard Sector Long Island Sound will cause notice of the enforcement of these regulated areas to be made by all appropriate means to affect the widest publicity among the effected segments of the public, including publication in the **Federal Register** as a Notice of Enforcement, Local Notice to Mariners and Broadcast Notice to Mariners.

*(2) Remove Old Safety Zones That Are No Longer Needed*

This rule proposes to remove four safety zones from TABLE 1 to § 165.151. Events 7.18 Hartford Riverfest Fireworks and 7.32 Thames River Fireworks will be removed because they are redundant. The Riverfest Fireworks and Mashantucket Pequot Fireworks events are permanent events under TABLE 1 to

§ 165.151 and provide safety zones for the same events making 7.18 and 7.32 unnecessary. Events 8.1 Pyro-FX Entertainment Group Fireworks and 8.2 Port Washington Sons of Italy Fireworks will be removed because the events have not taken place in several years and are no longer needed.

*(3) Modify and Update Existing Regulated Areas*

Event 5.1 Jones Beach Air Show would be modified to expand the event area by moving the current western boundary a half mile further to the west and the south west corner one mile further south. This is being proposed because one of the events aerial performing groups ''The Blue Angels'' has requested a larger area within which to perform their aerial acrobatics. This larger area would expand the area vessels are prohibited from entering, transiting through, remaining, anchoring or mooring within and provide ''The Blue Angels'' a larger area to perform their aerial acrobatics while minimizing risks to the maritime community.

*(4) Clarifying Event Time Frames and Marine Event Application Requirements*

The Coast Guard proposes to add new language to both 33 CFR 100.100 and 33 CFR 165.151. First we propose stating that sponsors for each marine event listed in the tables must submit a marine event application 60 days prior to the proposed event date. This language does not create or change the submission requirements, it simply restates the requirements of 33 CFR 100.15 making it easier for sponsors to locate by placing it with the other event requirements. We are proposing this language because there has been some confusion about how early a sponsor must submit a marine event application, the goal of this language is to eliminate that confusion.

Secondly, we propose each event listed in the table without a date must take place during the month it is listed under. We are proposing this to give sponsors and the public a known date range that the event must take place within. Currently, events are listed under a specific month such as ''June'' or ''August'' and the expectation is that the sponsor will hold the event during the month it is listed. However, this has never been a written standard. Adding this language provides the sponsors and public a written standard and a chance to comment on it. We propose one exception to these date limits, any safety zone listed in 33 CFR 165.151 under the month of July may take place during July or up to seven days prior to July. We are proposing this exception to account for events that are listed under the month of July and are proposed to closely coincide with or specifically avoid Fourth of July celebrations. Accordingly, many of these events are planned to be held the weekend before the Fourth of July. However, due to the annual variations concerning the day of the week on which the holiday falls, scheduling the event for the preceding weekend may result in the event being held in the last week of June in some years and in July in other years.

**E. Regulatory Analyses**

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

*1. Regulatory Planning and Review*

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect the economic impact of this proposed rule to be minimal. Although this regulation may have some impact on the public, the potential impact will be minimized for the following reasons: The Coast Guard has previously promulgated regulated areas in accordance with 33 CFR parts 165, for most event areas contained within this proposed regulation and has not received notice of any negative impact caused by any of the regulated areas.

Vessels will only be restricted from regulated areas for a short duration of time. Vessels may transit in portions of the affected waterway except for those areas covered by the proposed regulated areas. Notifications of exact dates and times of the enforcement period will be made to the local maritime community through all appropriate means, including but not limited to the Local Notice to Mariners, Broadcast Notice to Mariners or through a Notice of Enforcement in the **Federal Register**. No new or additional restrictions would be imposed on vessel traffic.

*2. Impact on Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a designated regulated area during an enforcement period.

The regulated areas will not have a significant economic impact on a substantial number of small entities for the following reasons: The regulated areas will be of limited size and of short duration; vessels that can safely do so may navigate in all other portions of the waterways except for the areas designated as regulated areas; most of these regulated areas have been promulgated in the past with no public comments submitted. Additionally, before the effective period, the Coast Guard will issue notice of the time and location of each regulated area through all appropriate means including but not limited to Local Notice to Mariners or Broadcast Notice to Mariners.

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

*3. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*4. Collection of Information*

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

*5. Federalism*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

*6. Protest Activities*

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

*7. Unfunded Mandates Reform Act*

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

*8. Taking of Private Property*

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

*9. Civil Justice Reform*

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

*10. Protection of Children from Environmental Health Risks*

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

*11. Indian Tribal Governments*

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

*12. Energy Effects*

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

*13. Technical Standards*

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

*14. Environment*

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

**List of Subjects**

*33 CFR Part 100*

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

*33 CFR Part 165*

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 100 and 165 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

**Authority:** 33 U.S.C. 1233.

■ 2. In § 100.100, revise paragraph (c) and the TABLE to § 100.100 to read as follows:

**§ 100.100 Special Local Regulations; Regattas and Boat Races in the Coast Guard Sector Long Island Sound Captain of the Port Zone.**

* * * * *

(c) Although listed in the Code of Federal Regulations, sponsors of events listed in TABLE to § 100.100 are still required to submit marine event applications in accordance with 33 CFR 100.15. Each application must:

(1) Be submitted no less than 60 days before the date of the proposed event.

(2) If the proposed event does not have a specified date the sponsor shall hold the event during the month it is listed in TABLE to § 100.100.

(3) Any proposed event not being held on the specified date or within the month listed in TABLE to § 100.100 shall be considered a new marine event and the sponsor shall submit a new marine event application in accordance with 33 CFR 100.15 no less than 135 days before the start of the event.

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TABLE TO § 100.100

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|---|---|
| 1.1 Harvard-Yale Regatta, Thames River, New London, CT ..... | • Event type: Boat Race.<br>• Date: Last Saturday in May through second Saturday of June, from 8 a.m. until 5 p.m.<br>• Location: All waters of the Thames River at New London, Connecticut, between the Penn Central Draw Bridge 41°21′46.94″ N 072°5′14.46″ W to Bartlett Cove 41°25′35.9″ N 072°5′42.89″ W (NAD 83). |

TABLE TO § 100.100—Continued

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|---|---|
| | • Additional stipulations: Spectator vessels must be at anchor within a designated spectator area or moored to a waterfront facility within the regulated area in such a way that they shall not interfere with the progress of the event at least 30 minutes prior to the start of the races. They must remain moored or at anchor until the men's varsity have passed their positions. At that time, spectator vessels located south of the Harvard Boathouse may proceed downriver at a reasonable speed. Vessels situated between the Harvard Boathouse and the finish line must remain stationary until both crews return safely to their boathouses. If for any reason the men's varsity crew race is postponed, spectator vessels will remain in position until notified by Coast Guard or regatta patrol personnel. The last 1000 feet of the race course near the finish line will be delineated by four temporary white buoys provided by the sponsor. All spectator craft shall remain behind these buoys during the event. Spectator craft shall not anchor: To the west of the race course, between Scotch Cap and Bartlett Point Light, or within the race course boundaries or in such a manner that would allow their vessel to drift or swing into the race course. During the effective period all vessels shall proceed at a speed not to exceed six knots in the regulated area. Spectator vessels shall not follow the crews during the races. Swimming is prohibited in the vicinity of the race course during the races. A vessel operating in the vicinity of the Submarine Base may not cause waves which result in damage to submarines or other vessels in the floating dry-docks. |
| 1.2 Great Connecticut River Raft Race, Middletown, CT | • Event type: Boat Race.<br>• Date: Last Saturday in July through the first Saturday in August, from 10 a.m. until 2 p.m.<br>• Location: All waters of the Connecticut River Middletown, CT between Dart Island (Marker no. 73) 41°33′8.235″ N 072°33′24.459″ W and Portland Shoals (Marker no. 92) 41°33′46.828″ N 072°38′42.176″ W (NAD 83). |
| 1.3 Head of the Connecticut Regatta, Connecticut River, CT | • Event type: Boat Race.<br>• Date: The second Saturday of October, from 7:30 a.m. until 5 p.m.<br>• Location: All waters of the Connecticut River between the southern tip of Gildersleeve Island 41°36′3.61″ N 072°37′18.08″ W and Light Number 87 41°33′32.905″ N 072°37′15.241″ W (NAD 83).<br>• Additional stipulations: Vessels less than 20 meters in length will be allowed to transit the regulated area only under escort and at the discretion of the Coast Guard patrol commander. Vessels over 20 meters in length will be allowed to transit the regulated area, under escort, from 12:30 p.m. to 1:45 p.m. or as directed by the Coast Guard patrol commander. All transiting vessels shall operate at "No Wake" speed or five knots, whichever is slower. Southbound vessels awaiting escort through the regulated area will wait in the vicinity of the southern tip of Gildersleeve Island. Northbound vessels awaiting escort will wait at Light Number 87. |
| 1.4 Riverfront Regatta, Hartford, CT | • Event type: Regatta.<br>• Date: The first Sunday of October, from 8:30 a.m. until 4:30 p.m.<br>• Location: All water of the Connecticut River, Hartford, CT, between the Putnum Bridge 41°42.87′ N 072°38.43′ W and the Riverside Boat House 41°46.42′ N 072°39.83′ W (NAD 83). |
| 1.5 Patchogue Grand Prix, Patchogue, NY | • Event type: Boat Race.<br>• Date: The last weekend of August Friday, Saturday and Sunday, from 11 a.m. until 5 p.m.<br>• Location: All water of the Great South Bay, off Shorefront Park, Patchogue, NY from approximate position: Beginning at a point off Sand Spit Park, Patchogue, NY at position 40°44′45″ N, 073°00′51″ W then running south to a point in Great South Bay at position 40°43′46″ N, 073°00′51″ W then running south east to position 40°43′41″ N, 073°00′20″ W then running north east to position 40°43′54″ N, 072°58′46″ W then east to position 40°43′58″ N, 072°57′32″ W then east to position 40°43′57″ N, 072°56′49″ W then north to position 40°44′18″ N, 072°56′49″ W then west to position 40°44′18″ N, 072°57′32″ W then north west to position 40°44′30″ N, 072°58′32″ W then north west to position 40°44′33″ N, 072°59′12″ W then north west to position 40°44′41″ N, 072°59′51″ W then north west to position 40°44′46″ N, 073°00′04″ W and then closing the zone at position 40°44′45″ N, 073°00′51″ W (NAD 83). |

TABLE TO § 100.100—Continued

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|---|---|
| 1.6 Riverfront U.S. Title series Powerboat Race, Hartford, CT | • Event type: Boat Race.<br>• Date: Labor Day weekend, Friday and Saturday from 10 a.m. until 6 p.m. and Sunday from 12:01 p.m. until 6 p.m.<br>• Location: All water of the Connecticut River, Hartford, CT, between the Founders Bridge on the North approximate position 41° 45′53.47″ N, 072° 39′55.77″ W and 41° 45′37.39″ N, 072° 39′47.49″ W (NAD 83) to the South. |
| 1.7 Hartford Dragon Boat Regatta | • Event type: Boat Race.<br>• Dates: Saturday and Sunday during the third weekend of August.<br>• Time 8 a.m. until 4:30 p.m. each day.<br>• Regulated area: All waters of the Connecticut River in Hartford, CT between the Bulkeley Bridge 41°46′10.10″ N, 072°39′56.13″ W and the Wilbur Cross Bridge 41°45′11.67″ N, 072°39′13.64″ W (NAD 83). |
| 1.8 Kayak for a Cause Regatta | • Event type: Boat Race.<br>• Date: A single day during the third or fourth weekend of July.<br>• Time: 8 a.m. until 3 p.m.<br>• Regulated area: All water of Long Island Sound within a nine mile long and half mile wide rectangle shaped regatta course connecting Norwalk, CT and Crab Meadow, NY. The regulated area beginning in Norwalk CT east of Shady Beach at 41°5′32.24″ N, 073°23′11.18″ W then heads south crossing Long Island Sound to a point east of Crab Meadow Beach, Crab Meadow, NY at 40°55′37.21″ N, 073°19′2.14″ W then turns west connecting to a point west of Crab Meadow Beach at 40°55′48.3″ N, 073°19′51.88″ W, then turns north crossing Long Island Sound to the western boundary of Calf Pasture Beach Norwalk, CT at 41°04′57.54″ N, 073°23′53.21″ W then turns east back to its starting point at 41°5′32.24″ N, 073°23′11.18″ W (NAD 83)<br>• Additional stipulations: 1) Spectators must maintain a minimum distance of 100 yards from each event participant and support vessel. 2) Vessels that maintain the minimum required distance from event participants and support vessels may transit through the regatta course. |

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

■ 3. The authority citation for Part 165 continues to read as follows:

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

■ 4. Amend § 165.151 by revising paragraph (a)(3) and TABLES 1 and 2 to read as follows:

**§ 165.151 Safety Zones; Fireworks Displays, Air Shows and Swim Events in the Captain of the Port Long Island Sound Zone.**

(a) * * *

(3) Although listed in the Code of Federal Regulations, sponsors of events listed in TABLES 1 and 2 to § 165.151 are still required to submit marine event applications in accordance with 33 CFR 100.15. Each application must:

(i) Be submitted no less than 60 days before the date of the proposed event.

(ii) If the proposed event does not have a specified date the sponsor shall hold the event during the month it is listed in TABLES 1 or 2 to § 165.151.

(iii) For those proposed events listed in TABLE 1 to § 165.151 to be held during the month of July, the event may take place during the final seven days of June.

(iv) Any proposed event not being held on the specified date or within the month listed in TABLES 1 or 2 to § 165.151 shall be considered a new marine event and the sponsor shall submit a new marine event application in accordance with 33 CFR 100.15 no less than 135 days before the start of the event.

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TABLE 1 TO § 165.151

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| 2 | February |
| 2.1 Sag Harbor COC Winter Harbor Frost Fireworks | Date: A day during the first or second weekend of February from 6:15 p.m. until 6:45 p.m.<br>Location: Waters of Sag Harbor off Long Wharf St. Pier in Sag Harbor, NY in approximate position 41°00′16.82″ N, 072°17′43.78″ W (NAD 83). |
| 4 | April |
| 4.1 Bridgeport Bluefish April Fireworks | • Location: Waters of the Pequannock River's Lower Reach surrounding Steel Point in Bridgeport, CT in approximate position 41°10′35″ N 073°10′58″ W (NAD 83). |
| 5 | May |

TABLE 1 TO § 165.151—Continued

| | |
|---|---|
| 5.1 Jones Beach Air Show | • Date: The Thursday through Sunday before Memorial Day each May from 9:30 a.m. until 3:30 p.m. each day.<br>• Location: Waters of Atlantic Ocean off Jones Beach State Park, Wantagh, NY. In approximate positions 40°34′54″ N, 073°33′21″ W, then running east along the shoreline of Jones Beach State Park to approximate position 40°35′49″ N, 073°28′47″ W; then running south to a position in the Atlantic Ocean off of Jones Beach at approximate position 40°33′15″ N, 073°33′09″ W; then running West to approximate position 40°35′05″ N, 073°28′34″ W; then running North to the point of origin. (NAD 83). |
| 5.2 Greenport Spring Fireworks | • Date: A day during the last week of May or first week of June.<br>• Location: Waters of Greenport Harbor off Mitchell Park and Marina, Greenport, NY in approximate position 41°05′59.09″ N 072°21′31.44″ W (NAD 83). |
| 6 | June |
| 6.1 Barnum Festival Fireworks | • Date: last Saturday in June.<br>• Rain Date: following Saturday.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Bridgeport Harbor, Bridgeport, CT in approximate position 41°9′04″ N, 073°12′49″ W (NAD 83). |
| 6.2 Town of Branford Fireworks | • Location: Waters of Branford Harbor, Branford, CT in approximate position, 41°15′30″ N, 072°49′22″ W (NAD 83). |
| 6.3 Vietnam Veterans/Town of East Haven Fireworks | • Location: Waters off Cosey Beach, East Haven, CT in approximate position, 41°14′19″ N, 072°52′9.8″ W (NAD 83). |
| 6.4 Salute to Veterans Fireworks | • Date: The third Saturday of June.<br>• Rain date: The fourth Saturday of June.<br>• Location: Waters of Reynolds Channel off Hempstead, NY in approximate position 40°35′36.62″ N, 073°35′20.72″ W (NAD 83). |
| 6.5 Cherry Grove Arts Project Fireworks | • Date: A single day during the first two weeks of June.<br>• Location: Waters of the Great South Bay off Cherry Grove, NY in approximate position 40°39′49.06″ N, 073°05′27.99″ W (NAD 83). |
| 6.6 Bridgeport Bluefish June Fireworks | • Location: Waters of the Pequannock River's Lower Reach surrounding Steel Point in Bridgeport, CT in approximate position 41°10′35″ N 073°10′58″ W (NAD 83). |
| 7 | July |
| 7.1 Point O'Woods Fire Company Summer Fireworks | • Location: Waters of the Great South Bay, Point O'Woods, NY in approximate position 40°39′18.57″ N, 073°08′5.73″ W (NAD 83). |
| 7.2 Cancer Center for Kids Fireworks | • Location: Waters off of Bayville, NY in approximate position 40°54′38.20″ N, 073°34′56.88″ W (NAD 83). |
| 7.3 City of Westbrook, CT July Celebration Fireworks | • Location: Waters of Westbrook Harbor, Westbrook, CT in approximate position, 41°16′10.50″ N, 072°26′14″ W (NAD 83). |
| 7.4 Norwalk Fireworks | • Location: Waters off Calf Pasture Beach, Norwalk, CT in approximate position, 41°04′50″ N, 073°23′22″ W (NAD 83). |
| 7.5 Lawrence Beach Club Fireworks | • Location: Waters of the Atlantic Ocean off Lawrence Beach Club, Atlantic Beach, NY in approximate position 40°34′42.65″ N, 073°42′56.02″ W (NAD 83). |
| 7.6 Sag Harbor Fireworks | • Location: Waters of Sag Harbor Bay off Havens Beach, Sag Harbor, NY in approximate position 41°00′26″ N, 072°17′9″ W (NAD 83). |
| 7.7 South Hampton Fresh Air Home Fireworks | • Location: Waters of Shinnecock Bay, Southampton, NY in approximate positions, 40°51′48″ N, 072°26′30″ W (NAD 83). |
| 7.8 Westport Police Athletic League Fireworks | • Location: Waters off Compo Beach, Westport, CT in approximate position, 41°06′15″ N, 073°20′57″ W (NAD 83). |
| 7.9 City of Middletown Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m. |

TABLE 1 TO § 165.151—Continued

| | |
|---|---|
| | • Location: Waters of the Connecticut River, Middletown Harbor, Middletown, CT in approximate position 41°33′44.47″ N, 072°38′37.88″ W (NAD 83). |
| 7.10 City of New Haven Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of New Haven Harbor, off Long Warf Park, New Haven, CT in approximate position 41°17′24″ N, 072°54′55.8″ W (NAD 83). |
| 7.11 City of Norwich July Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Thames River, Norwich, CT in approximate position, 41°31′16.835″ N, 072°04′43.327″ W (NAD 83). |
| 7.12 City of Stamford Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Fisher's Westcott cove, Stamford, CT in approximate position 41°02′09.56″ N, 073°30′57.76″ W (NAD 83). |
| 7.13 City of West Haven Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of New Haven Harbor, off Bradley Point, West Haven, CT in approximate position 41°15′07″ N, 072°57′26″ W (NAD 83). |
| 7.14 CDM Chamber of Commerce Annual Music Fest Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters off of Cedar Beach Town Park, Mount Sinai, NY in approximate position 40°57′59.58″ N, 073°01′57.87″ W (NAD 83). |
| 7.15 Davis Park Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Great South Bay, Davis Park, NY in approximate position, 40°41′17″ N, 073°00′20″ W (NAD 83). |
| 7.16 Fairfield Aerial Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Jennings Beach, Fairfield, CT in approximate position 41°08′22″ N, 073°14′02″ W (NAD 83). |
| 7.17 Fun in the Sun Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Great South Bay off The Pines, East Fire Island, NY in approximate position 40°40′07.43″ N, 073°04′13.88"W. (NAD 83). |
| 7.18 Independence Day Celebration Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters off of Umbrella Beach, Montauk, NY in approximate position 41°01′44″ N, 071°57′13″ W (NAD 83).zzzzz |
| 7.19 Jones Beach State Park Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters off of Jones Beach State Park, Wantagh, NY in approximate position 40°34′56.676″ N, 073°30′31.186″ W (NAD 83). |
| 7.20 Madison Cultural Arts Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Long Island Sound off of Madison, CT in approximate position 41°16′10″ N, 072°36′30″ W (NAD 83). |
| 7.21 Mason's Island Yacht Club Fireworks | • Date: July 4.<br>• Rain date: July 5. |

TABLE 1 TO § 165.151—Continued

| | |
|---|---|
| | • Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Fisher's Island Sound, Noank, CT in approximate position 41°19′30.61″ N, 071°57′48.22″ W (NAD 83). |
| 7.22 Patchogue Chamber of Commerce Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Great South Bay, Patchogue, NY in approximate position, 40°44′38″ N, 073°00′33″ W (NAD 83). |
| 7.23 Riverfest Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Connecticut River Hartford, CT in approximate positions, 41°45′39.93″ N, 072°39′49.14″ W (NAD 83). |
| 7.24 Village of Asharoken Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Northport Bay, Asharoken, NY in approximate position, 41°55′54.04″ N, 073°21′27.97″ W (NAD 83). |
| 7.25 Village of Port Jefferson Fourth of July Celebration Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Port Jefferson Harbor, Port Jefferson, NY in approximate position 40°57′10.11″ N, 073°04′28.01″ W (NAD 83). |
| 7.26 Village of Quoque Foundering Anniversary Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Quantuck Bay, Quoque, NY in approximate position 40°48′42.99″ N, 072°37′20.20″ W (NAD 83). |
| 7.27 City of Long Beach Fireworks | • Location: Waters off Riverside Blvd, City of Long Beach, NY in approximate position 40°34′38.77″ N, 073°39′41.32″ W (NAD 83). |
| 7.28 Great South Bay Music Festival Fireworks | • Location: Waters of Great South Bay, off Bay Avenue, Patchogue, NY in approximate position 40°44′45″ N, 073°00′25″ W (NAD 83). |
| 7.29 Mashantucket Pequot Fireworks | • Location: Waters of the Thames River New London, CT in approximate positions Barge 1, 41°21′03.03″ N, 072°5′24.5″ W Barge 2, 41°20′51.75″ N, 072°5′18.90″ W (NAD 83). |
| 7.30 Shelter Island Fireworks | • Location: Waters of Gardiner Bay, Shelter Island, NY in approximate position 41°04′39.11″ N, 072°22′01.07″ W (NAD 83). |
| 7.31 Clam Shell Foundation Fireworks | • Location: Waters of Three Mile Harbor, East Hampton, NY in approximate position 41°1′15.49″ N, 072°11′27.50″ W (NAD 83). |
| 7.32 Town of North Hempstead Bar Beach Fireworks | • Location: Waters of Hempstead Harbor, North Hempstead, NY in approximate position 40°49′54″ N, 073°39′14″ W (NAD 83). |
| 7.33 Groton Long Point Yacht Club Fireworks | • Location: Waters of Long Island Sound, Groton, CT in approximate position 41°18′05″ N, 072°02′08″ W (NAD 83). |
| 7.34 Devon Yacht Club Fireworks | • Date: A day during the first week of July.<br>• Location: Waters of Napeague Bay, in Block Island Sound off Amagansett, NY in approximate position 40°59′41.40″ N, 072°06′08.70″ W (NAD 83). |
| 7.35 Dolan Family Fourth Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Location: Waters of Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY in approximate position 40°53′42.50″ N, 073°30′04.30″ W (NAD 83). |
| 7.36 Friar's Head Golf Club Fireworks | • Date: A day during the first two weeks of July.<br>• Location: Waters of Long Island Sound off Baiting Hollow, NY in approximate position, 40°58′19.53″ N, 072°43′45.65″ W (NAD 83). |
| 7.37 Islip Fireworks | • Date: July 4.<br>• Rain date July 5. |

TABLE 1 TO § 165.151—Continued

| | |
|---|---|
| | • Location: Waters of the Great South Bay off Bay Shore Manor Park, Islip, NY in approximate position 40°42′24″ N, 073°14′24″ W (NAD 83). |
| 7.38 Madison Fireworks | • Date: July 4.<br>• Rain date: The Saturday following July 4.<br>• Location: Waters of Long Island Sound off Madison Beach, Madison, CT in approximate position 41°16′03.93″ N, 072°36′15.97″ W (NAD 83). |
| 7.39 Stratford Fireworks | • Date: July 3.<br>• Rain date: July 5.<br>• Location: Waters of Long Island Sound surrounding Short Beach Park, Stratford, CT in approximate position 41°09′50.82″ N, 073°06′47.13″ W (NAD 83). |
| 7.40 Rowayton Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Location: Waters of Long Island Sound south of Bayley Beach Park in Rowayton, CT in approximate position 41°03′11″ N, 073°26′41″ W (NAD 83). |
| 7.41 Niantic Bay Fireworks | • Date: A day during the first three weeks of July.<br>• Location: Waters of Niantic Bay 1500 feet west of the Niantic River Railroad Bridge, Niantic, CT in approximate position 41°19′22.59″ N, 072°11′03.47″ W (NAD 83). |
| 7.42 Connetquot River Summer Fireworks | • Date: A day during the first week of July.<br>• Location: Waters of the Connetquot River off Snapper Inn Restaurant, Oakdale, NY in approximate position 40°43′32.38″ N, 073°9′02.64″ W (NAD 83). |
| 7.43 North Bay Fourth of July Fireworks | • Date: July 4.<br>• Rain Date: July 5.<br>• Location: Waters of the Great South Bay in Patchogue Bay 4000 feet south east of Blue Point, NY in approximate position 40°44′6.28″ N, 073°01′02.50″ W (NAD 83). |
| 7.44 National Golf Links Fireworks | • Date: A day during the first week of July.<br>• Location: Waters of the Great Peconic Bay ¾ of a mile northwest of Bullhead Bay, Shinnecock, NY in approximate position 40°55′11.79″ N, 072°28′04.34″ W (NAD 83). |
| 7.45 Xirinachs Family Foundation Fireworks | • Date: A day during the first two weekends of July.<br>• Location: Waters of Hunting Bay off Beach Ave. Huntington Bay, NY in approximate position 40°54′23.27″ N, 73°25′08.04″ W (NAD 83). |
| 7.46 Irwin family 4th of July | • Date: A day during the last week of June or first week of July.<br>• Location: Waters of the Great South Bay off The Helm Rd. East Islip, NY in approximate position 40°42′12.28″ N, 73°12′00.08″ W (NAD 83). |
| 7.47 Westbrook July Celebration | • Date: A day during the last week of June or first week of July.<br>• Location: Water of Long Island Sound Westbrook Harbor, West Brook, CT in approximate position 41°16′10″ N, 72°26′14″ W (NAD 83). |
| 7.48 Bridgeport Bluefish July Fireworks | • Location: Waters of the Pequannock River's Lower Reach surrounding Steel Point in Bridgeport, CT in approximate position 41°10′35″ N, 073°10′58″ W (NAD 83). |
| 8 | August |
| 8.1 Village of Bellport Fireworks | • Location: Waters of Bellport Bay, off Bellport Dock, Bellport, NY in approximate position 40°45′01.83″ N, 072°55′50.43″ W (NAD 83). |
| 8.2 Taste of Italy Fireworks | • Location: Waters of Norwich Harbor, off Norwich Marina, Norwich, CT in approximate position 41°31′17.72″ N, 072°04′43.41″ W (NAD 83). |
| 8.3 Old Black Point Beach Association Fireworks | • Location: Waters off Old Black Point Beach, East Lyme, CT in approximate position, 41°17′34.9″ N, 072°12′55″ W (NAD 83). |

TABLE 1 TO § 165.151—Continued

| | |
|---|---|
| 8.4 Town of Babylon Fireworks | • Location: Waters off of Cedar Beach Town Park, Babylon, NY in approximate position 40°37′53″ N, 073°20′12″ W (NAD 83). |
| 8.5 Shelter Island Yacht Club Fireworks | • Date: The second Saturday of August.<br>• Rain date: The second Sunday of August.<br>• Location: Waters of Dering Harbor north of Shelter Island Yacht Club, Shelter Island, NY in approximate position 41°05′23.47″ N, 072°21′11.18″ W (NAD 83). |
| 8.6 Stamford Fireworks | • Date: The last Saturday of August.<br>• Rain date: The last Sunday of August.<br>• Location: Waters of Stamford Harbor, off Kosciuszco Park, Stamford, CT in approximate position 41°01′48.46″ N, 073°32′15.32″ W (NAD 83). |
| 8.7 Nikon Theater at Jones Beach Fireworks | • Date: A day during the first two weeks of August.<br>• Location: Waters of Zacks Bay off the Nikon Theater, Jones Beach, NY in approximate position 40°36′02.12″ N, 073°30′05.65″ W (NAD 83). |
| 8.8 Ascension Fireworks | • Date: A day during the third or fourth weekend of August.<br>• Location: Waters of the Great South Bay off The Pines, East Fire Island, NY in approximate position 40°40′07.43″ N, 073°04′13.88″ W (NAD 83). |
| 8.9 Bridgeport Bluefish August Fireworks | • Location: Waters of the Pequannock River's Lower Reach surrounding Steel Point in Bridgeport, CT in approximate position 41°10′35″ N, 073°10′58″ W (NAD 83). |
| 9 | September |
| 9.1 East Hampton Fire Department Fireworks | • Location: Waters off Main Beach, East Hampton, NY in approximate position 40°56′40.28″ N, 072°11′21.26″ W (NAD 83). |
| 9.2 Town of Islip Labor Day Fireworks | • Location: Waters of Great South Bay off Bay Shore Marina, Islip, NY in approximate position 40°42′24″ N, 073°14′24″ W (NAD 83). |
| 9.3 Village of Island Park Labor Day Celebration Fireworks | • Location: Waters off Village of Island Park Fishing Pier, Village Beach, NY in approximate position 40°36′30.95″ N, 073°39′22.23″ W (NAD 83). |
| 9.4 The Creek Fireworks | • Date: A day during the first week of September.<br>• Location: Waters of Long Island Sound off the Creek Golf Course, Lattingtown, NY in approximate position 40°54′13″ N, 073°35′58″ W (NAD 83). |
| 9.5 Archangel Michael Greek Orthodox Church Fireworks | • Date: A day during the last week of September or first week of October.<br>• Location: Water of Hempstead Harbor off Bar Beach Town Park, Port Washington, NY in approximate position 40°49′42″ N, 073°39′07″ W (NAD 83). |
| 9.6 Port Washington Sons of Italy Fireworks | • Location: Waters of Hempstead Harbor off Bar Beach, North Hempstead, NY in approximate position 40°49′48.04″ N, 073°39′24.32″ W (NAD 83). |
| 9.7 Bridgeport Bluefish September Fireworks | • Location: Waters of the Pequannock River's Lower Reach surrounding Steel Point in Bridgeport, CT in approximate position 41°10′35″ N, 073°10′58″ W (NAD 83). |
| 11 | November |
| 11.1 Charles W. Morgan Anniversary Fireworks | • Date: A day during the first or second weekend of November.<br>• Location: Waters of the Mystic River, north of the Mystic Seaport Light, Mystic, CT in approximate position 41°21′56.455″ N, 071°57′58.32″ W (NAD 83). |
| 11.2 Christmas Boat Parade Fireworks | • Location: Waters of Patchogue Bay off ''Lombardi's On the Bay'' restaurant, Patchogue, NY in approximate position 40°44′39.18″ N, 073°00′37.80″ W (NAD 83). |
| 11.3 Connetquot River Fall Fireworks | • Location: Waters of the Connetquot River off Snapper Inn Restaurant, Oakdale, NY in approximate position 40°43′32.38″ N, 073°09′02.64″ W (NAD 83). |

TABLE 1 TO § 165.151—Continued

| 12 | December |
|---|---|
| 12.1 Greenport Winter Fireworks | • Date: From 11:45 p.m. December 31, until 12:30 a.m. January 1.<br>• Location: Waters of Greenport Harbor off Mitchell Park and Marina, Greenport NY, in approximate position 41°05′59.09″ N, 072°21′31.44″ W (NAD 83). |

TABLE 2 TO § 165.151

| | **June, July & August** |
|---|---|
| 1.1 Swim Across the Sound | • Location: Waters of Long Island Sound, Port Jefferson, NY to Captain's Cove Seaport, Bridgeport, CT. in approximate positions 40°58′11.71″ N 073°05′51.12″ W, north-westerly to the finishing point at Captain′s Cove Seaport 41°09′25.07″ N 073°12′47.82″ W (NAD 83). |
| 1.2 Huntington Bay Open Water Championships Swim | • Location: Waters of Huntington Bay, NY. In approximate positions start/finish at approximate position 40°54′25.8″ N 073°24′28.8″ W, East turn at approximate position 40°54′45″ N 073°23′36.6″ W and a West turn at approximate position 40°54′31.2″ N 073°25′21″ W. °09′25.07″ N 073°12′47.82″ W (NAD 83). |
| 1.3 Maggie Fischer Memorial Great South Bay Cross Bay Swim | • Location: Waters of the Great South Bay, NY. Starting Point at the Fire Island Lighthouse Dock in approximate position 40°38′01″ N 073°13′07″ W, northerly through approximate points 40°38′52″ N 073°13′09″ W, 40°39′40″ N 073°13′30″ W, 40°40′30″ N 073°14′00″ W, and finishing at Gilbert Park, Brightwaters, NY at approximate position 40°42′25″ N 073°14′52″ W (NAD 83). |
| 1.4 Waves of Hope Swim | • Date: A day during the last week of June or first two weeks of July.<br>• Time: 8 a.m. until 1 p.m.<br>• Location: All waters of the Great South Bay off Amityville, NY shoreward of a line created by connecting the following points. Beginning at 40°39′22.38″ N, 073°25′31.63″ W, then to 40°39′02.18″ N, 073°25′31.63″ W, then to 40°39′02.18″ N, 073°24′03.81″ W, ending at 40°39′18.27″ N, 073°24′03.81″ W (NAD 83). |
| 1.5 Stonewall Swim | • Date: A day during a weekend in August.<br>• Time: 8:30 a.m. until 12:30 p.m.<br>• Location: All navigable waters of the Great South Bay within a three miles long and half mile wide box connecting Snedecor Avenue in Bayport, NY to Porgie Walk in Fire Island, NY. Formed by connecting the following points. Beginning at 40°43′40.24″ N, 073°03′41.50″ W then to 40°43′40.00″ N, 073°03′13.40″ W, then to 40°40′04.13 N, 073°03′43.81″ W then to 40°40′08.30″ N, 073°03′17.70″ W and ending at the beginning point 40°43′40.24″ N, 073°03′41.5″ W (NAD 83). |
| 1.6 Swim Across America Greenwich | • Date: A single day during June.<br>• Time: 5:30 a.m. until noon.<br>• Location: All navigable waters of Stamford Harbor within a half miles long and 1000 foot wide polygon shaped box stretching from Dolphin Cove to Rocky Point between Stamford and Greenwich, CT. Formed by connecting the following points. Beginning at point (A) 41°01′32.03″ N, 073°33′8.93″ W, then south east to point (B) 41°01′15.01″ N, 073°32′55.58″ W, then south west to point (c) 41°00′49.25 N, 073°33′20.36″ W, then north west to point (D) 41°00′58.00″ N, 073°33′27.00″ W, then north east to point (E) 41°01′15.80″ N, 073°33′09.85″ W, then heading north and ending at point (A) (NAD 83). |
| 1.7 U.S. Coast Guard Triathlon Swim | • Date: A single day during August.<br>• Location: All navigable waters of the Thames River, New London Harbor off Fort Trumbull State Park around a half mile long course that is west of the Federal navigation channel in New London, CT. Formed by connecting the following points. Beginning at point (A) 41°20′40.03″ N, 072°05′32.15″ W, then east to point (B) 41°20′40.08″ N, 072°05′22.03″ W, then north to point (C), 41°20′48.29 N, 072°05′23.19″ W, then north west to point (D) 41°20′50.84″ N, 072°05′29.29″ W, then south west to end point (E) 41°20′46.41″ N, 072°05′35.77″ W, (NAD 83). |

Dated: March 15, 2013.

**J.M. Vojvodich,**

*Captain, U. S. Coast Guard, Captain of the Port Sector Long Island Sound.*

[FR Doc. 2013–07747 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR 101,104,105,106

**[Docket No. USCG–2007–28915]**

## Transportation Worker Identification Credential (TWIC)—Reader Requirements

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of public meeting on proposed rulemaking; request for comments.

**SUMMARY:** The Coast Guard announces a public meeting to take place on April 25, 2013, in Houston, Texas to receive comments on a notice of proposed rulemaking published in the **Federal Register** on March 22, 2013, under the title ''Transportation Worker Identification Credential (TWIC)—Reader Requirements.'' The Coast Guard encourages members of the public to attend this meeting and provide oral comments on the notice of proposed rulemaking on TWIC reader requirements.

**DATES:** A public meeting will be held on Thursday, April 25, 2013, from 1:00 p.m. to 5:00 p.m. to provide an opportunity for oral comments. Coast Guard personnel will accept written comments and related materials at the public meeting as well. Written comments may also be submitted in response to the notice of proposed rulemaking referenced in the **SUPPLEMENTARY INFORMATION** section. The comment period for the notice of proposed rulemaking will close on May 21, 2013. All written comments and related materials submitted before or after the meeting must either be submitted to our online docket via *http://www.regulations.gov* on or before May 21, 2013, or reach the Docket Management Facility by that date.

**ADDRESSES:** The public meeting will be held at the Houston Marriott North, 255 N. Sam Houston Parkway East, Houston, Texas 77060. The building is accessible by taxi, public transit, and privately-owned conveyance.

This meeting is open to the public. Please note that the session may adjourn early if all business, concerns, and questions are addressed. You may submit written comments identified by docket number USCG–2007–28915 before or after the meeting using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3)*Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. Our online docket for this notice is available on the Internet at *http://www.regulations.gov* under docket number USCG–2007–28915.

**FOR FURTHER INFORMATION CONTACT:** If you have questions concerning the meeting, please call or email LCDR Gregory Callaghan, Commandant (CG–FAC–2), Coast Guard; telephone 202–372–1168, email *Gregory.A.Callaghan@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

### Background and Purpose

On March 22, 2013, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (78 FR 17781), in which we proposed to require owners and operators of certain vessels and facilities regulated by the Coast Guard to use electronic readers designed to work with the Transportation Worker Identification Credential (TWIC) as an access control measure. The NPRM also proposed additional requirements associated with electronic TWIC readers, including recordkeeping requirements for those owners and operators required to use an electronic TWIC reader, and security plan amendments to incorporate TWIC reader requirements. The TWIC program, including the TWIC reader requirements proposed in the NPRM, is an important component of the Coast Guard's multi-layered system of access control requirements and other measures designed to enhance maritime security.

As authorized by the Maritime Transportation Security Act of 2002 [1] (MTSA), the Transportation Security Administration (TSA) established the TWIC program to address identity management shortcomings and vulnerabilities identified in the nation's transportation system and to comply with the MTSA statutory requirements. On January 25, 2007, the Department of Homeland Security (DHS), through the Coast Guard and TSA, promulgated regulations that require mariners and other individuals granted unescorted access to secure areas of MTSA-regulated vessels or facilities to undergo a security threat assessment by TSA and obtain a TWIC.[2]

This NPRM that is the subject of this public meeting, which would require owners and operators of certain types of vessels and facilities to use electronic TWIC readers, would advance the goals of the TWIC program. In crafting the proposals in the NPRM, the Coast Guard conducted a risk-based analysis of MTSA-regulated vessels and facilities to categorize them into one of three risk groups, labeled A, B, and C. Risk Group A is comprised of vessels and facilities that present the highest risk of being involved in a transportation security incident (TSI).[3] The NPRM proposes TWIC reader requirements for vessels and facilities in Risk Group A. Under the NPRM, vessels and facilities in Risk Groups B and C present progressively lower risks, and would continue to follow existing regulatory requirements for visual TWIC inspection.

The Coast Guard believes that in addition to receiving written comments on the NPRM, a public meeting would benefit the impacted community by providing another forum to raise relevant issues. Also, the Security and Accountability For Every (SAFE) Port Act of 2006 [4] requires the Coast Guard to hold at least one public hearing before promulgating final TWIC reader regulations (*see* 46 U.S.C. 70105(k)(3)). This public meeting will further enable the Coast Guard to craft policy informed by the public.

We may hold one or more additional public meetings regarding the proposals

[1] Public Law 107–295, 116 Stat. 2064 (Nov. 2, 2002).

[2] Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License, 72 FR 3492 (Jan. 25, 2007).

[3] A transportation security incident is a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area, as defined in 46 U.S.C. 70101 (49 CFR 1572.103).

[4] Public Law 109–347, 120 Stat. 1884 (Oct. 13, 2006).

in the NPRM on TWIC reader requirements. We will notify the public of the date(s), time(s), location(s), and other details of any such meeting(s) by publishing a separate notice in the **Federal Register** as soon as we have information available.

You may view the NPRM, written comments, and supporting documents in the online docket by going to *http://www.regulations.gov* and using ''USCG–2007–28915'' as your search term. Locate the NPRM among the search results and use the filters on the left side of the page to search for specific types of documents. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Coast Guard has an agreement with the Department of Transportation to use its Docket Management Facility.

We encourage you to participate by submitting comments either orally at the meeting or in writing. If you bring written comments to the meeting, you may submit them to Coast Guard personnel specified at the meeting to receive written comments. These comments will be submitted to our online public docket. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

### Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact LCDR Gregory Callaghan at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

### Public Meeting

The Coast Guard will hold a public meeting regarding the ''Transportation Worker Identification Credential (TWIC)—Reader Requirements'' NPRM (78 FR 17781) on Thursday, April 25, 2013 from 1:00 p.m. to 5:00 p.m., at the Houston Marriott North, 255 N Sam Houston Parkway East, Houston, Texas 77060. The building is accessible by taxi, public transit, and privately-owned conveyance. Please note that the session may adjourn early if all business, concerns, and questions are addressed. We will post a written summary of the meeting and oral comments in the docket.

### Authority

This notice is issued under the authority of 46 U.S.C. 70105(k)(3) and 5 U.S.C. 552(a).

Dated: March 29, 2013.

**J.R. Morgan,**

*Commander, U.S. Coast Guard, Chief, Cargo and Facility Division (CG–FAC–2).*

[FR Doc. 2013–07733 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2013–0148; FRL–9798–7]**

## Approval and Promulgation of Air Quality Implementation Plans; Nevada; Regional Haze Federal Implementation Plan; Reconsideration of BART Compliance Date for Reid Gardner Generating Station; Announcement of Public Hearing

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

**ACTION:** Notice of public hearing; extension of comment period.

**SUMMARY:** On March 26, 2013, EPA granted reconsideration of the compliance date for the Best Available Retrofit Technology (BART) emission limits for oxides of nitrogen ($NO_X$) for Units 1, 2, and 3 at the Reid Gardner Generating Station (RGGS) and proposed to extend the compliance date by 18 months, from January 1, 2015, to June 30, 2016. EPA is holding a public hearing on April 29, 2013, to accept written and oral comments on this proposed action. The comment period for this action was scheduled to close on May 28, 2013. EPA is extending the comment period to May 30, 2013 to allow for a full 30-day period for the submission of additional public comment following the public hearing.

**DATES:** The public hearing will be held on April 29, 2013. Comments must be postmarked no later than May 30, 2013.

**ADDRESSES:** The public hearing will be held at the Big Auditorium in the Moapa Band of Paiute Indians Administration Building on 1 Lincoln Street (cross-street is Reservation Road) in Moapa, Nevada.

**FOR FURTHER INFORMATION CONTACT:** Anita Lee, EPA Region 9, (415) 972–3958, *r9_airplanning@epa.gov.*

If you require reasonable accommodation at the public hearing, please contact Terisa Williams, EPA Region 9 Reasonable Accommodations Coordinator, at (415) 972–3829, or *Williams.Terisa@epa.gov*, by April 15, 2013.

**SUPPLEMENTARY INFORMATION:** The public hearing will provide interested parties the opportunity to present views or arguments concerning the proposed rule to extend the compliance date, from January 1, 2015, to June 30, 2016, for Units 1, 2, and 3 at RGGS to meet emission limits for $NO_X$ required under the BART provision of the Regional Haze Rule. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments must be postmarked on or before the last day of the comment period, May 30, 2013.

The public hearing will be held at the Big Auditorium in the Moapa Band of Paiute Indians Administration Building on 1 Lincoln Street (cross-street is Reservation Road) in Moapa, Nevada. The hearing will begin at 6:00 p.m. (local time) and end at 8:00 p.m. (local time). Oral testimony may be limited to five minutes for each commenter to address the proposed rule. We will not be providing equipment to commenters to show overhead slides or make computerized slide presentations. Any person may provide written or oral comments and submit data pertaining to our proposed rule at this hearing. Verbatim transcripts of the hearing and copies of written statements or comments will be included in the docket for this proposed rulemaking.

EPA will not respond to comments during the public hearing. When we publish our final action, we will provide written responses to all comments received on our proposal. EPA staff will be available during the hearing to informally answer questions on our proposed action. Any comments made to EPA staff must still be provided in writing or orally during the public hearing in order to be considered in the record.

If you are unable to attend the hearing but wish to submit comments on the proposed rule, you may submit comments, identified by docket number

EPA–R09–OAR–2013–0148, by one of the following methods:

(1) *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

(2) *Email: r9_airplanning@epa.gov.*

(3) *Mail or deliver:* Anita Lee (Air-2), U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

For more detailed instructions concerning how to submit comments on this proposed rule, and for more information on our proposed rule, please see the notice of proposed rulemaking and notice of reconsideration of final rule, published in the **Federal Register** on March 26, 2013 (78 FR 18280).

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

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen Dioxide.

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

Dated: March 28, 2013.

**Deborah Jordan,**

*Air Division Director, Region 9.*

[FR Doc. 2013–07869 Filed 4–3–13; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 600

**[Docket No. 121227743–3275–01]**

**RIN 0648–BC86**

## Fisheries of the United States; Billfish Conservation Act of 2012 Implementing Regulations

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

**ACTION:** Advance notice of proposed rulemaking; request for comments.

**SUMMARY:** NMFS issues this advance notice of proposed rulemaking (ANPR) to provide background information and request public comment on potential issues related to the implementation of the Billfish Conservation Act of 2012.

**DATES:** Written comments regarding the issues in this ANPR must be received by 5 p.m., local time, on July 3, 2013.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2013–0004, by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA–NMFS–2013–0004,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Kim Marshall, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910.

• *Fax:* 301–713–1193; Attn: Kim Marshall.

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

**FOR FURTHER INFORMATION CONTACT:** Kim Marshall, Fishery Policy Analyst, National Marine Fisheries Service, 301–427–8556.

**SUPPLEMENTARY INFORMATION:**

### Background

The Billfish Conservation Act of 2012 (BCA), Public Law 112–183, 16 U.S.C. 1827a, was signed into law on October 5, 2012. The BCA defines ''billfish'' as any of the following: (1) Blue marlin; (2) striped marlin; (3) black marlin; (4) sailfish; (5) shortbill spearfish; (6) white marlin; (7) roundscale spearfish; (8) Mediterranean spearfish; or (9) longbill spearfish. It exempts swordfish from the definition of billfish.

Section 4(a) of the BCA prohibits any person from offering billfish or billfish products for sale, selling them, or having custody, control, or possession of them for purposes of offering them for sale. It treats a violation of the BCA as an act prohibited by section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1857). Individuals, including recreational fishermen may possess, but not sell billfish or billfish products or have custody, control, or possession for the purposes of offering them for sale, subject to limits imposed by existing state and federal regulations.

Section 4(c) of the BCA exempts billfish caught by U.S. fishing vessels and landed in Hawaii or Pacific Insular Areas (as defined under the MSA) from the general prohibitions on sale and custody with the intent to sell in section 4(a). It also exempts billfish landed by foreign vessels in the Pacific Insular Areas and exported to markets outside the U.S. or retained within Hawaii and the Pacific Insular Areas for local consumption.

In passing the BCA, Congress recognized the conservation challenges facing billfish populations in the Atlantic and Pacific Oceans. Congress found that, despite careful management of domestic billfish fisheries, global billfish populations have declined significantly because of overfishing primarily through retention of bycatch by non-U.S. fishing fleets. See 16 U.S.C. 1827a note. In 2011, the International Union for the Conservation of Nature classified blue and white marlin as vulnerable to extinction and striped marlin as near threatened. The over harvest and export of billfish from foreign nations threatens the survival of billfish populations and the sustainability of the U.S. recreational billfish fishery. A report on trade of billfish published by the International Game Fish Association (IGFA) in June, 2007 found that the legal sale of billfish caught in the Pacific Ocean may create a market that allows billfish caught in the Atlantic Ocean to enter illegitimately into U.S. markets.

Existing federal regulations require the release of all Atlantic billfish caught by commercial fishing operations in the U.S. Exclusive Economic Zone (EEZ), prohibit the possession of billfish onboard commercial fishing vessels inside the U.S. EEZ, and prohibit the sale of Atlantic billfish. 50 CFR 635.21(a) and (e)(2), 635.31(b). The BCA increases the protection for Atlantic billfish by prohibiting the import and sale of all billfish in the U.S., no matter where harvested, unless exempted pursuant to section 4(c) of the BCA.

The only U.S. commercial fishery for billfish occurs in Hawaii and surrounding Pacific island areas. Section 4(c)(1) of the BCA exempts billfish caught by U.S. vessels and landed in Hawaii or Pacific Insular Areas from the general prohibition on sale of billfish. Under existing regulations, seafood dealers and processors are required to use the Billfish Certificate of Eligibility (COE) to document that billfish possessed or offered for sale were not harvested from the Atlantic Ocean. See 50 CFR 635.31(b). NMFS is considering adapting the billfish COE requirements to implement the BCA by requiring that seafood dealers and processors document that billfish offered for sale

qualifies for exemption from the general prohibition on the sale of billfish.

The U.S. West Coast Highly Migratory Fishery Management Plan (Plan) includes the striped marlin as a management unit species and prohibits sale of the species. As stated in the Pacific Fishery Management Council's Plan, striped marlin is considered to have far greater value as a recreational rather than commercial target species. The Plan is not the only measure addressing striped marlin. California has prohibited sale and importation of Pacific striped marlin since 1937, and with a limited exception for black marlin, marlin meat, whether fresh, smoked, canned, or preserved by any means, may not be bought or sold, or possessed or transported for the purpose of sale in the state.

**Public Comments**

NMFS is considering issuing regulations to implement the BCA. Rulemaking is needed to provide notice to the regulated community, increase public understanding of the elements of the billfish prohibitions, facilitate enforcement, and ensure consistent implementation of the BCA nationally. Through this ANPR, NMFS seeks the public's views on the potential scope of any future regulations to implement the BCA, including the scope of the exemption in section 4(c) of the BCA and the possible use of a modified version of the current billfish COE to document that billfish offered for sale qualifies for exemption from the general prohibition on sale. Also, what, if any, restrictions can NMFS impose on the transportation and sale of billfish caught by U.S. vessels and landed in Hawaii or the Pacific Insular Areas?

To help determine the scope of issues to be addressed and to identify significant issues related to this action, NMFS is soliciting written comments on this ANPR. The public is encouraged to submit comments related to the specific ideas mentioned in this ANPR, as well as any additional ideas to improve implementation of the Billfish Conservation Act of 2012.

**Authority:** 16 U.S.C. 1827a.

Dated: March 29, 2013.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2013–07866 Filed 4–3–13; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 622

**[Docket No. 130212129–3284–01]**

**RIN 0648–BC98**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures

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

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

**SUMMARY:** NMFS proposes to implement management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council). If implemented, this rule would increase the commercial and recreational quotas for red snapper in the Gulf of Mexico (Gulf) reef fish fishery for the 2013 fishing year. This proposed rule is intended to help achieve optimum yield (OY) for the Gulf red snapper resource without increasing the risk of red snapper experiencing overfishing.

**DATES:** Written comments must be received on or before April 19, 2013.

**ADDRESSES:** You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2013–0055'' by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0055,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Cynthia Meyer, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

Electronic copies of the framework action, which includes an environmental assessment and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/GrouperSnapperandReefFish.htm.*

**FOR FURTHER INFORMATION CONTACT:** Cynthia Meyer, Southeast Regional Office, NMFS, telephone 727–824–5305; email: *Cynthia.Meyer@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** NMFS and the Council manage the Gulf reef fish fishery under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**Background**

The Southeast Data, Assessment, and Review (SEDAR) update assessment for Gulf red snapper, conducted in August 2009 (SEDAR 9), determined that overfishing had ended for the red snapper stock, and that the acceptable biological catch (ABC) may be increased. The stock, however, is still overfished and is under a rebuilding plan through 2032. The next SEDAR benchmark stock assessment currently scheduled for Gulf red snapper will be conducted in 2013.

The Council's Scientific and Statistical Committee (SSC) met in November 2012, to review the updated landings data and recommended a new ABC for the 2013 fishing year. For 2013, the SSC recommended an ABC of 8.46 million lb (3.83 million kg). The Council met in February 2013, and voted to implement this new ABC through the 2013 Gulf red snapper framework action.

**Management Measures Contained in This Proposed Rule**

This rule would set the 2013 commercial and recreational quotas for red snapper based on the ABC recommended by the SSC and on the current commercial and recreational allocations (51-percent commercial and 49-percent recreational). Therefore, the 2013 commercial quota would be set at 4.315 million lb (1.957 million kg), round weight, and the 2013 recreational

quota would be set at 4.145 million lb (1.880 million kg), round weight.

The Council also considered modifying the red snapper recreational bag limit, but decided to maintain the current 2-fish per angler bag limit.

The red snapper management measures contained in this proposed rule would achieve the goal set by National Standard 1 of the Magnuson-Stevens Act, which states that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the OY for the fishery.

**Red Snapper Recreational Fishing Season**

Under 50 CFR 622.34 (m), the red snapper recreational fishing season opens each year on June 1 and closes when the recreational quota is projected to be reached. Prior to June 1 each year, NOAA projects the closing date based on the previous year's data, and notifies the public of the closing date for the upcoming season. If subsequent data indicate that the quota has not been reached by that closing date, NMFS may reopen the season.

After finalized 2012 recreational landings data are available and before the season opens on June 1, 2013, NMFS will announce when the 2013 quota is projected to be harvested. NMFS may announce when the 2013 quota is projected to be harvested in the final rule associated with this action. The 2013 season would be shorter than the 2012 season as a result of an increase in the average size of the red snapper harvested, and the increase in catch rates. Because the red snapper population is in a rebuilding plan, population abundance is expected to increase, which is expected to lead to increased quotas and higher catch rates.

NMFS implemented an emergency rule to authorize NMFS to set the closure date of the red snapper recreational fishing season in the exclusive economic zone (EEZ) off individual states (78 FR 17882, March 25, 2013). The closure dates off each Gulf state would be based on the recreational quota increase contained in this proposed rule and any state's inconsistent regulations. The extent to which NMFS would adjust a state's Federal season is contingent upon the estimated landings from states with any inconsistent regulations. The more a state exceeds its apportionment of the annual quota, the greater the Federal season off that state is likely to be reduced to compensate for any quota overage.

The emergency rule contains tentative closure dates in the EEZ off each Gulf state. These tentative closure dates are based on a recreational quota of 4.145 million lb (1.880 million kg), round weight, and inconsistent state regulations in Texas, Louisiana, and Florida. The tentative closure dates contained in the emergency rule are as follows: Texas, June 12, 2013; Louisiana, June 9, 2013; Mississippi, June 28, 2013; Alabama, June 28, 2013; and Florida, June 21, 2013. These dates could change if states change their regulations in state waters or additional states (Mississippi and Alabama) implement inconsistent regulations in their state waters. To determine these closure dates, NMFS analyzed the catch rates for each state. The amount each state's Federal season would be shortened is contingent on estimates of landings when the Federal season is closed. The more a state exceeds its apportionment of the annual quota, the more the Federal season must be reduced off that state to compensate for the overage. NMFS estimates catch rates on the order of 1.5 to 3 times greater than the current state water catch rates due to factors such as increasing catch rates and fish size, higher bag limits, weekend fishing, peak season fishing, increases in stock abundance, potentially significant levels of deliberate or accidental non-compliance by constituents with state/Federal boundaries during incompatible regulatory periods, and the fact that some for-hire vessels are not federally permitted and would contribute to landings when the Federal season is closed. For the season projections, NMFS used 2 times the catch rate because using 1.5 times the catch rate would potentially be an underestimate and using 3 times the catch rate could be too conservative. Final official closure dates will be announced prior to the start of the season on June 1, 2013, and may be announced in the final rule for this action.

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The purpose of this proposed rule is to set 2013 quotas for the commercial and recreational harvest of red snapper in the Gulf EEZ that are consistent with the red snapper rebuilding plan in order to achieve OY. The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. This proposed rule would not introduce any changes to current reporting, record-keeping, or other compliance requirements.

This rule, if implemented, would be expected to directly affect all commercial and for-hire vessels that harvest red snapper. In addition to needing red snapper allocation, a commercial reef fish permit is required to harvest red snapper in the Gulf EEZ in excess of the bag limit and to sell red snapper. An estimated 890 vessels possess a valid (non-expired) or renewable commercial reef fish permit. A renewable permit is an expired permit that may not be actively fished, but is renewable for up to 1 year after permit expiration. However, over the period 2007–2011, an average of only 333 vessels per year recorded commercial red snapper harvests. As a result, for the purpose of this assessment, the number of potentially affected commercial vessels is estimated to range from 333–890. The average commercial vessel in the Gulf reef fish fishery is estimated to earn approximately $50,000 (2011 dollars) in annual gross revenue, while the average vessel with red snapper landings is estimated to earn approximately $96,000.

A Federal reef fish for-hire vessel permit is required for for-hire vessels to harvest red snapper in the Gulf EEZ. On November 21, 2012, 1,364 vessels had valid or renewable reef fish for-hire permits. The for-hire fleet is comprised of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. Although the for-hire permit does not distinguish between headboats and charterboats, an estimated 69 headboats operate in the Gulf. As a result, 1,295 of the vessels with valid or renewable reef fish for-hire permits are expected to operate as charterboats. The average charterboat is estimated to earn approximately $80,000 (2011 dollars) in gross annual revenue, while the average headboat is estimated to earn approximately $242,000.

NMFS has not identified any other small entities that would be expected to

be directly affected by this proposed rule.

The Small Business Administration has established size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. The revenue threshold for a business involved in the for-hire fishing industry is $7.0 million (NAICS code 713990, recreational industries). All commercial and for-hire vessels expected to be directly affected by this proposed rule are believed to be small business entities.

This rule, if implemented, would increase the 2013 red snapper commercial quota by 194,000 lb (87,997 kg), round weight, and the 2013 red snapper recreational quota by 186,000 lb (84,368 kg), round weight. The proposed increase in the commercial quota would be expected to result in an increase in gross revenue (ex-vessel revenue minus the 3-percent cost recovery fee) for commercial vessels that harvest red snapper of approximately $721,000 (2011 dollars), or approximately $810–$2,165 per vessel ($721,000/890 vessels = $810 per vessel; $721,000/333 vessels = $2,165 per vessel). The expected range in the increase in gross revenue per vessel would be equal to approximately 1.6 percent ($810/$50,000) and 2.3 percent ($2,165/$96,000) increases in the average annual revenue per vessel, respectively.

The proposed increase in the recreational quota would be expected to result in an increase in net operating revenue (gross revenue minus operating costs except for labor) for for-hire businesses of approximately $502,000 (2011 dollars) for charterboats and approximately $562,000 for headboats. The projected increase in net operating revenue for charterboats would be equal to approximately $388 per vessel ($502,000/1,295 vessels), or approximately 0.5 percent ($388/$80,000) of average annual revenue per vessel. For headboats, the projected increase in net operating revenue would be equal to approximately $8,152 per vessel ($562,000/69 vessels), or approximately 3.4 percent ($8,152/$242,000) of average annual revenue per vessel.

In summary, the proposed rule, if implemented, would not be expected to have a significant impact on a substantial number of small entities and, as a result, an initial regulatory flexibility analysis is not required and none has been prepared.

**List of Subjects in 50 CFR Part 622**

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: March 28, 2013.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

## PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.42, paragraphs (a)(1)(i) and (a)(2)(i) are revised to read as follows:

**§ 622.42 Quotas.**

* * * * *

(a) * * *

(1) * * *

(i) *Red snapper*—4.315 million lb (1.957 million kg), round weight.

* * * * *

(2) * * *

(i) *Recreational quota for red snapper*—4.145 million lb (1.880 million kg), round weight.

* * * * *

[FR Doc. 2013–07774 Filed 4–3–13; 8:45 am]

BILLING CODE 3510–22–P

# Notices

Federal Register
Vol. 78, No. 65
Thursday, April 4, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### National Tree-Marking Paint Committee Meeting

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Tree-Marking Paint Committee will meet in Awendaw, SC on May 21–23, 2013. The purpose of the meeting is to discuss activities related to improvements in, concerns about, and the handling and use of tree-marking paint by personnel of the Forest Service and the Department of the Interior, Bureau of Land Management.

**DATES:** The meeting will be held May 21- 23, 2013, from 0800 to 1700.

**ADDRESSES:** The meeting will be held at the Sewee Education Center, Francis Marion National Forest, 5821 Highway 17 North, Awendaw, SC. Persons who wish to file written comments before or after the meeting must send written comments to David Haston, Chairman, National Tree-marking Paint Committee, Forest Service, USDA, San Dimas Technology and Development Center, 444 East Bonita Avenue, San Dimas, California 91773, or electronically to *dhaston@fs.fed.us.*

**FOR FURTHER INFORMATION CONTACT:** David Haston, Sr. Project Leader, San Dimas Technology and Development Center, Forest Service, USDA, (909) 599–1267, extension 294 or *dhaston@fs.fed.us.*

**SUPPLEMENTARY INFORMATION:** The National Tree-Marking Paint Committee comprises representatives from the Forest Service national headquarters, each of the nine Forest Service Regions, the Forest Service San Dimas Technology and Development Center, the National Federation of Federal Employees and the Bureau of Land Management. The Forest Products Laboratory and the National Institute for Occupational Safety and Health are ad hoc members and provide technical advice to the committee.

A field trip will be held on May 21 and is designed to supplement information related to tree-marking paint. This trip is open to any member of the public participating in the public meeting on May 22–23. However, transportation is provided only for committee members.

The main session of the meeting, which is open to public attendance, will be held on May 22–23.

#### Closed Sessions

While certain segments of this meeting are open to the public, there will be two closed sessions during the meeting. The first closed session is planned for approximately 1000 to 1200 on May 22, 2013. This session is reserved for individual paint manufacturers to present products and information about tree-marking paint for consideration in future testing and use by the agency. Paint manufacturers also may provide comments on tree-marking paint specifications or other requirements. This portion of the meeting is open only to paint manufacturers, the Committee, and committee staff to ensure that trade secrets will not be disclosed to other paint manufacturers or to the public. Paint manufacturers wishing to make presentations to the Tree-Marking Paint Committee during the closed session should contact the committee chairperson at the telephone number listed at **FOR FURTHER INFORMATION CONTACT** in this notice. The second closed session is planned for approximately 0900 to 1100 on May 23, 2013. This session is reserved for Tree-Marking Paint Committee members only.

Any person with special access needs should contact the Chairperson to make those accommodations. Space for individuals who are not members of the National Tree-Marking Paint Committee is limited and will be available to the public on a first-come, first-served basis.

Dated: March 26, 2013.

**Calvin Joyner,**

*Associate Deputy Chief, NFS.*

[FR Doc. 2013–07783 Filed 4–3–13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Order No. 1890]**

### Grant of Authority; Establishment of a Foreign-Trade Zone Under the Alternative Site Framework Caledonia, Essex and Orleans Counties, Vermont

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas,* the Foreign-Trade Zones Act provides for '' * * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

*Whereas,* the Board adopted the alternative site framework (ASF) (74 FR 1170–1173, 01/12/2009 (correction 74 FR 3987, 01/22/2009); 75 FR 71069–71070, 11/22/2010) as an option for the establishment or reorganization of general-purpose zones;

*Whereas,* the Northeastern Vermont Development Association (the Grantee) has made application to the Board (Docket 25–2012, filed 03/23/2012) requesting the establishment of a foreign-trade zone under the ASF with a service area of the Counties of Caledonia, Essex and Orleans, Vermont, as described in the application, within and adjacent to the Derby Line U. S. Customs and Border Protection port of entry, proposed Sites 1, 2 and 3 would be categorized as magnet sites and Site 4 would be categorized as a usage-driven site;

*Whereas,* notice inviting public comment has been given in the **Federal Register** (77 FR 19003, 03/29/2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas,* the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

*Now, therefore,* the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone,

designated on the records of the Board as Foreign-Trade Zone No. 286, as described in the application, and subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit, and to ASF sunset provisions for magnet sites that would terminate authority for Sites 1 and 3 if not activated by March 31, 2018 and for usage-driven sites that would terminate authority for Site 4 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by March 31, 2016.

Signed at Washington, DC, this 22nd day of March 2013.

**Rebecca Blank,**

*Deputy Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.*

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2013–07868 Filed 4–3–13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Order No. 1891]**

### Reorganization and Expansion of Foreign-Trade Zone 35 under Alternative Site Framework; Philadelphia, Pennsylvania

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas,* the Board adopted the alternative site framework (ASF) (15 CFR 400.2(c)) as an option for the establishment or reorganization of zones;

*Whereas,* the Philadelphia Regional Port Authority, grantee of Foreign-Trade Zone 35, submitted an application to the Board (FTZ Docket B–75–2012, docketed 10/19/2012) for authority to reorganize under the ASF with a service area of Philadelphia, Delaware, Bucks, Montgomery, Chester, Lancaster and Berks Counties, Pennsylvania, in and adjacent to the Philadelphia Customs and Border Protection port of entry, FTZ 35's existing Sites 1–4, 6, 10 and 12 would be categorized as magnet sites, existing Sites 7, 8 and 11 as usage-driven sites and the grantee proposes three additional usage-driven sites (Sites 13–15);

*Whereas,* notice inviting public comment was given in the **Federal Register** (77 FR 64953, 10/24/2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas,* the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

*Now, therefore,* the Board hereby orders:

The application to reorganize and expand FTZ 35 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 1–4, 6, 10 and 12 if not activated by March 31, 2018, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Sites 7, 8, 11, and 13–15 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by March 31, 2016.

Signed at Washington, DC, this 27th day of March 2013.

**Paul Piquado,**

*Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

ATTEST:

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2013–07757 Filed 4–3–13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Purdue University et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscope

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

*Docket Number:* 12–060. *Applicant:* Vanderbilt University, Nashville, TN 37235. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* See notice at 78 FR 2659, January 14, 2013.

*Docket Number:* 12–061. *Applicant:* Purdue University, West Lafayette, IN 47907–2024. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* See notice at 78 FR 2659, January 14, 2013.

*Docket Number:* 12–067. *Applicant:* University of Pennsylvania, Philadelphia, PA 19104. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 78 FR 2659, January 14, 2013.

*Docket Number:* 12–068. *Applicant:* National Center for Toxicological Research, USFDA, Jefferson, AK 72079. *Instrument:* Electron Microscope. *Manufacturer:* Carl Zeiss, Germany. *Intended Use:* See notice at 78 FR 2659, January 14, 2013.

*Docket Number:* 12–069. *Applicant:* Temple University, Philadelphia, PA 19122. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* See notice at 78 FR 2659, January 14, 2013.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States at the time the instrument was ordered. *Reasons:* Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: March 28, 2013.

**Gregory W. Campbell,**

*Director, Subsidies Enforcement Office, Import Administration.*

[FR Doc. 2013–07871 Filed 4–3–13; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Marine Recreational Information Program Fishing Effort Survey

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**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 June 3, 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(s) and instructions should be directed to Rob Andrews, (301) 427–8105 or *Rob.Andrews@NOAA.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This request is for revision of a current information collection. The title will be changed from ''Marine Recreational Information Program'' to ''Marine Recreational Information Program Fishing Effort Survey''.

Marine recreational anglers are surveyed to collect catch and effort data, fish biology data, and angler socioeconomic characteristics. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as amended, regarding conservation and management of fishery resources.

Marine recreational fishing effort data have traditionally been collected through the Coastal Household Telephone Survey, a random-digit-dial telephone survey of coastal county residences. Amendments to the Magnuson-Stevens Fishery Conservation and Management Act (MSA) require the development of an improved data collection program for recreational fisheries. To meet these requirements, the National Oceanic and Atmospheric Administration's (NOAA) Fisheries has designed and tested new approaches for sampling and surveying recreational anglers. Revision: A mail survey that samples from residential address frames and collects information on the number of marine recreational anglers and the number of recreational fishing trips is currently being tested in MA, NY, NC and FL. The survey will be expanded to all Atlantic and Gulf coast states (except TX), HI and Puerto Rico.

**II. Method of Collection**

Information will be collected through mail surveys.

**III. Data**

*OMB Control Number:* 0648–0652.

*Form Number:* None.

*Type of Review:* Regular submission (revision of a current information collection).

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 153,000.

*Estimated Time per Response:* 10 minutes.

*Estimated Total Annual Burden Hours:* 25,500 (16,600 new).

*Estimated Total Annual Cost to Public:* $0.

**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: April 1, 2013.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2013–07833 Filed 4–3–13; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Availability of Seats for the National Marine Sanctuary of American Samoa Advisory Council

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice and request for applications.

**SUMMARY:** The ONMS is seeking applications for the following vacant seats on the National Marine Sanctuary of American Samoa Advisory Council: Community-at-Large: Tutuila East Side, and Community-at-Large: Manu'a Area. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members should expect to serve 3-year terms, pursuant to the council's charter.

**DATES:** Applications are due by May 2, 2013.

**ADDRESSES:** Application kits may be obtained from Veronika Mata'utia Mortenson in the Tauese P.F. Sunia Ocean Center in Utulei, American Samoa. Completed applications should be submitted to the same address.

**FOR FURTHER INFORMATION CONTACT:** Veronika Mata'utia Mortenson, Tauese P.F. Sunia Ocean Center in Utulei, American Samoa, American Samoa, 684–633–6500 ext. 229, *veronika.mortenson@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The National Marine Sanctuary of American Samoa Advisory Council was established in 2005 pursuant to Federal law to ensure continued public participation in the management of the sanctuary. The Sanctuary Advisory Council brings members of a diverse community together to provide advice to the Sanctuary Manager (delegated from the Secretary of Commerce and the Under Secretary for Oceans and Atmosphere) on the management and protection of the Sanctuary, or to assist the National Marine Sanctuary Program in guiding a proposed site through the designation or the periodic management plan review process.

**Authority:** 16 U.S.C. Sections 1431, et seq.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 28, 2013.

**Daniel J. Basta,**

*Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2013–07823 Filed 4–3–13; 8:45 am]

**BILLING CODE 3510–NK–M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Restoration and Compensation Determination Plan and Environmental Assessment: Aluminum Production Plants and Engine Manufacturer, St. Lawrence River, Massena, NY

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Availability of the Restoration and Compensation Determination Plan and Environmental Assessment for natural resource injuries and service losses associated with the release of hazardous substances from two aluminum production plants and one engine manufacturer into the St. Lawrence River environment near Massena, New York.

**SUMMARY:** Pursuant to the requirements of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA) notice is hereby given that a document entitled, ''St. Lawrence Environment Restoration and Compensation Determination Plan and Environmental Assessment'' (RCDP) is being made available for public review.

This RCDP has been approved by the State, Federal and Tribal Natural Resource Trustee agencies (the Trustees) including: the National Oceanic and Atmospheric Administration (NOAA), acting on behalf of the Department of Commerce; United States Fish & Wildlife Service, acting on behalf of the Bureau of Indian Affairs and the U. S. Department of the Interior (USFWS/DOI); and the State of New York; and the St. Regis Mohawk Tribe. The Trustees act on behalf of the public under CERCLA and State law to protect and restore natural resources injured or lost as a result of releases or the threat of a release of a hazardous substance.

*Public Review and Comment:* The publication of this notice opens the period for public comment on the RCDP. Two information public meetings will be held during the public comment period in Massena and Akwesasne, N.Y. All comments must be submitted no later than thirty (30) days after the publication date in this **Federal Register**. Comments may be sent electronically or in written form. Written comments may be sent to: Lisa Rosman, NOAA, Assessment and Restoration Division, 290 Broadway, 20th Floor, New York, NY 10007. Electronic comments may be sent directly to: *lisa.rosman@noaa.gov.*

Please provide a subject line, indicating that your comments relate to restoration planning for the St. Lawrence NRDA settlements. Any comments received will become part of the administrative record and will be available to the public. Please be aware that your entire comment—including your personal identifying information—may be made publicly available.

**FOR FURTHER INFORMATION CONTACT:** The RCDP is available for downloading at *http://www.darrp.noaa.gov/northeast/lawrence/index.html* (by clicking on Case Documents and the document title under Restoration Planning on that page). Copies of the RCDP are also available at: (1) St. Regis Mohawk Tribe Environment Division, 449 Frogtown Road, Akwesasne, NY 13655, By Appointment: (518) 358–5937; (2) Akwesasne Library, 321 State Route 37, Akwesasne, NY 13655, (518)–358–2240; (3) Massena Public Library, 41 Glenn Street, Massena, NY 13662, (315)–769–9914. The document will also be posted to the St. Regis Mohawk Tribe *http://www.srmtenv.org/index.php?spec=nrda_main* and the U.S. Fish and Wildlife Service Web site *http://www.fws.gov/northeast/nyfo/ec/nrda.htm.* Meeting dates will be posted to the trustee Web sites listed above. Requests for further information can be obtained through Lisa Rosman at the contact information provided above.

**SUPPLEMENTARY INFORMATION:** Injuries to natural resources have occurred as a result of releases of hazardous substances from industrial facilities owned by Alcoa, Inc., Reynolds Metals Co., and General Motors Central Foundry near Massena, St. Lawrence County, New York. The RCDP describes the natural resource injuries and associated losses and outlines proposed restoration projects. Hazardous substances released from these industries included polychlorinated biphenyls (PCBs), polycyclic aromatic hydrocarbons (PAHs), aluminum, fluoride, and cyanide. These hazardous substances have injured natural resources and the habitats which support them in the vicinity of the facilities, including the Mohawk community of Akwesasne, preventing the practice of traditional cultural practices by the Mohawk Community, and resulting in the issuance of fish consumption advisories.

*Proposed Restoration:* The trustees negotiated a settlement which requires the responsible parties, Alcoa Inc. and Reynolds Metals Co. to pay damages to compensate the public for the injuries to natural resources and lost human use of the resources. The 2013 Consent Decree establishing this settlement has been lodged in United States District Court for the Northern District of New York and will be the subject of a separate **Federal Register** notice and public comment period. Pursuant to the Consent Decree, the trustees expect to receive approximately $18.5 million in cash and projects from Alcoa and Reynolds for restoration. In addition, the trustees have received approximately $1.8 million in restoration funds from a 2011 General Motors bankruptcy settlement.

The Trustees considered various restoration alternatives to compensate the public for injuries from site releases and to restore the types of natural resource services that were provided by the resources injured by the hazardous substances. The preferred restoration alternatives identified are summarized in the RCDP. In total, $20.3 million from these two natural resource damage settlements will be used to complete preferred projects identified in the RCDP consisting of ecological restoration projects, human use projects that enhance access to fishing and boating, and projects to support traditional Mohawk cultural practices, including an apprenticeship program to promote Mohawk language and traditional teachings. A portion of the funds will also support Mohawk cultural institutions including youth outdoor education programs, and horticultural programs for medicine, healing, and nutrition. Details are provided in the RCDP.

Dated: March 19, 2013.

**David G. Westerholm,**

*Director, Office of Response and Restoration, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2013–07822 Filed 4–3–13; 8:45 am]

**BILLING CODE 3510–JE–P**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Information Collection; Submission for OMB Review, Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Social Innovation Fund Continuation Application Guidance for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable

supporting documentation, may be obtained by calling the Corporation for National and Community Service, Kirsten Breckinridge, at (202) 606–7570 or email to *kbreckinridge@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

**ADDRESSES:** Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) By fax to: (202) 395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) By email to: *smar@omb.eop.gov*.

**SUPPLEMENTARY INFORMATION:** The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Comments**

A 60-day public comment Notice was published in the **Federal Register** on December 31, 2012. This comment period ended March 1, 2013. No public comments were received from this Notice.

*Description:* CNCS is seeking approval of the Social Innovation Fund Continuation Application Guidance, which is used by current SIF grantees to apply for continued grant funding.

*Type of Review:* New.

*Agency:* Corporation for National and Community Service.

*Title:* Social Innovation Fund Continuation Application Guidance.

*OMB Number:* None.

*Agency Number:* None.

*Affected Public:* Social Innovation Fund grantees.

*Total Respondents:* 20.

*Frequency:* Annually.

*Average Time Per Response:* 8 hours.

*Estimated Total Burden Hours:* 160.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

Dated: March 26, 2013.

**Lois Nembhard,**

*Acting Director, SIF.*

[FR Doc. 2013–07850 Filed 4–3–13; 8:45 am]

**BILLING CODE 6050–28–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Meeting of the Department of Defense Military Family Readiness Council (MFRC)

**AGENCY:** Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Department of Defense Military Family Readiness Council (MFRC). The purpose of the Council meeting is to review the military family programs which will be the focus for the Council for next year, and address selected concerns of military family organizations.

**DATES:** Wednesday, May 1, 2013, from 2:30 p.m. to 4:00 p.m.

**ADDRESSES:** Pentagon Conference Center B6 (escorts will be provided from the Pentagon Metro entrance).

**FOR FURTHER INFORMATION CONTACT:** Ms. Melody McDonald or Ms. Betsy Graham, Office of the Deputy Under Secretary of Defense (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:** 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 Friday, April 19, 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., Friday, April 12, 2013.

The purpose of this meeting is to refine the Council recommendations that will be included in the 2013 Military Family Readiness Council report to the congressional defense committees and the Secretary of Defense. This meeting will focus on Army and Office of the Secretary of Defense efforts to ensure that existing military family readiness programs are prepared for full scope program evaluation and the council will be briefed on the Exceptional Family Member Program and the efforts to standardize the program across the services. The council will also receive an update on the Department of Defense Task Force on Common Services for Service Member and Family Support.

**Wednesday, May 1, 2013**

Welcome & Administrative Remarks.
Family Policy changes since last meeting.
Discussion of Exceptional Family Member Program standardization.
Update on the Department of Defense Task Force on Common Services for Service Member and Family Support.
Closing Remarks.

**Note:** Exact order may vary.

Dated: April 1, 2013.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2013–07890 Filed 4–3–13; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

### National Institute on Disability and Rehabilitation Research; Long-Range Plan for Fiscal Years 2013–2017

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Assistant Secretary for Special Education and Rehabilitative Services announces the publication of the final Long-Range Plan for Fiscal Years (FY) 2013–2017 (Plan) for the National Institute on Disability and Rehabilitation Services (NIDRR). This Plan provides an overview of NIDRR's goals and objectives, identifies contributions that NIDRR research has made to improve the lives of individuals

with disabilities, and presents NIDRR's specific goals and objectives for the next five years.

**DATES:** This Plan is effective May 6, 2013.

**FOR FURTHER INFORMATION CONTACT:** Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** The Plan presents a five-year research agenda anchored in NIDRR's legislative authority, consumer goals, and scientific initiatives. Section 202(h) of the Rehabilitation Act of 1973, as amended (Act), requires NIDRR's Director to prepare the Plan and establishes the Plan's purposes as follows:

(1) To identify activities to be conducted under NIDRR's authority ''respecting the full inclusion and integration into society of individuals with disabilities.''

(2) To identify funding priorities for the activities to be conducted.

(3) To specify goals and timetables for the activities to be conducted by NIDRR over the next five years.

NIDRR published a notice of proposed long-range plan for FY 2013–2017 (proposed Plan) on April 18, 2012 (70 FR 23231–23237). The Act requires that NIDRR consider all public comments received regarding the proposed Plan and then transmit the final Plan to Congress.

*Analysis of Comments and Changes:* In response to our invitation in the notice of proposed Plan, NIDRR received 145 comments. We categorize 127 of these comments into 15 subject areas and provide responses to comments that suggested changes in the proposed Plan. We do not address the 18 other general comments because they do not propose changes to the Plan. Generally, we do not address technical and other minor changes. An analysis of the comments and changes in the Plan since publication of the proposed Plan is published as an appendix at the end of this notice.

**Final Long-Range Plan**

*National Institute on Disability and Rehabilitation Long-Range Plan for Fiscal Years 2013–2017*

Preface

The introductory section of the National Institute on Disability and Rehabilitation Research (NIDRR) Long-Range Plan for Fiscal Years (FY) 2013–2017 (Plan) provides basic background about NIDRR and the Plan. The background explains NIDRR's mission, its intention for the Plan, and how the Plan will shape NIDRR's priorities. The second section of the Plan provides a brief summary of NIDRR's goals and objectives. The third section of the Plan provides background information about NIDRR's legislative mandate and purpose, NIDRR's applied approach to disability and rehabilitation research, how that approach is improving the lives of individuals with disabilities, and how NIDRR's grant mechanisms will structure NIDRR's research and development programs. Section four of the Plan details NIDRR's goals and objectives for the next five years.

**I. Introduction**

NIDRR has a broad and complex mission. NIDRR must support the generation of new knowledge and promote its effective use to (1) improve the abilities of individuals with disabilities to participate in community activities of their choice and (2) enhance society's capacity to provide opportunities and accommodations for these individuals. NIDRR fulfills its mission through research, development, and dissemination and related activities designed to contribute to the independence, inclusion, employment, and health and function of individuals of all ages with all types and degrees of disability, including low-incidence disability. As the number of Americans with disabilities is projected to increase substantially over the next two decades, the importance of fulfilling NIDRR's mission will only grow (Institute of Medicine, 2007. The future of disability in America. Washington, DC: National Academies Press).

NIDRR's Plan includes priorities, goals, and objectives to make manifest the direction that NIDRR intends for FYs 2013 through 2017. NIDRR will begin implementing all goals at the beginning of FY 2013. Over the life of the Plan, NIDRR will further refine the priorities, goals, objectives, and timelines to reflect the evolution of science and technology, the needs of individuals with disabilities, and the input of interested stakeholders, as the completion of the funding cycles of current centers and projects allow. Proposed refinements to this Plan will be published in the **Federal Register** for public comment and review. NIDRR will also establish and actively solicit the guidance of the Rehabilitation Research Advisory Council (RRAC), which is authorized under section 205(a) of the Rehabilitation Act of 1973, as amended (Act). The RRAC will engage individuals with disabilities and, as appropriate, their representatives; community rehabilitation and service professionals, including providers of assistive technologies; rehabilitation researchers and engineers; and other stakeholders. With this input, the RRAC will advise NIDRR as to how its programs may better serve its established principles. The three principles that NIDRR will employ to guide the implementation of the Plan and the administration of its programs are balance, quality, and relevance.

''Balance'' refers to the management of NIDRR's resource allocations across three dimensions: (1) The three outcome domains of individual well-being (i.e., employment, community living and participation, and health and function); (2) populations of focus; and (3) who, whether NIDRR or the grant applicant, defines the specific approach to a disability or rehabilitation research topic.

''Quality'' refers to the scientific merit of the research and development activities, whatever the method employed, and the appropriateness of the methods to the topic, question, or problem being addressed.

''Relevance'' refers to the likelihood that proposed research and development activities will make a substantial contribution to the well-being of individuals with disabilities, recognizing that the benefits of such activities may not always be direct or immediate.

NIDRR's peer review process will help increase the quality and relevance of NIDRR-funded research and development activities. NIDRR is committed to the goal that every eligible application for NIDRR funding will be reviewed by a knowledgeable panel of experts in research, development, policy, services and supports, and other areas appropriate to the topic, including individuals with disabilities and, as appropriate, family members.

NIDRR's priorities will be informed by assessments of the state of the science, policy, and practice, the advice of the RRAC, and the public's response to proposed priorities. NIDRR's portfolio of research and development activities will range from the identification of the

needs and opportunities of individuals with disabilities to the widespread implementation of effective, evidence-based policies, practices, and products that respond to those needs and opportunities. NIDRR recognizes that the development of effective, evidence-based policies, practices, and products is as dependent on the exploration and description stage of research and development as it is on experimental and quasi-experimental trials and other well-designed tests of potentially effective interventions, programs, and products.

**II. Summary of NIDRR's Goals and Objectives**

NIDRR will maintain a balanced portfolio of high-quality research and development centers and projects that address the most important problems and issues affecting individuals with disabilities and their families. The following is a summary of NIDRR's goals and objectives for FY 2013 through FY 2017.

*Goal 1:* Create a portfolio of research, development, and other activities that balances domains, populations of focus, and who, whether NIDRR or the grant applicant, defines the specific approach to a disability or rehabilitation research topic.

- Establish a balanced distribution of priorities focused on improved outcomes in the domains of employment, community living and participation, and health and function.
- Establish a balanced distribution of priorities to address the needs of individuals with different disabilities, personal characteristics, and social circumstances.
- Expand field-initiated research and development opportunities to support innovation.

*Goal 2:* Support centers and projects that conduct well-designed research and development activities using a range of appropriate methods.

- Adopt stages-of-research and stages-of-development frameworks that will enhance NIDRR's efforts to generate evidence-based policies, practices, and products.
- Support a variety of research and development approaches, as appropriate, to important topics and questions.
- Provide for the training of emerging talent and leadership in research and development.

*Goal 3:* Promote the effective use of knowledge in areas of importance to individuals with disabilities and their families.

- Increase and improve the capabilities and activities of NIDRR research and engineering centers and projects to ensure the accessibility and effectiveness of their work products.
- Increase the use of input from stakeholders by NIDRR and NIDRR-funded centers and projects.
- Establish priorities that inform systems and policy development, as well as interventions and inventions, to improve individual outcomes.
- Support research and development activities of relevance that cut across disability categories and NIDRR's three domains.
- Maintain effective ongoing investments and invest in new initiatives of promise to address topics of importance to individuals with disabilities and their families.

*Goal 4:* Improve program administration.

- Streamline NIDRR's processes for establishing and publishing priorities for grant competitions.
- Establish and implement a consistent schedule of competitions and peer reviews so that competition announcements are predictable for potential applicants and peer reviewers.
- Improve NIDRR's peer review processes.

**III. Background**

NIDRR was established by the 1978 amendments to the Act. As specified in section 200 of the Act (29 U.S.C. 760), NIDRR's purpose is to: (a) Provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under the Act; (b) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities; (c) promote the transfer of rehabilitation technology to individuals with disabilities; (d) ensure the widespread distribution, in usable formats, of practical scientific and technological information; (e) identify effective strategies to enhance the opportunities of individuals with disabilities to engage in employment, including employment involving telecommuting and self-employment; and (f) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.

NIDRR is led by a director within the Office of Special Education and Rehabilitative Services (OSERS) at the U.S. Department of Education. OSERS has two other components: the Rehabilitation Services Administration and the Office of Special Education Programs. NIDRR works closely with these offices and other disability-related offices and agencies across the Federal government.

NIDRR supports a wide range of rehabilitation research, development, and other activities designed to assist individuals with disabilities to achieve long-term outcomes such as independence, community participation, employment, and good health. To maximize its effectiveness in achieving such outcomes, NIDRR research and development activities focus on the complex interaction of personal, environmental, and supporting factors, including assistive technologies. In its practical and applied focus, NIDRR seeks to play a pivotal role in the relationship between the producers and consumers of knowledge.

The value of NIDRR's applied focus on research and development can be found in important advances in knowledge, practice, and public policies that have derived fully or partially from it. In recent years these have included, but not been limited to, the development of principles, standards, and applications of universal design; the development of standards and applications to enhance accessibility of the World Wide Web and the design of accessibility features for information technology devices, such as computers and cell phones; widespread applications of technology to rehabilitation including telerehabilitation and national Internet-based workforce training systems; improved understanding and treatments of the long-term consequences of spinal cord injury, burn injury, and traumatic brain injury; development of rehabilitation and community supports for individuals recovering from psychiatric conditions; understanding of the costs and outcomes of deinstitutionalization and the development of community supports for individuals with disabilities; better understanding of factors and practices contributing to the employment experience of individuals with disabilities; improvements in way finding and other mobility aides for individuals with cognitive or sensory conditions; and ongoing analysis of national disability statistics to guide policy and practice. NIDRR is committed to maintaining its focus on

practical applications of research, development, knowledge translation, capacity building, technical assistance, and information dissemination to improve the lives of individuals with disabilities and their families.

NIDRR currently employs nine mechanisms to make grant awards. Funding allocation within these mechanisms depends on the overall funding available to NIDRR, NIDRR's topical priorities for that year, and the size of the funding commitments for grants awarded in previous years. On average, about 25 percent of NIDRR's grants end each year. NIDRR's grant mechanisms are as follows:

- Rehabilitation Research and Training Centers (RRTCs) conduct coordinated, advanced research to maximize the health and function of, the social and economic independence of, and rehabilitation methods and service delivery systems for individuals with disabilities. RRTCs also serve as national resource centers in their areas of focus.
- Rehabilitation Engineering Research Centers (RERCs) conduct programs of advanced engineering and technical research and development activities designed to enhance opportunities, solve rehabilitation problems, and remove environmental barriers for individuals with disabilities. RERCs provide for the cost-effective delivery and use of assistive technology devices.
- Disability and Rehabilitation Research Projects (DRRPs) emphasize a broad range of research and development projects, training, and knowledge translation on rehabilitation topics. DRRPs have ranged from collecting longitudinal data on spinal cord, traumatic brain, and burn injuries to studying the effects of health care coordination.
- Americans with Disabilities Act (ADA) National Network Regional Centers provide information, technical assistance, and training in areas related to the mandates of the ADA. These centers form a national network and assist disability organizations, individuals with disabilities, businesses, public agencies, and the general public in understanding and fulfilling the purposes of the ADA.
- Model Systems in Spinal Cord Injury, Traumatic Brain Injury, and Burn Injury provide model rehabilitation services and supports to individuals after injury. The Model Systems conduct center-specific research projects and a collaborative program of research, longitudinal data collection, and dissemination.
- Field-Initiated Projects address disability and rehabilitation topics in promising and innovative ways based on the applicant's perception of needed research or development. These projects attend to a wide range of topics and target populations, including low-incidence populations.
- Advanced Rehabilitation Research Training Projects provide support to institutions of higher education to recruit qualified post-doctoral individuals with clinical, management, or basic research experience and prepare them for careers in disability and rehabilitation research.
- Switzer Research Fellowships give individual researchers opportunities to develop new ideas, gain research experience, and concentrate on specific lines of research. NIDRR supports Switzer Fellows for one year as they conduct independent research projects.
- Small Business Innovation Research (SBIR) grants are administered by NIDRR as a part of the larger mandatory Federal SBIR program. NIDRR's SBIR grants support the design and production of new assistive and rehabilitation technologies, including the research, development, and dissemination of, and training with respect to, products with commercial potential and with benefit to individuals with disabilities. This two-phase program takes a rehabilitation-related product from development toward market readiness.

NIDRR funds are awarded competitively on the basis of advice received through a peer review process to ensure the quality and integrity of the NIDRR portfolio. Researchers, methodologists, rehabilitation engineers, and other experts, including individuals with disabilities and their families, serve on panels made up of three to seven individuals. These experts review proposals according to the selection criteria in the application package for the competition. NIDRR's peer review process is designed to ensure the scientific quality of NIDRR's portfolio, its contributions to the well-being of individuals with disabilities, and its relevance to the needs of the disability and rehabilitation communities. NIDRR continues to focus on improving the quality of its peer review process, including by addressing the specific recommendations for the peer review process made in the November 2011 review of NIDRR by the National Academy of Sciences (NAS)/National Research Council (2011). (Review of disability and rehabilitation research: NIDRR grantmaking processes and products. Washington, DC: National Academies Press.)

## IV. Goals and Objectives

NIDRR will pursue the following goals and objectives for FY 2013 through FY 2017.

*Goal 1:* Create a portfolio of research, development, and other activities that is balanced in terms of domains, populations of focus, and who, whether NIDRR or the grant applicant, defines the specific approach to a disability or rehabilitation research topic.

*Objective 1.1—Establish a balanced distribution of priorities focused on improved outcomes in the domains of employment, community living and participation, and health and function.*

One of the congressional findings in Sec. 2.(a)(3) of the Act states that ''disability is a natural part of the human experience and in no way diminishes the right of individuals to (A) Live independently; (B) enjoy self-determination; (C) make choices; (D) contribute to society; (E) pursue meaningful careers; and (F) enjoy full inclusion and integration in the * * * mainstream of American society.'' An individual's opportunity to enjoy these rights depends on an interaction between the individual and the physical and social environment. Within each of its domains, NIDRR will support research, development, and other activities that gather and use knowledge of systems, environments, technologies, and individual characteristics, goals, and behaviors to support the fulfillment of such rights.

*Employment*

Employment and earnings are essential to independence, self-determination, and contribution to society. NIDRR will support centers and projects to address unemployment, underemployment, and unnecessary dependency on public benefits. NIDRR will support activities to improve opportunities for employment that are consistent with an individual's abilities, interests, and career aspirations. NIDRR will also support research and development activities that examine employment policies and practices, vocational rehabilitation services, and technologies and accommodations that contribute to improved employment and career outcomes for individuals with disabilities.

*Community Living and Participation*

NIDRR is committed to improving the opportunities and abilities of individuals with disabilities to live as integrated members of their communities and to participate in community activities of their choice. NIDRR will fund activities consistent

with the underlying principles of the independent living programs authorized under the Act and the ADA as affirmed in the U.S. Supreme Court's 1999 decision in *Olmstead* v. *L.C.,* 527 U.S. 581. NIDRR will support centers and projects to increase community living and participation through improvements in policy, services and support delivery, assistive technologies, environmental modifications, and person-centered planning and therapeutic interventions.

*Health and Function*

Maximizing health and function among people with disabilities is critical to achieving the goals of employment, community living and participation, and individual well-being across the lifespan. NIDRR will support centers and projects on health and function that improve understanding of the health status, health needs, and health care access of individuals with disabilities. These centers and projects will also develop and test interventions, including public policy interventions, to improve health outcomes, increase or maintain functional abilities, and contribute to more effective medical rehabilitation and long-term services and supports, including integrated health and long-term service and support approaches.

*Objective 1.2—Establish a balanced distribution of priorities to address the needs of individuals with different disabilities, personal characteristics, and social circumstances.*

*Rehabilitation Research and Training Centers (RRTCs)*

NIDRR will establish RRTCs, as authorized in the Act. In addition to being productive centers of relevant and well-designed research, these RRTCs will serve as: (1) National resource centers for individuals with disabilities and their representatives, families, service providers, policymakers, and others; (2) informational and technical assistance resources to individuals with disabilities and their representatives, families, service providers, policymakers, and others through conferences, workshops, public education programs, in-service training programs, and similar activities; and (3) centers of data gathering, analysis, and knowledge translation to address systems and policy issues that affect individuals with disabilities of all ages.

The RRTCs will address the needs of individuals of all ages with psychiatric, intellectual and developmental, and physical disabilities, as well as individuals with significant impairments of vision and hearing. These centers will identify practices associated with positive outcomes across NIDRR's domains and assess the status and effectiveness of programs and service systems in achieving positive outcomes.

NIDRR will also establish RRTCs in such areas as:

- Vocational rehabilitation.
- Rural rehabilitation.
- Rehabilitation of individuals from minority backgrounds.
- Families with members with disabilities.
- Disability statistics.

*Rehabilitation Engineering and Research Centers (RERCs)*

NIDRR will support RERCs to address the barriers confronted by individuals with disabilities in all aspects of their lives. These RERCs will address the needs of a wide range of individuals with disabilities, including those with sensory and cognitive impairments. They will address barriers confronted by persons with disabilities in employment, community living and participation, and health and function through technologies that accommodate communication, mobility, sensory impairments, and other limitations.

NIDRR will establish RERCs that will address priorities within the following four areas of rehabilitation engineering:

- Rehabilitation strategies, techniques, and interventions.
- Information and communication technologies.
- Individual mobility and manipulation.
- Physical access and transportation.

*Objective 1.3—Expand field-initiated research and development opportunities to support innovation.*

In order to take advantage of the field's expertise, knowledge, and creativity, NIDRR plans to provide an increased number of field-initiated opportunities for research, demonstration, and development of technological solutions to significant problems faced by individuals with disabilities. These projects may choose to focus on specific disability populations, including low-incidence populations. After consulting with the RRAC, publishing the proposed priorities for comment, and considering those comments, NIDRR will publish final priorities that include broad topical areas from which applicants will have the discretion to define a specific approach. Applicants also may propose cross-domain projects that have the potential to make a substantial contribution to solving significant problems.

*Goal 2:* Support centers and projects that conduct well-designed research and development activities using a range of appropriate methods.

*Objective 2.1—Adopt a stages-of-research framework that will enhance its efforts to generate evidence-based practices.*

NIDRR will support a range of well-designed research methods using a stages-of-research framework. When inviting applications for funding, NIDRR will ask applicants to identify the stage of research appropriate to their proposed research. Specification of the stage of research will allow NIDRR to ensure that proposed research is evaluated by peer reviewers who are knowledgeable about the stage of research and the proposed research methods using appropriate selection criteria. NIDRR will ask applicants to justify the stage of research proposed based on the current state-of-knowledge on the topic as well as the importance of the research questions and appropriateness of the methods proposed to carry out the research. NIDRR's framework will include the following stages of research:

*Exploration and Description*

Exploration and description have the research objective of generating new and refined analyses of data, observational findings, and other sources of information to establish the circumstances and needs of persons with disabilities and to guide hypotheses and theories. Exploration and description seek to advance the state of knowledge regarding the status of individuals with disabilities and the barriers to and facilitators of improved employment, community living and participation, health and function, and other outcomes for individuals with disabilities. This research stage may include identifying or describing existing policies, practices, or products that are associated with important aspects of the lives and needs of individuals with disabilities or the outcomes of services and supports provided to them. Results achieved under this research objective may be used to inform new lines of research related to practices, programs, or policies to inform decisions or priorities.

*Intervention Development*

Intervention development has the research objective of generating and testing interventions that have the potential to improve outcomes for individuals with disabilities. Intervention development involves determining the features of possible interventions that are most significant in achieving desired outcomes and the

measures that would be required to illustrate those outcomes, specifying target populations, conducting field tests, and assessing the feasibility of conducting a well-designed interventions study. Results from this research objective may be used to inform the design of a study to test the efficacy of an intervention.

*Intervention Efficacy*

Intervention efficacy has the research objective of evaluating and testing whether an intervention is feasible, is practical, and can yield positive outcomes for individuals with disabilities. Efficacy research may assess the strength of an intervention, identify factors associated with outcomes, and inform decisions about whether there is sufficient evidence to support ''scaling-up'' an intervention to other sites and contexts. Issues addressed may include training needed for wide-scale implementation and approaches to evaluation of the intervention in real-world applications.

*Scale-up Evaluation*

Scale-up evaluation has the research objective of evaluating whether interventions are effective in producing improved outcomes for individuals with disabilities when implemented in real-world settings. This research tests the outcomes of evidence-based practices operating in different settings. It examines the challenges to successful replications and the circumstances and activities that contribute to successful wide-scale adoption of interventions, programs, policies, and technologies. Research in this area may also include well-designed studies of interventions that have been widely adopted in practice but lack sufficient evidence of their effectiveness.

*Objective 2.2—Develop and adopt a framework for development to support the design, creation, testing, and uptake of assistive technology, engineering, and other products to improve the lives of people with disabilities.*

To improve its management of centers and projects that develop methods, procedures, and technologies to maximize inclusion, independence, and self-sufficiency of individuals with disabilities, NIDRR will develop and adopt a framework for development. This framework will contribute to the effective review of applications for funding, assist in describing and monitoring project activities, and support evaluation of the utility and productivity of NIDRR's investment in development projects. This framework will be created, reviewed, and amended, as appropriate, in consultation with individuals with disabilities, rehabilitation engineers and other developers and providers of assistive technology, community rehabilitation and service professionals, and other stakeholders.

*Objective 2.3—Support a variety of research methods as appropriate to important topics and research questions.*

NIDRR will support quantitative and qualitative research methodologies, as well as research approaches that combine both methodologies. NIDRR will provide guidance on its expectations for the various research methods.

*Objective 2.4—Provide for the training of emerging talent and leadership in research and development.*

NIDRR will fulfill its statutory obligation to build the Nation's capacity to conduct research and development activities that make positive contributions to the lives of individuals with disabilities across the domains of employment, community living and participation, and health and function. NIDRR's capacity-building activities will include fellowship programs and centers where emerging talent and leadership in research and engineering will be developed. In these capacity-building activities NIDRR will promote opportunities for individuals with disabilities and individuals from minority backgrounds.

*Goal 3:* Promote the generation and effective use of knowledge in areas of importance to individuals with disabilities and their families.

*Objective 3.1—Ensure that NIDRR research centers and projects provide access to, and effective use of, their research.*

NIDRR will increase expectations that its research centers and projects provide research-based knowledge and resources to individuals with disabilities and their families, service providers, and policymakers. NIDRR will support training, technical assistance, and knowledge translation activities to enhance the capabilities of individuals with disabilities, researchers, practitioners, and organizations and agencies to use the best available information in order to obtain desired outcomes for individuals with disabilities.

All of NIDRR's centers and projects will carry out knowledge translation (KT) activities. KT promotes the use of research-based knowledge to support the ability of individuals to live successfully in society. KT requires that grantees involve relevant stakeholders in the design and conduct of research activities to optimize the relevance and use of proposed outputs, use tools such as systematic reviews and research synthesis to assess and disseminate the information generated through research, and translate research findings into information that is usable by individuals with disabilities and their families, practitioners, and policymakers.

*Objective 3.2—Increase the use of input from stakeholders.*

In order to ensure that its centers and projects address important issues affecting individuals with disabilities and their families, NIDRR will develop and implement a process by which NIDRR may continuously communicate with a wide range of stakeholders about NIDRR's activities, solicit feedback on the impact of NIDRR's investments, obtain recommendations for research topics, and gather stakeholder input on NIDRR's Plan.

*Rehabilitation Research Advisory Council*

As authorized by section 205 of the Act and consistent with a recommendation in the 2012 NAS review report, NIDRR will establish the RRAC. The RRAC will advise NIDRR's Director on research priorities and the need for revisions of the current Plan and on the development of future long-range plans.

*Improved Use of Information Technology*

NIDRR will continue to upgrade its use of information technology, including its Web site, in order to improve its information dissemination activities, increase its capacity to obtain input and feedback from stakeholders, and facilitate ongoing discussions with and among NIDRR grantees, individuals with disabilities, and other stakeholders.

*Objective 3.3—Establish priorities that inform systems and policy development as well as interventions to improve outcomes for individuals.*

Across its three domains, NIDRR will support centers and projects that address systems and policy issues as well as interventions that directly improve outcomes for individuals with disabilities and their families.

*Objective 3.4—Support topics of relevance that cut across disability categories and NIDRR's three domains.*

NIDRR will support important projects that cut across disability categories or domains when such projects are relevant, well-designed, and offer promise of significant benefit to multiple groups of individuals with disabilities and their families. Examples of these cross-cutting priorities will

include, but not be limited to, disability demographics and technology for access and function.

*Disability Demographics*

Valid and reliable demographic data help all agencies and research in the disability field. NIDRR will continue its work with other Federal agencies to meet its statutory mandate to collaborate in producing demographic and statistical data that describe the population of individuals with disabilities. NIDRR's disability demographics effort will generate and disseminate new and current information that can be used by individuals with disabilities, service providers, policymakers, and others working to identify and eliminate disparities in employment, community living and participation, and health and function.

*Technology for Access and Function*

For individuals with disabilities, technology plays a vital role in improving function and increasing access, thereby enhancing the ability to lead increasingly independent, secure, and productive lives. The importance of accessibility for individuals with disabilities to the existing and emerging technology environments in our homes, schools, jobs, and communities cannot be overstated. At the individual level, NIDRR will focus on assistive technology devices that enhance the physical, sensory, cognitive, and communication capabilities of persons with disabilities, including individuals from low-incidence populations. At the systems level, NIDRR will promote the application of technology research and development in ways that enhance community integration, independence, productivity, competitiveness, and equal opportunity by mitigating or eliminating barriers found in large social systems such as public transportation, telecommunications, information technology, commerce, and the built environment.

NIDRR will continue to support technology-related research and development centers and projects with the goal of transferring technology into products that can be readily accessed and used to improve the lives of individuals with disabilities. NIDRR will continue to play a leadership role within the Federal government on accessibility of information and computer technologies.

*Leadership in Cloud Computing*

NIDRR is committed to ensuring access to, and benefit from, cloud computing for individuals with disabilities. There is substantial international activity in this area, from which individuals stand to benefit and to which the United States should contribute. NIDRR and its grantees will play leadership roles in national and international activities to ensure accessibility, and to exploit the potential of cloud computing to support the independence, employment, and functional capabilities of persons with disabilities. In its efforts NIDRR will support grantees working on cloud-based infrastructure and applications, and will work cooperatively with government agencies and private entities to leverage all available resources.

*Objective 3.5—Maintain ongoing investments that effectively address topics of importance to individuals with disabilities and their families.*

NIDRR has invested in a number of projects for many years. The value of these long-term investments is an important consideration as NIDRR plans for its future commitments. For example, NIDRR has supported projects that have created national rehabilitation and disability services databases and that have enhanced accessibility of the built environment and information technologies, as well as other nationally valued projects in other areas. On a project-by-project basis and with the input of the RRAC and other stakeholders, NIDRR will continue to support centers and projects in certain priority areas in which NIDRR has substantial long-term investments and that continue to contribute significantly to NIDRR's goals and objectives.

*Goal 4:* Improve program administration.

*Objective 4.1—Streamline processes for establishing and publishing priorities for grant competitions.*

Historically, most of NIDRR's priorities have included a number of detailed required activities that demanded a great deal of time to develop and publish. As indicated in Objective 1.3 of the Plan, NIDRR will provide applicants with more field-initiated opportunities by issuing priorities for each domain that consist of broad topical areas and fewer specifically required activities. These topical areas will remain open for competition for up to five years. This will provide applicants with increased discretion to propose specific projects that fall within the topical areas and enhance NIDRR's ability to publish its funding priorities on a more timely basis. In addition, because NIDRR staff will devote less time to developing and publishing new priorities, they will have more time for providing technical assistance to their grantees, monitoring grants, and participating in cross-agency research and development activities.

*Objective 4.2—Establish and implement a regular schedule of competitions and peer reviews.*

The NAS/National Research Council review report noted that NIDRR has not established a regular schedule for publishing priorities, publishing notices inviting applications, or conducting peer reviews. An irregular schedule may negatively affect the ability of qualified applicants to submit proposals and limit the availability of expert reviewers. Consistent with the NAS recommendations, and aided by streamlining its priority development process, NIDRR will establish a regular schedule of competitions that potential applicants and peer reviewers can depend on for planning purposes. Having the topical areas in place for up to five years will provide the field with stable and reliable opportunities for funding, and applicants who are not successful in one competition can revise and improve their applications for future competitions under the same topic.

*Objective 4.3—Improve the peer review process.*

The NAS review report commented on NIDRR's peer review processes and made a number of recommendations for enhancement. Consistent with the NAS recommendations and ongoing quality improvement goals within NIDRR, during the next five years NIDRR will improve the following:

- Recruitment of qualified reviewers.
- Peer reviewer orientation.
- Review criteria and scoring.
- Stakeholder representation and related stakeholder support.
- Consistency across review panels.

A number of other changes will be explored by NIDRR as potential means of enhancing the ability of peer reviewers to carry out their responsibilities. These include, but are not limited to: (1) Establishing page limits for some or all NIDRR program applications; and (2) limiting the number of applications reviewed per panel with limits depending on the page limits of the applications.

**V. Summary**

With the adoption of this Plan, as refined by comments and suggestions from stakeholders and other parties, NIDRR believes it will be positioned to better promote the principles of balance, quality, and relevance in its activities. This approach will make NIDRR more effective in fulfilling its role as a leading Federal agency in generating and promoting the use of knowledge to

improve the lives of individuals with disabilities and their families.

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Dated: April 1, 2013.

**Michael Yudin,**

*Delegated the authority to perform the functions and duties of Assistant Secretary for Special Education and Rehabilitative Services.*

## Appendix

### Analysis of Comments and Changes

**Note:** This appendix will not appear in the Code of Federal Regulations.

*1. NIDRR's Commitment to Balance*

*Comments:* Three commenters recommended that NIDRR ''reconcile'' its commitment to maintain investments in effective programs with its commitment to maintain balance in its funding of programs across its three primary domains.

*Discussion:* We believe both commitments are important and can be maintained with judicious attention to the effectiveness of existing programs and the disparities in resource allocation across domains.

*Change:* None.

*Comments:* One commenter noted support for the commitment to a balanced portfolio but challenged NIDRR to remain responsive to the needs of constituents and fluctuations in topics of importance.

*Discussion:* We are fully committed to supporting programs that are relevant to the current and changing needs of persons with disabilities. When established, Research Advisory Council (RRAC) will represent key stakeholder groups and is expected to assist NIDRR in adhering to that commitment.

*Change:* None.

*Comments:* Two commenters asked how balance will be achieved with the increased emphasis on funding field-initiated projects.

*Discussion:* We believe that NIDRR's broad priority areas and increased emphasis on field-initiated proposals will allow ample opportunity for applicants to propose work of relevance to individuals with disabilities in each of NIDRR's primary domains. If necessary to achieve reasonable balance across domains, NIDRR will fund the highest scoring applications within specific domains.

*Change:* None.

*Comments:* One commenter asked whether our commitment to balance includes balance between research and technology development funding.

*Discussion:* In the Plan NIDRR commits to maintaining balance across its primary domains and to the full range of types and degrees of disability. There is no commitment to maintain a particular distribution between funding for research and technology development projects, but we anticipate no notable deviation from the present distribution. There may be effects in the relative distribution of funding associated with increased opportunities for field-initiated proposals. We will monitor such trends in funding among NIDRR's primary domains, and, as appropriate, we will explore needed remedies with our RRAC, when established.

*Change:* None.

*Comments:* Three commenters proposed that NIDRR identify in the Plan its commitment to specific disability conditions or specific demographic groupings. One commenter suggested that we expand our Model Systems program to include a specific disability group.

*Discussion:* There are too many conditions and potential demographic groupings for us to designate funding for each specific group. We may, based on compelling need or opportunity, designate funding for research or development projects focused on specific groups, but generally applicants with interest in specific disability and demographic groups will be encouraged to submit high-quality, compelling proposals to our various field-initiated competitions. Given currently available funding, a substantial investment in creating and financing additional Model Systems programs would preclude NIDRR from funding other important research and development activities.

*Change:* None.

*Comments:* One commenter asked for clarification about whether NIDRR will continue competitions for priority areas that are currently funded or will establish new priorities.

*Discussion:* In carrying out the Plan, NIDRR may continue current priorities, create new priorities, or both.

*Change:* None.

*2. Stages of Research*

*Comments:* One commenter suggested that we invite interested parties to engage in a facilitated dialogue on the concept of stages of research.

*Discussion:* We will continue to obtain feedback through our regulatory process. We have already requested public comment on the proposed stages of research in the **Federal Register** notice requesting comments on the priority for the FY 2012 Employment of Individuals with Disabilities (H133A–1) Disability and Rehabilitation Research Project and sought further comment on the proposed stages of research in some priorities developed for FY 2013 competitions.

*Change:* None.

*Comments:* We were asked whether the exploratory stage of research is restricted to descriptive research or whether it can include the study of interventions.

*Discussion:* In our proposed stages of research, exploratory research is research that can describe or classify a problem through a variety of mechanisms, including but not limited to descriptive research, analysis of secondary data, development of measures, and so forth. This research may result in information that will lead to development of an intervention, or it may advance knowledge or the capacity to conduct research.

*Change:* None.

*Comments:* One commenter asked if small, non-randomized trials of interventions could be part of the interventions development stage.

*Discussion:* It will be up to the applicant to specify and justify what is necessary to develop an intervention. Nothing prohibits an applicant from suggesting a small, non-randomized trial as part of this development process. It will be up to the peer review panel to determine the appropriateness of the proposed methodology for any research study.

*Change:* None.

*Comments:* We were asked if scale-up evaluation primarily means moving from a single-center to a multi-center study.

*Discussion:* The purpose of a scale-up project is to determine if the intervention is effective in real-world settings. This could involve multi-center studies; however, the intent is to determine how best to move proven interventions into widespread practical use.

*Change:* None.

*Comments:* One commenter distinguished between normal research, described as testing hypotheses and building evidence in a prescribed method (such as NIDRR's stages of research), and systems research, described as aiming to solve problems right away by adopting ''socially valid'' solutions. The commenter suggested that solutions of the latter type, having been developed within the context in which they are intended to be applied, do not require a scale-up stage before being implemented broadly.

*Discussion:* We are aware that other government agencies have promulgated translational research activities that incorporate this approach. In this approach, evidence-based practice for one population may be adapted for use in a new population using established criteria for evaluating the uptake but not following a proscribed and lengthy process for establishing evidence of efficacy for the new population. Since we are not prescribing the steps to accompany each

stage, it will be up to applicants to propose and justify the methods proposed for any stage, including the scale-up stage. We would invite, within the scale-up stage, research on the effects of interventions, programs, or policies that are broadly applied, but on which there is inadequate well-designed research.

*Change:* None.

*Comments:* One commenter asked if an applicant has to limit its proposal to a single stage.

*Discussion:* An applicant does not have to limit its proposed efforts to a single stage of research; however, applicants should identify and justify each research stage and should consider time and resources in its decision about work carried out at multiple stages.

*Change:* None.

*Comments:* Two commenters asked for clarification about whether the stages of research approach will limit grantees who propose non-intervention research and whether such applicants will be able to obtain fair consideration of their proposals.

*Discussion:* NIDRR's overall purpose is to support research that results in beneficial changes in programs, policies, and practices affecting the lives of individuals with disabilities. In many ways, these changes are interventions. So at a broad level, the purpose of NIDRR's research is the development of interventions, defined as changes in practices, programs, and policies. In the past, much of NIDRR's funding has been allocated to projects at stages preceding the intervention stage, documenting the conditions and needs of individuals with disabilities and their families and creating the infrastructure to support development of evidence-based changes in programs, policies, and practices. We expect to continue funding projects at theses stages. The purpose of introducing a requirement to identify the proposed research stage is to improve the quality of the research that we fund. It will also help NIDRR clarify and classify the kinds of research it supports and help applicants better justify the topics, research goals, and approaches they propose. We are not seeking to limit applicants from proposing any research that will benefit individuals with disabilities. Nothing in the stages of research approach is designed to favor one type of research over another.

*Change:* None.

*Comments:* One commenter asked if activities such as longitudinal data analysis would be considered exploratory even if new knowledge is produced.

*Discussion:* It will be up to the applicants to determine the stage of their proposed research and to explain why the stage is appropriate to the state of knowledge about the proposed topic. Nothing in our Plan will specify how methods should be used to support stages of research.

*Change:* None.

*Comments:* One commenter asked what we are gaining from the stages of research approach and how policy, statistics, and survey research fit into the stages.

*Discussion:* Through the stages of research framework we gain a way to describe how our research investments are contributing to changes in programs, policies, and practices that improve the lives of individuals with disabilities. We also hope to improve the quality of the research we fund by asking applicants to clarify why the stages proposed are appropriate to the state of knowledge of the topic they are addressing. We are not weighting our research investment in favor of any stage, unless the specific circumstances warrant focus on a particular stage of research.

It will be up to applicants to propose and justify methods to conduct research at any stage of research. We do not intend that identification of stages of research will limit applicants in their methods for conducting studies, and we plan that peer review will determine if the methods are appropriate.

*Change:* None.

*Comments:* One commenter suggested that NIDRR is prioritizing interventions research and asked if NIDRR's funding will allow it to support such research.

*Discussion:* We have articulated our belief that, at a broad level, all of our research is conducted with the goal of creating interventions that support changes in programs, policies, and practices that improve outcomes for individuals with disabilities. We are aware that available funding may not allow for scaling up interventions to a large number of sites; however, we hope to promote and, as feasible, support this critical stage of testing research findings in the real world.

*Change:* None.

*Comments:* One commenter asked if NIDRR would consider funding projects that seek to advance methodology as well as service delivery.

*Discussion:* Nothing in the Plan prohibits any applicant from seeking to advance methodology, and we do not intend to fund only research on service delivery.

*Change:* None.

*Comments:* One commenter asked how NIDRR will ensure that panel reviewers understand the stages of research and the variations in applications across disciplines, and whether NIDRR will provide guidelines or templates to reviewers.

*Discussion:* NIDRR's peer review criteria for research have been and will be applied to all applicants regardless of the academic discipline or perspective of the applicant. Research review criteria will define and support the stages concept generally but will not establish specific standards for any stage. We are developing new peer reviewer training materials and will incorporate the stages of research approach.

*Change:* None.

*Comments:* One commenter recommended that NIDRR incorporate the stages of research approach into its priority setting process for center grants.

*Discussion:* We assume that this commenter was referring to the Rehabilitation Research and Training Centers (RRTCs) and the Rehabilitation Engineering Research Centers (RERCs). NIDRR will ask center applicants to use the proposed stages of research framework to explain their proposed research. We may also require this framework in applications for non-center grants such as DRRPs and other research programs.

*Change:* None.

*Comments:* One commenter expressed concern that the stages of research approach could stifle innovation and be applied in a formulaic manner. This commenter suggested that NIDRR have an ongoing role in implementing, and in training researchers on, the stages of research framework.

*Discussion:* We see no circumstances in which the stages of research could in any way diminish innovation, but we do agree that ongoing discussion and training on the stages of research framework and the wide diversity of research methods and topics that can be subsumed within them will be helpful.

*Change:* None.

*3. Low-Incidence Populations*

*Comments:* One commenter recommended that NIDRR-funded centers and projects enter into partnerships with entities that have expertise in the needs of low-incidence populations to address policy and systems implications for these populations.

*Discussion:* In the Plan's knowledge translation (KT) requirements, we recognize the need for all NIDRR-funded centers and projects to involve relevant stakeholders. As stated in Objective 3.1, all of NIDRR's centers and projects will carry out KT activities, and a key component of KT is requiring grantees to involve relevant stakeholders in the design and conduct of research activities to optimize the relevance and use of proposed outputs. We believe that this expectation will encourage researchers to engage in partnerships with individuals and entities with appropriate expertise related to important target populations, including persons with low-incidence conditions.

*Change:* None.

*Comments:* Two commenters recommended that one or more of NIDRR's programs address the needs of a wide variety of disabilities, including low-incidence disabilities.

*Discussion:* The Plan's introduction discusses how NIDRR fulfills its mission through research, development, and dissemination and related activities that contribute to the independence, inclusion, employment, and health and function of individuals of all ages and degrees of disability, including low-incidence disabilities. NIDRR recognizes the importance of research on low-incidence disabilities. While in the past NIDRR priorities may have specified target populations, its new, more field-initiated approach, as discussed in the Plan, will increase opportunities for researchers to target specific low-incidence populations.

*Change:* The Plan's description of the field-initiated process now indicates that these projects may choose to focus on specific disability populations, including low-incidence populations.

*4. Applicability of Knowledge Translation Activities*

*Comments:* Three commenters questioned the applicability of the KT activities described in the Plan to all NIDRR-funded projects. One of these commenters also suggested that NIDRR provide additional

guidelines to applicants and peer reviewers about how different types of KT would apply to different types of projects.

*Discussion:* Our descriptions of KT activities are intentionally general and broad. We expect applicants to select and justify their specific KT activities based on the nature of their project and the associated stakeholder groups. We are confident that NIDRR peer reviewers will be able to discern whether the proposed KT activities will be beneficial and productive uses of resources to meet the needs and expectations of stakeholders.

*Change:* None.

*5. Design or Effectiveness of Specific NIDRR ''Capacity-building'' Programs*

*Comments:* One commenter questioned whether there is a requirement that centers be based at a university and expressed a concern that this would be a barrier to broad dissemination of RRTCs.

*Discussion:* There is no requirement in the Plan that RRTCs be based at universities. In fact, such a requirement would be inconsistent with 34 CFR 350.21, which requires an RRTC to be operated by or in conjunction with (a) one or more institutions of higher education; or (b) one or more providers of rehabilitation or other appropriate services. The same flexible collaboration requirement also applies to RERCs.

*Change:* None.

*Comments:* One commenter asked how NIDRR will link stages of research to its investment in capacity building.

*Discussion:* At the present time, NIDRR's investments in capacity building are field-initiated in nature, meaning that applicants propose and justify capacity-building activities in response to regulatory requirements rather than in response to NIDRR-developed priorities. NIDRR has no plans to change this at the present time, but could propose more directed capacity building if deemed necessary. We expect that our focus on stages of research will result in changes in the types if research that our grantees carry out and that this will help contribute to increased capacity in the field to carry out research at all stages.

*Change:* None.

*Comments:* One commenter noted that the proposed Plan contains no reference to the July 2011 NIDRR-sponsored Research Capacity-Building Summit and asks how NIDRR proposes to further the summit recommendations related to development of young investigators, especially individuals from minority serving institutions and individuals with disabilities

*Discussion:* The commenter is correct. The Plan does not specifically refer to research capacity building or to the results of the July 2011 summit nor to other NIDRR-sponsored events, conferences, or activities. The Plan does state in the background section that ''NIDRR is committed to maintaining its focus on practical applications of research, development, knowledge translation, capacity building, technical assistance, and information dissemination to improve the lives of individuals with disabilities and their families,'' However, it may not fully clarify NIDRR's goal of enhancing capacity to conduct disability and rehabilitation research, including its focus on capacity building for minority-serving institutions and individuals with disabilities.

*Change:* A new Objective 2.4 was added: NIDRR will provide for the training of emerging talent and leadership in research and development. The objective indicates a special commitment to support the development of individuals with disabilities and individuals from minority backgrounds.

*Comments:* One commenter asked if NIDRR will consider funding mechanisms that promote new investigators.

*Discussion:* We agree that promoting new investigators is important to the future of rehabilitation and disability research. However, NIDRR already employs two grant mechanisms with the expressed purpose of providing research training to qualified individuals, including new investigators—the Advanced Rehabilitation Research Training (ARRT) Projects and the Switzer Research Fellowship Program. NIDRR also provides funding for practical research training of hundreds of graduate students and post-doctoral fellows participating in its other programs.

*Change:* None.

*Comments:* One commenter suggested a review of the Switzer Research Fellowship Program to assess the current need for the program and how it might better meet the needs of research professionals.

*Discussion:* We agree that it is important for NIDRR to conduct periodic assessments of its various programs. NIDRR is currently developing a long-term evaluation plan that will include recommendations for evaluating NIDRR programs, including the Switzer Research Fellowship Program. In addition, we also anticipate that, when formed, the RRAC will advise NIDRR on the relative value of its various programs, including the Switzer Research Fellowship Program.

*Change:* None.

*6. Improve Peer Review Process*

*Comments:* Comments on peer review either provided specific recommendations for improving the peer review process or asked about specific methods for improving the peer review process. Two commenters asked whether NIDRR would implement standing panels of reviewers, while another asked more specifically whether standing panels would be created around research stages or domains. One commenter suggested that NIDRR does not often recruit new reviewers onto its review panels and that it should do so more often. Another commenter requested that NIDRR provide additional training to reviewers to improve the feedback that they provide to applicants. One of the commenters asked specifically how we would recruit reviewers with engineering expertise or those with expertise in implementing the outputs and products of NIDRR's grants.

*Discussion:* NIDRR understands the importance of the peer review process. We appreciate the commenters' questions and their recommendations for optimizing the quality of our peer review process. NIDRR currently maintains a standing panel for its Field-Initiated Projects (FIPs) program. We anticipate that, as we create more opportunities for applicants to submit proposals in response to field-initiated research and development priorities, we may be able to create standing panels of reviewers to evaluate these applications. At the same time, NIDRR continuously and actively recruits new, highly-qualified reviewers into its reviewer pool and onto its review panels. The Department's policy of allowing reviewers to serve on standing panels for no more than three consecutive years promotes an effective mix of experienced reviewers and those with fresh perspectives. NIDRR will determine how we structure the specific expertise on our panels as we develop and publish our priorities in the coming years. Regarding training of peer reviewers, NIDRR is creating Web-based training tools to improve the quality and consistency of training that NIDRR peer reviewers receive.

*Change:* None.

*7. Rehabilitation Research Advisory Council*

*Comments:* One commenter asked about the relationship between NIDRR's approach to knowledge translation and the role of the RRAC. Another commenter asked how members of the RRAC will be selected—whether members will be chosen to represent NIDRR's project areas or primary research and development domains, or whether members will be selected to represent specific disability types. In addition, this commenter asked how NIDRR will structure the RRAC's membership to avoid neglect of underserved communities.

*Discussion:* We view the RRAC as consistent with, and as a contributor to, our KT efforts. A key aspect of KT is to engage stakeholders in defining the focus of research and to create methods and products of research dissemination that are appropriately designed and accessible for those who can improve the lives of people with disabilities. This will be a central role of the RRAC when formed.

The primary goals of the RRAC will be to direct attention to the most pressing problems facing persons with disabilities collectively or within specific subpopulations, to establish research and development priorities that address those problems, and to support effective methods of getting research and development products to people with disabilities and other stakeholders. To do this, we will endeavor to have balanced representation on the RRAC of subpopulations of persons with disabilities and their families, service providers, policymakers, and individuals with expertise in research, product development, and information dissemination. Members will include representatives of underserved and relatively low-incidence disability communities.

*Change:* None.

*Comments:* One commenter asked how the RRAC will work with NIDRR leadership.

*Discussion:* The RRAC will be advisory in its role. We intend to listen carefully to the advice of the RRAC and expect to be well guided by it. Ultimately, however, after weighing its advice, as well as input from people with disabilities and other stakeholders and NIDRR's own assessment of

the state-of-the-science, NIDRR will be responsible for the content, balance, and quality of its programs.

*Change:* None.

*Comments:* Two commenters asked how transparent the RRAC will be and to what extent members would communicate with their constituencies.

*Discussion:* We will gather and make available notes from RRAC meetings, but, to facilitate frank and open discussions, no attributions to individual members will be made. RRAC members will be free, and indeed encouraged, to communicate with their constituencies about RRAC discussions and recommendations, NIDRR priorities, and the accomplishments of NIDRR programs and projects.

*Change:* None.

*Comments:* One commenter recommended that the RRAC include members with expertise in the Americans with Disabilities Act (ADA) and other disability law.

*Discussion:* While it is not clear in the commenter's assessment what might constitute ADA or disability law expertise, the RRAC will assuredly include persons very familiar with the ADA and its significance to NIDRR-funded research and development.

*Change:* None.

*Comments:* One commenter suggested that the RRAC coordinate with other Federal agencies on disability and rehabilitation research.

*Discussion:* We believe this suggestion extends beyond what we can reasonably require of the RRAC and its members. Currently NIDRR coordinates the Interagency Committee on Disability Research (ICDR), as authorized by 29 U.S.C. 763, and is responsible for promoting interagency coordination of, and collaboration on, research related to the rehabilitation of individuals with disabilities. We are committed to active engagement and coordination with other Federal agencies and will provide the RRAC with information regarding such activities and will solicit advice from the RRAC regarding current and potential collaborations. If RRAC members so elect, we are open to including Federal agency representatives at RRAC meetings as ex-officio members or invited participants. This decision will be left to the RRAC and its judgment about what will promote the most productive discussions.

*Change:* None.

*Comments:* One commenter asked for assurances that the RRAC will include appropriate advisors, including assistive technology providers, engineers, manufacturers, and distributors of assistive technologies.

*Discussion:* We envision a relatively small, but very well-informed RRAC, the size of which would preclude representation of all such important players in the development, marketing, and effective use of assistive technology. We will do our best to ensure that RRAC membership has a sophistication about and appreciation of assistive technology development and use.

*Change:* None.

*Comments:* One commenter asked how representatives will be chosen and, once chosen, whether information on each individual's background and credentials will be made public. Other commenters offered to serve as or suggest members to the RRAC.

*Discussion:* Requests for nominations (including self-nominations) to the RRAC will be published in the **Federal Register**. Once nominations have closed, we will select members from among nominees based on distribution of knowledge across disability populations; familiarity with the challenges faced by all or subpopulations of persons with disabilities; familiarity with disability research, development, and policy; and direct experience with the lived experiences of persons with disabilities. Once chosen, the RRAC members, their qualifications, and ways that they can be contacted will be publicly available.

*Change:* None.

*8. NIDRR Capacity To Monitor the Quality of Its Research*

*Comments:* Two comments addressed the extent to which NIDRR's commitment to high-quality research included support of project officers in monitoring and evaluating the post-award research projects and the extent to which NIDRR will invest in project officer development to improve guidance and evaluation of grantees.

*Discussion:* NIDRR has always emphasized the importance of monitoring, and providing guidance and technical assistance to, its grantees. We have invested substantially in a database that effectively monitors project tasks, timelines, and product delivery. Our staff is well trained and qualified to monitor, evaluate, and provide needed technical assistance to grantees. We invest as we can in staff development in areas of topical expertise and maximize the advantages of being in Washington, DC and its many professional development opportunities. We recognize the demands of project monitoring are substantial. We believe that moving a greater share of our research and development portfolio into field-initiated grant programs will allow our project officers to spend less time writing NIDRR-directed priorities, and more time monitoring, evaluating, and interacting with their grantees.

*Change:* None.

*9. Evaluation of Plan Goals and Objectives*

*Comments:* Two commenters suggested that NIDRR define the specific outcomes expected to result from the Plan, including measures of quality, and prepare an evaluation plan that describes how these outcomes will be monitored over time.

*Discussion:* We agree that we must gather, analyze, and publicize the outcomes of NIDRR programs and pay particular attention to outcomes specifically referenced in the Plan. This work is underway. We have derived a core set of evaluation measures from our electronic Annual Performance Reporting (APR) database to which all grantees submit data annually. The APR gathers specific information on the status of each NIDRR-funded project, as well as data directly relevant to Plan objectives. For example, the APR collects data to monitor balance across our three primary domains and broad disability groupings by research methodologies employed and the distribution of funding levels and types of projects. The APR also gathers annual reports on outputs and impacts, ranging from articles in peer-reviewed journals, citations of NIDRR-funded research in peer-reviewed journals, technologies developed, graduate-school and post-doctoral researchers trained, and the nature and extent of adoption of research and development products. In addition, we are currently developing a 10-year evaluation plan to assess the quality and quantity of NIDRR outputs, outcomes, and impacts related to our long-range objectives. The evaluation plan will include a variety of data collection activities of different periodicities to be carried out over a 10-year cycle.

*Change:* None.

*10. Specific Research Suggestions*

*Comments:* Commenters suggested that NIDRR ensure that the research it funds addresses various financial, cultural, psychological, socioeconomic, geographic, and other factors affecting persons with disabilities in each of NIDRR's primary domains. Commenters further suggested that the Plan would be strengthened by emphasizing the interconnections of the individuals' biological and psychological well-being and their social and economic circumstances. Commenters further suggested that we be clear that the health and function domain includes mental health as well as physical health, that medical rehabilitation includes cognitive rehabilitation, and that we make other clarifications to avoid overly narrow interpretations of NIDRR domains.

*Discussion:* We have purposely avoided listing the full range of impairments and the complex interpersonal and external factors in the lives of persons with disabilities and the interactions among them. We believe that trying to do so would diminish our focus on clear, relevant, and scientifically-sound cases for proposed research that will be important to specified populations of persons with disabilities. We are confident that our peer reviewers will understand the importance of the variety of factors and interactions described in the comment and will make recommendations for funding based on the adequacy of the proposed research to appropriately address both individual and environmental factors.

*Change:* None.

*11. Attention in Plan to Engineering and Assistive Technology Development*

*Comments:* Nine commenters expressed concern that the Plan inadequately reflects NIDRR's commitment to engineering and assistive technology development because it does not mention ''development'' as clearly and frequently as ''research.''

*Discussion:* We remain fully committed to engineering and assistive technology development, including through our RERC program, but we recognize that our Plan may have inadequately communicated that commitment.

*Change:* We have clarified NIDRR's commitment to engineering and assistive technology throughout the document with

specific references to ''research and development'' and in our responses to the related comments that follow.

*Comments:* Three commenters suggested that NIDRR should include in the Plan a ''stages of development'' framework parallel to the ''stages of research'' framework to demonstrate NIDRR's commitment to development projects and to guide the applications of those who propose development projects.

*Discussion:* NIDRR agrees with this comment.

*Change:* In our discussion in Objective 2.2—Develop and adopt a framework for development to support the design, creation, testing, and uptake of assistive technology, engineering, and other products to improve the lives of people with disabilities, we have stated our intention to work with stakeholders to develop and adopt a framework for development projects.

*Comments:* Two commenters suggested that NIDRR explicitly recognize the importance of assistive technology for addressing communication impairments, including communication impairments of individuals with low-incidence conditions.

*Discussion:* We agree that such specification is warranted.

*Change:* The Technology for Access and Function section of the Plan has been revised to recognize the importance of assistive technology that enhances communication capabilities, including for individuals from low-incidence populations.

*Comments:* One commenter recommended that the term ''universal design'' be referenced in multiple places in the Plan.

*Discussion:* We are committed to the concept of universal design, that is, the design of products and environments to be useable by all people without the need for adaptations or special design. We are proud of NIDRR's foundational work in the development and implementation of the concept of universal design. We do not, however, believe that the concept needs to be repeated throughout the Plan.

*Change:* None.

*Comments:* One commenter recommended that NIDRR expand its description of its Small Business Innovation Research (SBIR) program to be more inclusive of research related to training methodologies and dissemination techniques.

*Discussion:* We agree that, as written in the proposed Plan, the SBIR program may seem limited to the production of assistive and rehabilitation technologies. However, NIDRR's SBIR program grants have been and are awarded for projects that (1) Meet NIDRR's broad definition of research and development, (2) appear to have commercial potential, and (3) are related to disability and rehabilitation. We do not think it is advisable to potentially narrow NIDRR's broad definition of research and development by enumerating specific categories of permitted research.

*Change:* The Plan language concerning the SBIR program has been modified to indicate that ''SBIR grants support the design and production of new assistive and rehabilitation technologies, including research, development, training, and dissemination products with commercial potential and benefit to persons with disabilities.''

*Comments:* One commenter recommended that NIDRR expressly acknowledge that individuals with disabilities interact with several environments, including specifically and increasingly a technological environment.

*Discussion:* We agree. Technology advances and changes at great speed and must be kept accessible and usable by all individuals. Increasingly people with disabilities interact in physical, social, and technological environments.

*Change:* The Technology for Access and Function section of the Plan has been revised to reflect the importance of the technology environment with which persons with disabilities interact. Specifically, and as discussed in prior, related comments, an objective for creating and adopting a framework for technology development has been added to the Plan. Further, the relevant sentence in the Technology for Access and Function section has been rewritten to provide that NIDRR will focus on assistive technology devices that enhance the physical, sensory, cognitive, and communication capabilities of individuals with disabilities.

*Comments:* One commenter asked why we do not express intent to engage manufacturers and clinicians who are responsible for delivering interventions to the target audiences through commercial market mechanisms.

*Discussion:* We believe this is inherent to the development process and will be conveyed through the proposed ''stages of development'' framework.

*Change:* None.

*12. Products and Industry*

*Comments:* One commenter expressed concern about the lack of mention of ''products'' and ''industry'' (along with ''policies'' and ''practices'') in the Plan's introduction.

*Discussion:* We agree that including the word ''products'' will make the statement more comprehensive and better represent NIDRR's intent. We do not believe that ''industry'' warrants inclusion as we did not intend to list the parties involved in the development of such policies, practices, and products.

*Change:* The final paragraph in the Introduction to the Plan was revised to read: ''NIDRR's portfolio of research and development activities will range from the identification of the needs and opportunities of individuals with disabilities to the widespread implementation of effective, evidence-based policies, practices, and products that respond to those needs and opportunities. NIDRR recognizes that the development of effective, evidence-based policies, practices, and products is as dependent on the exploration and description stage of research and development as it is on experimental and quasi-experimental trials and other well-designed tests of potentially effective interventions, programs, and products.''

*13. Primary Domains of Focus*

*Comments:* There were two comments suggesting that, by focusing on topical domains, NIDRR ''obscures the specificity of needs within each disability group'' and that RRTCs should focus on specific disability populations rather than on broad domains.

*Discussion:* We understand this concern, particularly among those stakeholders focused on certain specific conditions. Many RRTCs are focused on an intersection of broad disability category (e.g., psychiatric, cognitive/developmental, physical, or sensory impairments) and one of our primary domains (e.g., an RRTC on employment of persons with psychiatric disability). We understand that the commenters might not view a distinction such as physical disability as sufficiently precise to capture the ''specificity of needs'' of all persons who might have one of many different conditions or impairments causing physical disability. Funding limitations simply preclude NIDRR from paying specific attention to many impairments and conditions that might benefit from designated RRTCs. We have committed to expanding funding of field-initiated programs to allow applicants to make a case for the value of programs in one or more domains that would focus on the specific needs of subpopulations within broad categories such as physical disability. We feel that there is sufficient flexibility within our broad domains for applicants to address the needs of subpopulations with specific disabilities or to attend to specific subtopics within the broader domains. The peer review process will assess the value of these proposals. We are concerned that efforts to further specify populations and topics of interest would only reduce perceived opportunities for applicants to propose well-designed and innovative projects that address the wide variety of potential subtopics and subpopulations.

*Change:* None.

*Comments:* One commenter noted that we did not provide a rationale for the ordering of domains, specifically that employment was listed first, followed by community living and participation and then health and function. In the commenter's judgment, health and function should be listed first because it is relevant to all persons with disabilities, while the others pertain to a subset.

*Discussion:* We mean to convey no priority with regard to the ordering of NIDRR's three primary domains. We are also committed to the proposition that employment and community living and participation will someday, with the assistance of sound research, not pertain to just a subset of persons with disabilities.

*Change:* None.

*Comments:* One commenter noted that the Plan regards research on health and function as critical to well-being across the lifespan, but it does not define lifespan.

*Discussion:* We intended ''across the lifespan'' to mean for persons of all ages. We believe that lifespan issues may be studied cross-sectionally (health issues tend to be different for people of different ages and with different disabilities) and they may be studied longitudinally (an individual's health

issues change over time but may be affected by lifestyle and directed interventions). We would welcome well-designed research and development projects with either (or another) focus.

*Change:* None.

*Comments:* One commenter suggested that community living and participation as a domain does not sufficiently reflect the importance of social relationships.

*Discussion:* We are committed to people with disabilities being both in the community and part of the community. We welcome applications that design and evaluate interventions that go beyond physical integration to achieving social inclusion and interpersonal relationships.

*Change:* None.

*14. Centers of Excellence*

*Comments:* Two commenters asked for clarification of the expectations about the concept of ''Centers of Excellence.''

*Discussion:* ''Centers of National Excellence'' is a term that was added to the description of RRTCs by Congress in the last reauthorization of NIDRR. RRTCs, as Centers of Excellence, are expected to serve as ''national resource centers'' for the topics and populations they address. We agree with the commenter that introduction of the new term ''Centers of Excellence'' to describe RRTCs is unnecessarily confusing.

*Change:* In the RRTC criteria, we will continue to require that RRTCs serve as ''national resource centers'' and continue to expect excellence from them, but we will eliminate the designation of ''Centers of Excellence.''

*15. Types of Programs Within the NIDRR Portfolio*

*Comments:* Two commenters indicated that the information about the types of programs that are administered by NIDRR is not clear.

*Discussion:* NIDRR's programs are designated in its authorizing legislation located in sections 200 through 205 of the Rehabilitation Act, as amended. We manage these programs in a manner consistent with the authorizing statute, regulations established in 34 CFR parts 350 through 359, and annual appropriations bills.

*Change:* None.

[FR Doc. 2013–07879 Filed 4–3–13; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board Chairs

**AGENCY:** Department of Energy.

**ACTION:** Notice of Open Webinar.

**SUMMARY:** This notice announces a webinar of the Environmental Management Site-Specific Advisory Board (EM SSAB) Chairs. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this webinar be announced in the **Federal Register**.

**DATES:** Thursday, April 25, 2013 1:00 p.m.–5:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Catherine Alexander, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; Phone: (202) 586–7711.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

*Tentative Agenda Topics:*

- DOE Headquarters News and Views
- EM Program Update
- EM Budget Update
- Waste Disposition Strategies
- EM SSAB Cross-Cutting Issues

*Public Participation:* The webinar is open to the public. Members of the public who would like to join the proceedings should contact Elizabeth Schmitt, Public Participation Coordinator, by April 22, 2013 to register and obtain access information. Ms. Schmitt can be reached via email at *elizabeth.schmitt@em.doe.gov*, or phone at (202) 586–1135.

Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda during the webinar should contact Elizabeth Schmitt, at the address or telephone number listed above. Requests must be received by April 22, 2013. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes, or as the agenda allows, to present comments.

*Minutes:* Minutes will be available by writing or calling Elizabeth Schmitt at the address or phone number listed above. Minutes will also be available at the following Web site: *http://energy.gov/em/services/communication-engagement/em-site-specific-advisory-board-em-ssab/chairs-meetings.*

Issued at Washington, DC on March 29, 2013.

**LaTanya R. Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2013–07831 Filed 4–3–13; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Energy Efficiency and Renewable Energy

### State Energy Advisory Board; Meeting

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

**ACTION:** Notice of Open Meeting.

**SUMMARY:** This notice announces a Board meeting of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:**

June 25, 2013; 9:00 a.m.–5:00 p.m.

June 26, 2013; 9:00 a.m.–5:00 p.m.

**ADDRESSES:** Double Tree by Hilton Hotel Washington, DC—Crystal City (in the Jefferson Meeting Room), 300 Army Navy Drive, Arlington, Virginia 22202.

**FOR FURTHER INFORMATION CONTACT:** Gil Sperling, STEAB Designated Federal Officer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Ave SW., Washington, DC 20585.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. No. 101–440).

*Tentative Agenda:* Receive in person updates and reviews of accomplishment of STEAB's Subcommittee and Taskforces, meet with key members of DOE's Office of Energy Efficiency and Renewable Energy (EERE) to discuss current initiatives and programs, participate in round-table discussions with EERE program directors, explore energy innovative financing options, discuss strategic planning opportunities, and update to the Board on routine business matters and other topics of interest.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gil Sperling at the address listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provision will be made to include

requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

*Minutes:* The minutes of the meeting will be available for public review and copying within 90 days on the STEAB Web site at: *www.steab.org.*

Issued at Washington, DC, on March 29, 2013.

**LaTanya R. Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2013–07832 Filed 4–3–13; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following joint stakeholder meeting related to the transmission planning activities of PJM Interconnection, L.L.C. (PJM), Independent System Operator New England, Inc. (ISO–NE), and New York Independent System Operator, Inc. (NYISO):

**Inter-Regional Planning Stakeholder Advisory Committee—New York/New England**

April 3, 2013, 9:00 a.m.–12:00 p.m., Local Time

The above-referenced meeting will be held over conference call.

The above-referenced meeting is open to stakeholders.

Further information may be found at *www.pjm.com/committees-and-groups/stakeholder-meetings/stakeholder-groups/ipsac-ny-ne.aspx.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. ER08–1281, *New York Independent System Operator, Inc.*
Docket No. EL05–121, *PJM Interconnection, L.L.C.*
Docket No. EL10–52, *Central Transmission, LLC* v. *PJM Interconnection, L.L.C.*
Docket No. ER10–253 and EL10–14, *Primary Power, L.L.C.*
Docket No. EL12–69, *Primary Power LLC* v. *PJM Interconnection, L.L.C.*
Docket No. ER11–1844, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–1178, *PJM Interconnection, L.L.C.*
Docket No. ER13–90, *Public Service Electric and Gas Company and PJM Interconnection, L.L.C.*
Docket No. ER13–102–000, *New York Independent System Operator, Inc.*
Docket No. ER13–193–000, *ISO New England Inc.*
Docket No. ER13–195, *Indicated PJM Transmission Owners*
Docket No. ER13–196–000, *ISO New England Inc.*
Docket No. ER13–198, *PJM Interconnection, L.L.C*
Docket No. ER13–397, *PJM Interconnection, L.L.C.*
Docket No. ER13–673, *PJM Interconnection, L.L.C*
Docket No. ER13–703, *PJM Interconnection, L.L.C.*
Docket No. ER13–887, *PJM Interconnection, L.L.C.*
Docket No. ER13–1052, *PJM Interconnection, L.L.C. and the Midwest Independent Transmission System Operator, Inc.*
Docket No. ER13–1054, *PJM Interconnection, L.L.C. and the Midwest Independent Transmission System Operator, Inc.*

For more information, contact Jonathan Fernandez, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6604 or *jonathan.fernandez@ferc.gov.*

Dated: March 28, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–07793 Filed 4–3–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[ Docket Nos. CP07–52–000; CP07–53–000; CP07–53–001]**

## Downeast LNG, Inc., Downeast Pipeline, LLC.; Notice of Availability of the Supplemental Draft Environmental Impact Statement for the Proposed Downeast LNG Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a Supplemental Draft Environmental Impact Statement (EIS) for the Downeast LNG Project, proposed by Downeast LNG, Inc. and Downeast Pipeline, LLC (hereafter collectively referred to as Downeast) in the above-referenced dockets. Downeast requests authorization to construct and operate a new liquefied natural gas (LNG) import terminal, natural gas pipeline, and associated facilities in Washington County, Maine. The Downeast LNG Project would provide about 500 million cubic feet per day of imported natural gas to the New England region.

The Commission previously issued a draft EIS for this project in May 2009. Since then the U.S. Department of Transportation (DOT) has issued clarifications on its Title 49 of the Code of Federal Regulations (CFR), Part 193, which are relevant to the proposed Downeast LNG Project. In October 2011, DOT issued final decisions approving specific alternative models for use in complying with these federal safety standards. Downeast filed information with the FERC as required by the latest DOT interpretations in October and November 2012. In 2010, the U.S. Coast Guard (Coast Guard) revised its regulations in Title 33, CFR, Part 127 on the process used to examine the suitability of the waterway for LNG carrier transits. In 2011, the Coast Guard also updated Navigation and Vessel Inspection Circular 01–2011, ''Guidance Related to Waterfront LNG Facilities.'' In 2012, the U.S. Department of Energy (DOE) released the report ''Liquefied Natural Gas Safety Research Report to Congress'' detailing the results of research conducted by Sandia National Laboratories on intentional breaches of LNG carrier cargo tanks and the resulting LNG spills on water.

Based on the new information from the DOT, DOE, Coast Guard, and Downeast, FERC staff revised the reliability and safety analysis of the LNG terminal and carrier transit that was presented in the May 2009 draft EIS and prepared the Supplemental draft EIS. This document presents FERC staff's: technical review of the proposed facility's preliminary design; siting analysis, prepared with the cooperation of the DOT; and conclusions on the waterway suitability based on input from the Coast Guard. The DOT participated as a cooperating agency in the preparation of the Supplemental draft EIS.

We [1] mailed copies of the Supplemental draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. Paper copy versions of the Supplement to the draft EIS were mailed to those specifically requesting them; all others

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

received a CD version. In addition, the Supplemental draft EIS is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the Supplemental draft EIS may do so. If you previously filed comments on the 2009 draft EIS, it is not necessary to re-submit them. All the comments on the 2009 draft EIS, along with any comments on the Supplemental draft EIS, will be addressed in the final EIS. To ensure consideration of your comments on the Supplemental draft EIS, it is important that the Commission receive your comments before May 20, 2013.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (CP07–52–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[2] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

**Questions?**

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (i.e., CP07–52). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnline_Support@ferc.gov* or toll free at (866) 208–3676; for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm*.

Dated: March 28, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–07795 Filed 4–3–13; 8:45 am]

**BILLING CODE 6717–01–P**

[2] See the previous discussion on the methods for filing comments. If you have previously filed a motion to intervene in the proceeding, it is not necessary to re-submit an additional request.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. EL13–55–000; EL13–56–000]**

### American Municipal Power, Inc.; Michigan Public Power Agency; Notice of Filing

Take notice that on March 29, 2013, American Municipal Power, Inc. and Michigan Public Power Agency filed its proposed revenue requirement for reactive supply and voltage control from generation or other sources service (Fremont Energy Center), pursuant to Schedule 2 of the PJM Interconnection, L.L.C. Open Access Transmission Tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on April 19, 2013.

Dated: March 29, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–07820 Filed 4–3–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AC13–65–000]**

### PPL Electric Utilities Corporation; Notice of Filing

Take notice that on March 26, 2013, PPL Electric Utilities Corporation (PPL) submitted to the Federal Energy Regulatory Commission (Commission) a request for waiver of the requirement

that PPL account for the activities of its wholly owned subsidiary, PPL Receivables Corporation (PPL Receivables), using the equity method of accounting. PPL requests authorization to continue to report PPL Receivables on a consolidated basis in the FERC Form Nos. 1 and 3–Q.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on April 18, 2013.

Dated: March 28, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–07794 Filed 4–3–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PR13–41–001]**

### Enogex LLC; Notice of Filing

Take notice that on March 28, 2013, Enogex LLC filed to revise its Statement of Operating Conditions that was originally submitted with Enogex's March 1, 2013 annual revised fuel percentages filing in Docket No. PR13–41–000 to correct metadata issues, as more fully described in the filing

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on Friday, April 5, 2013.

Dated: March 29, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–07824 Filed 4–3–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PR13–44–000]**

### Jefferson Island Storage & Hub, L.L.C.; Notice of Filing

Take notice that on March 28, 2013, Jefferson Island Storage & Hub, L.L.C. filed to revise its Statement of Operating Conditions to among others, update, clarify and/or add certain provisions regarding the request for service requirements, creditworthiness requirements, hub services, quality, title transfers, and billing and payments, as more fully detailed in the filing.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on Wednesday, April 10, 2013.

Dated: March 29, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–07825 Filed 4–3–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM98–1–000]**

### Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped chronologically, in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

| Docket No. | Filed date | Presenter or Requester |
|---|---|---|
| **Prohibited** | | |
| 1. ER12–1302–000 | 03–18–13 | David Kates. |
| ER12–1305–000 | ..... | |
| ER12–1312–000 | ..... | |
| **Exempt** | | |
| 1. IN12–10–000 | 03–19–13 | Hon. Mike Michaud |
| 2. CP13–83–000 | 03–21–13 | Hon. Charles E. Schumer |
| 3. P–12690–000 | 03–21–13 | US Congress [1] |

[1] Hons. Ed Whitfield and Greg Walden.

Dated: March 29, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–07819 Filed 4–3–13; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP13–110–000]**

### Columbia Gas Transmission, LLC; Notice of Request under Blanket Authorization

Take notice that on Columbia Gas Transmission, LLC (Columbia), 5151 San Felipe, Suite 2500, Houston, Texas 77056, filed a prior notice request pursuant to sections 157.205 and 157.214 of the Commission's regulations under the Natural Gas Act (NGA) for authorization to increase the storage capacity at its Lanham, Terra Alta, Terra Alta South, and Coco C Storage Fields in West Virginia. Columbia states that, as a result of storage field tests, the overall capacity of these fields can be increased. Columbia does not propose to expand the boundaries, change the maximum pressure, or perform any construction to increase the capacity of these four storage fields, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding the application should be directed to Fredric J. George, Senior Counsel, Columbia Gas Transmission, LLC, PO Box 1273, Charleston, West Virginia 25325–1273, by telephone at (304) 357–2359, or by facsimile at (304) 357–3206.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

Dated: March 29, 2013.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2013–07796 Filed 4–3–13; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9798–1]**

### Final Issuance of General NPDES Permits (GP) for Small Suction Dredges in Idaho

**AGENCY:** Environmental Protection Agency, Region 10.

**ACTION:** Final notice of reissuance of a general permit.

**SUMMARY:** EPA is issuing a National Pollutant Discharge Elimination System (NPDES) General Permit (IDG–37–0000) to placer mining operations in Idaho for small suction dredges (intake nozzle size of 5 inches in diameter or a diametric equivalent or less and with equipment rated at 15 horsepower or less). On January 22, 2010, EPA proposed the GP and there was a 45 day comment period. Public Informational Workshops were held in Grangeville, Boise, Salmon and Idaho Falls the week of February 22. During the comment period, EPA received many comments and decided to make changes to the draft based on the comments received. On May 1, 2012, EPA re-noticed the GP with a new Fact Sheet requesting new comments. The comment period ended on June 1, 2012.

**DATES:** The issuance date of the GP is April 4, 2013, the date of publication of this notice. The GP will be effective May 6, 2013. Facilities may start submitting Notices of Intent (NOI) to receive coverage under the GP.

**ADDRESSES:** Copies of the GP and Response to Comments are available upon request. Written requests may be submitted to EPA, Region 10, 1200 Sixth Avenue, Suite 900, OWW–130, Seattle, WA 98101. Electronic requests may be mailed to: *washington.audrey@epa.gov* or *godsey.cindi@epa.gov*.

**FOR FURTHER INFORMATION CONTACT:** The GP, Fact Sheet and Response to Comments along with detailed maps may be found on the Region 10 Web site at *http://yosemite.epa.gov/r10/water.nsf/npdes+permits/idsuction-gp.*

Requests by telephone may be made to Audrey Washington at (206) 553–0523 or to Cindi Godsey at (907) 271–6561.

**SUPPLEMENTARY INFORMATION:**

EPA requested final certification under the Clean Water Act § 401 from the State of Idaho and Tribal governments. EPA received certification from the Idaho Department of Environmental Quality in a letter dated March 8, 2013 that the subject discharges comply with the applicable provisions of Sections 208(e), 301, 302, 306 and 307 of the Clean Water Act.

EPA received letters from the Coeur d'Alene Tribe (May 23, 2012) and the Shoshone Bannock Tribe (March 20, 2013) denying certification. As a result of Tribal government-to-government consultation and coordination, the GP does not cover any of the five Reservations with land within the boundaries of the State of Idaho.

EPA prepared a Biological Evaluation for consultation with the US Fish and Wildlife Service and the National Marine Fisheries Service. EPA received concurrence from both Services on a Not Likely to Adversely Affect determination.

*Executive Order 12866:* The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

*Regulatory Flexibility Act:* Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* a Federal agency must prepare an initial regulatory flexibility analysis ''for any proposed rule'' for which the agency ''is required by section 553 of the Administrative Procedure Act (APA), or any other law, to publish general notice of proposed rulemaking.'' The RFA exempts from this requirement any rule that the issuing agency certifies ''will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' EPA has concluded that NPDES general permits are permits, not rulemakings, under the APA and thus not subject to APA rulemaking requirements or the RFA. Notwithstanding that general permits are not subject to the RFA, EPA has determined that these general permits, as issued, will not have a significant economic impact on a substantial number of small entities.

Dated: March 28, 2013.

**Daniel D. Opalski,**

*Director, Office of Water & Watersheds, Region 10.*

[FR Doc. 2013–07752 Filed 4–3–13; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9799–1]**

### Draft Small Municipal Separate Storm Sewer System NPDES General Permit—New Hampshire; Extension of Comment Period

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

**ACTION:** Notice; extension of comment period.

**SUMMARY:** EPA issued a Notice of Availability of the draft Small Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) general permit for New Hampshire, published in the **Federal Register** on February 12, 2013. This notice extends the comment period for 30 days, from April 15, 2013 to May 15, 2013.

**DATES:** Comments must be received on or before May 15, 2013.

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

- *Email: Tedder.Newton@epa.gov.*
- *Mail:* Newton Tedder, US EPA—Region 1, 5 Post Office Square—Suite 100, Mail Code—OEP06–4, Boston, MA 02109–3912.

No facsimiles (faxes) will be accepted.

**FOR FURTHER INFORMATION CONTACT:** Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday excluding legal holidays from: Newton Tedder, Office of Ecosystem Protection, Environmental Protection Agency, 5 Post Office Square—Suite 100, Boston, MA 02109–3912; telephone: 617–918–1038; email: *Tedder.Newton@epa.gov*.

**SUPPLEMENTARY INFORMATION:** This notice extends the public comment period established in the **Federal Register** issue of February 12, 2013 (78 FR 9908) (FRL–13–006 and 9779–7). In that notice, EPA announced the availability for public comment of its draft small MS4 NPDES general permit for New Hampshire. This extension is in response to requests received from several commenters to extend the comment period. EPA is hereby extending the comment period, which was set to end on April 15, 2013, to May 15, 2013.

Dated: March 27, 2013.

**H. Curtis Spalding,**

*Regional Administrator, Region 1.*

[FR Doc. 2013–07870 Filed 4–3–13; 8:45 am]

**BILLING CODE 6560–50–P**

## EXPORT-IMPORT BANK

**[Public Notice: 2013–0025]**

### Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP087872XX

**AGENCY:** Export-Import Bank of the United States.

**ACTION:** Notice.

**SUMMARY:** This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction.

*Reference:* AP087872XX

*Purpose and Use:*

Brief description of the purpose of the transaction:

To support the export of U.S. manufactured commercial aircraft to Ethiopia.

Brief non-proprietary description of the anticipated use of the items being exported:

To be used for long-haul passenger air service between Ethiopia and destinations in Asia, the Middle East, Europe, Africa, Latin America and North America.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported are not expected to be used to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

*Parties:*

Principal Supplier: The Boeing Company.

Obligor: Ethiopian Airlines.

Guarantor(s): N/A.

*Description of Items Being Exported:* Boeing 777 aircraft.

*Information On Decision:* Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/*

*Confidential Information:* Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

**DATES:** Comments must be received on or before April 29, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

**ADDRESSES:** Comments may be submitted through Regulations.gov at *www.regulations.gov.* To submit a comment, enter EIB–2013–0025 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2013–0025 on any attached document.

**Sharon A. Whitt,**

*Records Clearance Officer.*

[FR Doc. 2013–07826 Filed 4–3–13; 8:45 am]

**BILLING CODE 6690–01–P**

## EXPORT-IMPORT BANK

**[Public Notice 2013–0026]**

### Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP087223XX and AP087223XA

**AGENCY:** Export-Import Bank of the United States.

**ACTION:** Notice.

**SUMMARY:** This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter).

Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction.

*Reference:* AP087223XX and AP087223XA.

*Purpose and Use:*

Brief description of the purpose of the transaction:

To support the export of U.S. manufactured commercial aircraft to Norway.

Brief non-proprietary description of the anticipated use of the items being exported:

To be used for short-haul and medium-haul passenger air service between Norway and destinations in Europe, the Middle East and North Africa.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported are not expected to be used to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

*Parties:*

Principal Supplier: The Boeing Company.

Obligor: Norwegian Air Shuttle A.S.A.

Guarantor(s): N/A.

*Description of Items Being Exported:* Boeing 737 aircraft

*Information On Decision:* Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/*

*Confidential Information:* Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

**DATES:** Comments must be received on or before April 29, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

**ADDRESSES:** Comments may be submitted through Regulations.gov at *www.regulations.gov.* To submit a comment, enter EIB–2013–0026 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2013–0026 on any attached document.

**Sharon A. Whitt,**

*Records Clearance Officer.*

[FR Doc. 2013–07829 Filed 4–3–13; 8:45 am]

**BILLING CODE 6690–01–P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**AGENCY:** Federal Election Commission.

**DATE AND TIME:** Tuesday, April 9, 2013 at 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

**PERSON TO CONTACT FOR INFORMATION:** Judith Ingram, Press Officer, Telephone: (202) 694–1220.

**Shelley E. Garr,**

*Deputy Secretary of the Commission.*

[FR Doc. 2013–07973 Filed 4–2–13; 4:15 pm]

**BILLING CODE 6715–01–P**

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

**[Docket No. AS13–07]**

### Appraisal Subcommittee; Notice of Meeting

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

**ACTION:** Notice of Meeting.

*Description:* In accordance with Section 1104 (b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

*Location:* OCC—400 7th Street SW., Washington, DC 20024.

*Date:* April 10, 2013.

*Time:* 10:30 a.m.

*Status:* Open.

**Matters To Be Considered**

*Summary Agenda*

March 13, 2013 minutes—Open Session.

(No substantive discussion of the above items is anticipated. These matters will be resolved with a single vote unless a member of the ASC requests that an item be moved to the discussion agenda.)

*Discussion Agenda*

California Compliance Review
Illinois Compliance Review
Revised ASC Policy Statements

**How To Attend and Observe an ASC Meeting**

Email your name, organization and contact information to *meetings@asc.gov.* You may also send a written request via U.S. Mail, fax or commercial carrier to the Executive Director of the ASC, 1401 H Street NW., Ste. 760, Washington, DC 20005. The fax number is 202–289–4101. Your request must be received no later than 4:30 p.m., ET, on the Monday prior to the meeting. Attendees must have a valid government-issued photo ID and must agree to submit to reasonable security measures. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC meetings.

Dated: March 29, 2013.

**James R. Park,**

*Executive Director.*

[FR Doc. 2013–07754 Filed 4–3–13; 8:45 am]

**BILLING CODE 6700–01–P**

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

**[Docket No. AS13–08]**

### Appraisal Subcommittee; Notice of Meeting

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

**ACTION:** Notice of meeting.

*Description:* In accordance with Section 1104 (b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in closed session:

*Location:* OCC—400 7th Street SW., Washington, DC 20024.

*Date:* April 10, 2013.

*Time:* Immediately following the ASC open session.

*Status:* Closed.

**Matters To Be Considered**

March 13, 2013 minutes—Closed Session.

Preliminary discussion of State Compliance Reviews.

Dated: March 29, 2013.

**James R. Park,**

*Executive Director.*

[FR Doc. 2013–07753 Filed 4–3–13; 8:45 am]

**BILLING CODE 6700–01–P**

## GOVERNMENT ACCOUNTABILITY OFFICE

### Public Meeting of the Advisory Council on Government Auditing Standards

**AGENCY:** Government Accountability Office.

**ACTION:** Notice of Meeting (teleconference).

**SUMMARY:** This notice informs the public that the Advisory Council on Government Auditing Standards will hold a public meeting by teleconference on April 12, 2013. The public is invited to listen to the Council's discussion. Members of the public will be provided an opportunity to address the Council with a brief (five-minute) presentation in the afternoon. The Advisory Council's primary purpose is to provide input and recommendations to the Comptroller General for revisions to the Government Auditing Standards, to provide for timely resolution of auditing issues, and to maintain the relevancy of the standards.

**DATES:** The teleconference will take place on April 12, 2013, from 1 p.m. to 3 p.m. For how to participate, please see **SUPPLEMENTARY INFORMATION**, below.

**SUPPLEMENTARY INFORMATION:** This meeting will provide the Council members with an update on GAO activities since the issuance of the 2011 Revision of Government Auditing Standards and to obtain the Advisory Council's advice as GAO determines the scope and content of possible interpretative guidance on several subjects relating to the 2011 Revision. To participate, call toll free 1–866–763–4533. When prompted, enter the following passcode: 48755534.

Any interested person who plans to attend the meeting as an observer should contact Cecil Davis, Council Administrator, 202–512–9362. For further information or to obtain a copy of the Council meeting agenda, please contact Ms. Davis. [Pub. L. 67–13, 42 Stat. 20 (June 10, 1921)]

Dated: March 28, 2013.

**James R. Dalkin,**

*Director, Financial Management and Assurance.*

[FR Doc. 2013–07710 Filed 4–3–13; 8:45 am]

**BILLING CODE 1610–02–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Advisory Council on Alzheimer's Research, Care, and Services; Meeting

**AGENCY:** Assistant Secretary for Planning and Evaluation, HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces the public meeting of the Advisory Council on Alzheimer's Research, Care, and Services (Advisory Council). The Advisory Council on Alzheimer's Research, Care, and Services provides advice on how to prevent or reduce the burden of Alzheimer's disease and

related dementias on people with the disease and their caregivers. During the April meeting, the Advisory Council will hear a presentation from an international partner on their efforts to address Alzheimer's disease. There will be a presentation on the priorities set during the May 2012 research summit and the milestones for achieving the 2025 goal. The federal partners will provide an update on progress implementing the National Plan to Address Alzheimer's Disease and discuss highlights of the 2013 Update to the National Plan.

**DATES:** The meeting will be held on April 29, 2013 from 9:00 am to 5:00 pm EDT.

**ADDRESSES:** The meeting will be held at the U.S. Department of Health and Human Services, 200 Independence Avenue SW., Room 800, Washington, DC 20201.

*Comments:* Time is allocated on the agenda to hear public comments. In lieu of oral comments, formal written comments may be submitted for the record to Helen Lamont, Ph.D., OASPE, 200 Independence Avenue SW., Room 424E, Washington, DC 20201. Comments may also be sent to *napa@hhs.gov.* Those submitting written comments should identify themselves and any relevant organizational affiliations.

**FOR FURTHER INFORMATION CONTACT:** Helen Lamont, Ph.D. (202) 690–7996, *helen.lamont@hhs.gov.* **Note:** Seating may be limited. Those wishing to attend the meeting must send an email to *napa@hhs.gov* and put ''April 29 meeting attendance'' in the Subject line by Friday, April 19, 2013, so that their names may be put on a list of expected attendees and forwarded to the security officers at the Department of Health and Human Services. Any interested member of the public who is a non-U.S. citizen should include this information at the time of registration to ensure that the appropriate security procedure to gain entry to the building is carried out. Although the meeting is open to the public, procedures governing security and the entrance to Federal buildings may change without notice. If you wish to make a public comment, you must note that within your email.

**SUPPLEMENTARY INFORMATION:** Notice of these meetings is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). Topics of the Meeting: The Advisory Council will hear a presentation from an international partner on their efforts to address Alzheimer's disease and will discuss ways to collaboration internationally. There will be a presentation on the priorities set during the May 2012 research summit and the milestones for achieving the 2025 goal. The federal partners will provide an update on progress implementing the National Plan to Address Alzheimer's Disease and discuss highlights of the 2013 Update to the National Plan.

*Procedure and Agenda:* This meeting is open to the public.

**Authority:** 42 U.S.C. 11225; Section 2(e)(3) of the National Alzheimer's Project Act. The panel is governed by provisions of Public Law 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: March 22, 2013.

**Donald Moulds,**

*Acting Assistant Secretary for Planning and Evaluation.*

[FR Doc. 2013–07428 Filed 4–3–13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review.

The meeting announced below concerns Research Grants for Preventing Violence and Violence Related Injury, Funding Opportunity Announcement (FOA) CE13–002, Initial Review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned SEP:

*Time and Date:*

9:00 a.m.–6:00 p.m., May 15–16, 2013 (Closed).

*Place:* Georgian Terrace, 659 Peachtree Street NE., Atlanta, Georgia 30308.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

*Matters To Be Discussed:* The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Research Grants for Preventing Violence and Violence Related Injury, FOA CE13–002''.

*Contact Person for More Information:* Jane Suen, Dr.P.H., M.S., M.P.H., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F63, Atlanta, Georgia 30341, Telephone: (770) 488–4281.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Dana Redford,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2013–07827 Filed 4–3–13; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Conducting Public Health Research in Kenya, FOA GH10–003; Conducting Public Health Research in Thailand by the Ministry of Public Health (MOPH), FOA GH11–002; Conducting Public Health Research in China, FOA GH12–005; Strengthening Disease Prevention Research Capacity for Public Health Action in Guatemala and the Central American Region, FOA GH13–001; Strengthening the Monitoring and Evaluation of Programs for the Elimination and Control of Neglected Tropical Diseases in Africa, FOA GH13–002; Detecting Etiologies of Emerging Infectious Diseases at the Regional Level—Western Ghat Region of Karnataka and Kerala, India, FOA GH13–003; Strengthening Surveillance for Japanese Encephalitis in India, FOA GH13–004; Monitoring and Evaluation of Malaria Control and Elimination Activities, FOA GH13–005; and Research and Technical Assistance for Public Health Interventions in Haiti to Support Post-earthquake Reconstruction, Cholera and HIV/AIDS, FOA GH13–006, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

*Time and Date:* 11:00 a.m.–5:00 p.m., May 6, 2013 (Closed)

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with

provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

*Matters To Be Discussed:* The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Conducting Public Health Research in Kenya, FOA GH10–003; Conducting Public Health Research in Thailand by the Ministry of Public Health (MOPH), FOA GH11–002; Conducting Public Health Research in China, FOA GH12–005; Strengthening Disease Prevention Research Capacity for Public Health Action in Guatemala and the Central American Region, FOA GH13–001; Strengthening the Monitoring and Evaluation of Programs for the Elimination and Control of Neglected Tropical Diseases in Africa, FOA GH13–002; Detecting Etiologies of Emerging Infectious Diseases at the Regional Level—Western Ghat Region of Karnataka and Kerala, India, FOA GH13–003; Strengthening Surveillance for Japanese Encephalitis in India, FOA GH13–004; Monitoring and Evaluation of Malaria Control and Elimination Activities, FOA GH13–005; and Research and Technical Assistance for Public Health Interventions in Haiti to Support Post-earthquake Reconstruction, Cholera and HIV/AIDS, FOA GH13–006, initial review.''

*Contact Person for More Information:* Lata Kumar, Scientific Review Officer, CGH Science Office, Center for Global Health, CDC, 1600 Clifton Road, NE., Mailstop D–69, Atlanta, Georgia 30033, Telephone (404) 639–7618.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Dana Redford,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2013–07828 Filed 4–3–13; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10457, CMS–10428 and CMS–10458]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* MAC Satisfaction Indicator (MSI) Participant Information Registration Form; *Use:* Section 1874(A)(b)(3)(B) of the Social Security Act requires that provider satisfaction be a performance standard for the work of Medicare Administrative Contractors (MACs). In order to gain provider feedback regarding their satisfaction with their MACs, we need to be able to contact the providers. Therefore, we need accurate contact information to: select from for a random sample, get the survey to the appropriate respondent, and increase response rates. The survey will not be added to this package; instead, it will be processed under a different control number via an Interagency Agreement. *Form Number:* CMS–10457 (OCN: 0938-New). *Frequency:* Yearly; *Affected Public:* Private sector (business or other for-profit and not-for-profit institutions). *Number of Respondents:* 150,000. *Total Annual Responses:* 150,000. *Total Annual Hours:* 2,500. (For policy questions regarding this collection contact Teresa Mundell at 410–786–9176. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title:* PCIP Authorization to Share Personal Health Information; *Use:* On March 23, 2010, the President signed into law H.R. 3590, the Patient Protection and Affordable Care Act (Affordable Care Act), Public Law 111–148. Section 1101 of the law establishes a ''temporary high risk health insurance pool program'' (which has been named the Pre-Existing Condition Insurance Plan, or PCIP) to provide health insurance coverage to currently uninsured individuals with pre-existing conditions. The law authorizes HHS to carry out the program directly or through contracts with states or private, non-profit entities.

Reapproval of this package is being requested as a result of CMS, in its administration of the PCIP program, serving as a covered entity under the Health Insurance Portability and Accountability Act (HIPAA). Without a valid authorization, the PCIP program is unable to disclose information, with respect to an applicant or enrollee, about the status of an application, enrollment, premium billing or claim, to individuals of the applicant's or enrollee's choosing. The HIPAA Authorization Form has been modeled after CMS' Medicare HIPAA Authorization Form (OMB control number 0938–0930) and is used by applicants or enrollees to designate someone else to communicate with PCIP about their protected health information (PHI).

Unless permitted or required by law, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule (§ 164.508) prohibits CMS' PCIP program (a HIPAA covered entity) from disclosing an individual's protected health information without a valid authorization. In order to be valid, an authorization must include specified core elements and statements.

CMS will make available to PCIP applicants and enrollees a standard, valid authorization to enable beneficiaries to communicate with PCIP about their personal health information. This is a critical tool because the population the PCIP program serves is comprised of individuals with pre-existing conditions who may be incapacitated and need an advocate to help them apply for or receive benefits from the program. This standard authorization will simplify the process of requesting information disclosure for beneficiaries and minimize the response time for the PCIP program.

Each individual will be asked to complete the form which will include providing the individual's name, PCIP account number (if known), date of birth, what personal health information they agree to share, the length of time the individual agrees their personal health information can be shared, the names and addresses of the third party the individual wants PCIP to share their personal health information with, and an attestation that the individual is giving PCIP permission to share their personal health information with the third party listed in the form. This completed form will be submitted to the PCIP benefits administrator, GEHA, which contracts with CMS.

We estimate that it will take approximately 15 minutes per applicant to complete and submit a HIPAA Authorization Form to the PCIP program.

The federally-run PCIP program operates in 23 states plus the District of Columbia and receives an average of 35,000 enrollment applications per year. To estimate the number of PCIP applicants and enrollees who may complete an authorization, we looked at the percentage of individuals who request an authorization in Medicare as a baseline. Medicare estimates 3% of its population will submit an authorization per year. However, since the PCIP program caters to an exclusive population comprised of individuals who have one or more pre-existing conditions, we believe it is likely we could receive double the percentage estimated by Medicare. Accordingly, PCIP estimates 6% (or 2,100) of its applicants and enrollees may submit an authorization per year.

Based on the above, it is estimated that up to 2,100 applicants and enrollees may submit an authorization annually. There is no cost to PCIP beneficiaries to request, complete, submit, or have the authorization form processed by PCIP. It should take approximately 15 minutes for a beneficiary to complete the authorization form. 15 minutes multiplied by 2,100 beneficiaries equals 525 hours. *Form Number:* CMS–10428 (OCN#: 0938–1161); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 2,100; *Total Annual Responses:* 2,100; *Total Annual Hours:* 525. (For policy questions regarding this collection contact Geoffrey Cabin at 410–786–1744. For all other issues call 410–786–1326.)

1. *Type of Information Collection Request:* New collection (request for a new OMB control number). *Title of Information Collection:* Consumer Research Supporting Outreach for Health Insurance Marketplace. *Use:* The Centers for Medicare and Medicaid Services is requesting clearance for two surveys to aid in understanding levels of awareness and customer service needs associated with the Health Insurance Marketplace established by the Affordable Care Act. Because the Marketplace will provide coverage to the almost 50 million uninsured in the United States through individual and small employer programs, we have developed one survey to be administered to individual consumers most likely to use the Marketplace and another to be administered to small employers most likely to use the Small Business Health Options portion of the Marketplace. These brief surveys, designed to be conducted quarterly, will give CMS the ability to obtain a rough indication of the types of outreach and marketing that will be needed to enhance awareness of and knowledge about the Marketplace for individual and business customers. CMS' biggest customer service need is likely to be providing sufficient education so consumers: (a) Can take advantage of the Marketplace and (b) know how to access CMS' customer service channels. The surveys will provide information on media use, concept awareness, and conceptual or content areas where education for customer service delivery can be improved. Awareness and knowledge gaps are likely to change over time based not only on effectiveness of CMS' marketing efforts, but also of those of state, local, private sector, and nongovernmental organizations. *Form Number:* CMS–10458 (OCN: 0938–New). *Frequency:* Quarterly. *Affected Public:* Individuals or households, private sector (business or other for-profits). *Number of Respondents:* 40,200. *Total Annual Responses:* 40,200. *Total Annual Hours:* 2,480. (For policy questions regarding this collection contact Julie Franklin at 410–786–8126. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on May 6, 2013.

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, Email: *OIRA_submission@omb.eop.gov.*

Dated: March 29, 2013.

**Martique Jones,**

*Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2013–07799 Filed 4–3–13; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10467, CMS–10330, and CMS–10325]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Evaluation of the Graduate Nurse Education Demonstration Program; *Use:* The Graduate Nurse Education (GNE) Demonstration is mandated under Section 5509 of the Affordable Care Act (ACA) under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). According to Section 5509 of the ACA, the five selected demonstration sites receive ''payment for the hospital's reasonable costs for the provision of qualified clinical training to advance practice registered nurses.'' Section 5509 of the ACA also states that an

evaluation of the graduate nurse education demonstration must be completed no later than October 17, 2017. This evaluation includes analysis of the following: (1) Growth in the number of advanced practice registered nurses (APRNs) with respect to a specific base year as a result of the demonstration; (2) growth for each of the following specialties: clinical nurse specialist, nurse practitioner, certified nurse anesthetist, certified nurse-midwife; and (3) costs to the Medicare program as result of the demonstration.

Quantitative and qualitative data from primary and secondary sources will be gathered and analyzed for this evaluation. The primary data will be collected through site visits, key stakeholder interviews, small discussion groups and focus groups, telephone interviews, electronic templates for quantitative data submission, and quarterly demonstration-site reports. The secondary data will come from mandatory hospital cost reports provided to the Centers for Medicare and Medicaid Services, and several other existing secondary data sources, such as the American Association of Colleges of Nursing (AACN). *Form Number:* CMS–10467 (OCN: 0938–NEW); *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Governments, Business and other for-profit and not-for-profit institutions; *Number of Respondents:* 330; *Total Annual Responses:* 330; *Total Annual Hours:* 3,370. (For policy questions regarding this collection, contact Pauline Karikari-Martin at 410–786–1040. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Reinstatement with change of a previously approved information collection; *Title of Information Collection:* Enrollment Opportunity Notice Relating to Lifetime Limits; Required Notice of Rescission of Coverage; and Disclosure Requirements for Patient Protection under the Affordable Care Act; *Use:* Under section 2711 of the Public Health Service Act (PHS Act) amended by the Affordable Care Act, the enrollment opportunity notice was to be used by health plans to notify certain individuals of their right to re-enroll in their plan. The affected individuals were those whose coverage ended due to reaching a lifetime limit on the dollar value of all benefits for any individual. This notice was a one-time requirement and is being discontinued. Under section 2712 of the PHS Act as amended by the Affordable Care Act, the rescission notice will be used by health plans to provide advance notice to certain individuals that their coverage may be rescinded. The affected individuals are those who are at risk of rescission on their health insurance coverage. Under section 2719A of the PHS Act as amended by the Affordable Care Act, the patient protection notification will be used by health plans to inform certain individuals of their right to choose a primary care provider or pediatrician and to use obstetrical/gynecological services without prior authorization. *Form Number:* CMS–10330 (OCN: 0938–1094); *Frequency:* On Occasion; *Affected Public:* Private Sector; State, Local, or Tribal Governments; *Number of Respondents:* 8,382; *Number of Responses:* 1,583,371; *Total Annual Hours:* 2,267. (For policy questions regarding this collection, contact Usree Bandyopadhyay at 410–786–6650. For all other issues call (410) 786–1326.)

3. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection of information; *Title of Information Collection:* Disclosure and recordkeeping requirements for Grandfathered Health Plans under the Affordable care Act *Use:* Section 1251 of the Patient Protection and Affordable Care Act, Public Law 111–148, (the Affordable Care Act) provides that certain plans and health insurance coverage in existence as of March 23, 2010, known as grandfathered health plans, are not required to comply with certain statutory provisions in the Act. To maintain its status as a grandfathered health plan, the interim final regulations titled ''Interim Final Rules for Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act'' (75 FR 34538, June 17, 2010) require the plan to maintain records documenting the terms of the plan in effect on March 23, 2010, and any other documents that are necessary to verify, explain or clarify status as a grandfathered health plan. The plan must make such records available for examination upon request by participants, beneficiaries, individual policy subscribers, or a State or Federal agency official. The recordkeeping requirement will allow a participant, beneficiary, or federal or state official to inspect plan documents to verify that a plan or health insurance coverage is a grandfathered health plan. A grandfathered health plan must include a statement in any plan materials provided to participants or beneficiaries (in the individual market, primary subscriber) describing the benefits provided under the plan or health insurance coverage, and that the plan or coverage is intended to be grandfathered health plan. The disclosure requirement will provide participants and beneficiaries with important information about their grandfathered health plans, such as that grandfathered plans are not required to comply with certain consumer protection provisions contained in the Act. It also will provide important contact information for participants to find out which protections apply and which protections do not apply to a grandfathered health plan and what might cause a plan to change from grandfathered to non-grandfathered health plan status. An amendment to the interim final regulations (75 FR 70114, November 17, 2010) requires a grandfathered group health plan that is changing health insurance issuers to provide the succeeding health insurance issuer (and the succeeding health insurance issuer must require) documentation of plan terms (including benefits, cost sharing, employer contributions, and annual limits) under the prior health insurance coverage sufficient to make a determination whether the standards set forth in paragraph (g)(1) of the interim final regulations are exceeded. *Form Number:* CMS–10325 (OCN: 0938–1093); *Frequency:* Annually; *Affected Public:* State, Local, or Tribal governments and health insurance coverage issuers; *Number of Respondents:* 64,552; *Number of Responses:* 10,113,926; *Total Annual Hours:* 85. (For policy questions regarding this collection, contact Usree Bandyopadhyay at (410) 786–6650. For all other issues call (410) 786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by June 3, 2013:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ___, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 29, 2013.

**Martique Jones,**

*Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2013–07798 Filed 4–3–13; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifiers: CMS–10309, CMS–10475, CMS–R–5, CMS–R–234, and CMS–R–297]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection. *Title of Information Collection:* Grandfathering Provisions of the Medicare DMEPOS Competitive Bidding Program. *Use:* Section 1847(a)(4) of the Social Security Act (the Act) requires that (in the case of covered durable medical equipment (DME) items for which payment is made on a rental basis under section 1834(a) of the Act and in the case of oxygen for which payment is made under section 1834(a)(5) of the Act) the Secretary shall establish a grandfathering process by which covered items and supplies that were rented by suppliers before the implementation of a competitive bidding program may be continued.

We established the grandfathering process in the April 10, 2007 final rule for competitive bidding (72 FR 17992) for rented DME and oxygen and oxygen equipment when these items are included under the Medicare DMEPOS Competitive Bidding Program. This process only applies to suppliers that rented DME and oxygen and oxygen equipment to beneficiaries who maintain a permanent residence in a competitive bidding area (CBA) before the implementation of the competitive bidding program.

The competitive bidding program will require some beneficiaries to change their suppliers. In order to avoid a beneficiary being without medically necessary equipment we felt it necessary to establish this notification process.

The notification to the beneficiaries is a beneficiary protection that will keep them informed of whether or not they can continue to rent an item from their current supplier or go to a contract supplier. The notification will also provide information to the beneficiary as to how to find a contract supplier in their CBA. In the event that the beneficiary must go to a contract supplier, the notification will identify the procedure for the pick-up of their current equipment and delivery of new equipment.

*Form Number:* CMS–10309 (OCN 0938–1079). *Frequency:* Once. *Affected Public:* Private sector (business or other for-profits). *Number of Respondents:* 2,697 (or 8,091/3). *Total Annual Responses:* 536,667 (or 1,610,000/3). *Total Annual Hours:* 65 (or 196/3). (For policy questions regarding this collection contact Michael Keane at 410–786–4495. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* New collection (request for a new OMB control number). *Title of Information Collection:* Hospice Experience of Care Survey. *Use:* This survey supports the National Quality Strategy that was called for under the Affordable Care Act to create national aims and priorities to guide local, state, and national efforts to improve the quality of health care. This strategy has established six priorities that support a three-part aim focusing on better care, better health, and lower costs through improvement. Because the hospice survey focuses on experiences of care, implementation of the survey supports the following national priorities for improving care: engaging patients and families in care and promoting effective communication and coordination. In addition, upon national implementation and public reporting of hospice survey results, the survey will provide data on experiences with hospice care that enable consumers to make meaningful comparisons between hospices across the nation. *Form Number:* CMS–10475 (OCN 0938–New). *Frequency:* Once. *Affected Public:* Individuals and households. *Number of Respondents:* 730. *Total Annual Responses:* 730. *Total Annual Hours:* 185. (For policy questions regarding this collection contact Lori Teichman at 410–786–6684. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection. *Title of Information Collection:* Physician Certification/Recertification in Skilled Nursing Facilities (SNFs) Manual Instructions and Supporting Regulation in 42 CFR 424.20. *Use:* The Medicare program requires, as a condition for Medicare Part A payment for posthospital SNF services that a physician must certify and periodically recertify that a beneficiary requires an SNF level of care. The physician certification and recertification is intended to ensure that the beneficiary's need for services has been established and then reviewed and updated at appropriate intervals. The documentation is a condition for Medicare Part A payment for post-hospital SNF care. *Form Number:* CMS–R–5 (OCN 0938–0454). *Frequency:* Occasionally. *Affected Public:* Private sector (business or other for-profit and not-for-profit institutions). *Number of Respondents:* 1,796,502. *Total Annual Responses:* 1,796,502. *Total Annual Hours:* 559,713. (For policy questions regarding this collection contact Kia Sidbury at 410–786–7816. For all other issues call 410–786–1326.)

4. *Type of Information Collection Request:* Extension without change of a currently approved collection. *Title of Information Collection:* Subpart D—Private Contracts and Supporting Regulations contained in 42 CFR 405.410, 405.430, 405.435, 405.440, 405.445, and 405.455. *Use:* Section 4507 of Balancing Budget Act (BBA) 1997 amended section 1802 of the Social Security Act to permit certain physicians and practitioners to opt-out of Medicare and to provide (through private contracts) services that would otherwise be covered by Medicare. Under such contracts the mandatory claims submission and limiting charge

rules of section 1848(g) of the Act would not apply. Subpart D and the supporting regulations counter the effect of certain provisions of Medicare law that, absent section 4507 of BBA 1997, preclude physicians and practitioners from contracting privately with Medicare beneficiaries to pay without regard to Medicare limits. Physicians and/or practitioners use these information collection requirements to comply with the law. In addition, Medicare carriers use this information to determine if benefits should be paid or continued. *Form Number:* CMS–R–234 (OCN 0938–0730). *Frequency:* Biennially. *Affected Public:* Private sector (business or other for-profits). *Number of Respondents:* 26,820. *Total Annual Responses:* 26,820. *Total Annual Hours:* 7,197. (For policy questions regarding this collection contact Fred Grabau at 410–786–0206. For all other issues call 410–786–1326.)

5. *Type of Information Collection Request:* Extension without change of a currently approved collection. *Title of Information Collection:* Request for Employment Information. *Use:* This form is used by the Social Security Administration to obtain information from employers regarding whether a Medicare beneficiary's coverage under a group health plan is based on current employment status. *Form Number:* CMS–R–297 (OCN 0938–0787). *Frequency:* Once. *Affected Public:* Private sector (business or other for-profit and not-for-profit institutions). *Number of Respondents:* 15,000. *Total Annual Responses:* 15,000. *Total Annual Hours:* 3,750. (For policy questions regarding this collection contact Lindsay Smith at 410–786–6843. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by June 3, 2013:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 29, 2013.

**Martique Jones,**

*Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2013–07800 Filed 4–3–13; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity: Comment Request

*Title:* Innovative Strategies for Increasing Self-Sufficiency: Follow-Up Data Collection.

*OMB No.:* 0970–0397.

*Description:* The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing a data collection activity as part of the Innovative Strategies for Increasing Self-Sufficiency (ISIS) demonstration and evaluation. The ISIS project will test a range of promising career pathways strategies to promote education, employment, and self-sufficiency. The major goals of the ISIS project include increasing the empirical knowledge about the effectiveness of a variety of programs for low-income individuals and families to achieve educational credentials, attain employment and advance to positions that enable self-sufficiency, as well as producing useful findings for both policymakers and program administrators.

This proposed information collection activity focuses on collecting follow-up data elements approximately fifteen months after program enrollment. Baseline data collection instruments were previously approved under OMB No. 0970–0397.

The purpose of this information collection effort is to follow-up with study participants, document the experiences of program participants, examine differences in service receipt and educational experiences between program and control group members, describe the intervention as it was implemented in each site and assess the extent to which it was implemented as intended, and assess the implications for intervention scalability and sustainability.

Specifically, this data will be collected using the following instruments: (a) A follow-up survey which will be administered to all study participants approximately 15 months following enrollment in the study; (b) a modification to the Baseline Information Form requesting some basic information about all of the study participant's children (if applicable); (c) interview guides for the in-person visits to the intervention sites to structure discussions with program leadership/managers, instructional staff, case managers/advisors, partners and employers; (d) a brief survey for instructional staff; (e) a brief survey for case managers/advisors; (f) a brief study participant check-in call; and (g) in-depth interviews with a sample of study participants. Respondents: Individuals enrolled in the ISIS demonstration programs, control group members, ISIS program/partner staff (including program leadership, case managers and instructional staff), and other local informants.

ANNUAL BURDEN ESTIMATES

| Instrument | Total number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours | Average annual burden hours |
|---|---|---|---|---|---|
| #1 Basic Information Form Modification | 5,645 | 1 | 0.05 | 282 | 94 |
| #2 15 Month Follow-up Survey, no child roster | 6,998 | 1 | 0.833 | 5,829 | 1943 |
| #2 15 Month Follow-up Survey, with child roster | 1,562 | 1 | 1 | 1,562 | 521 |
| #2 15 Month Follow-Up Survey, Additional HPOG Questions | 2,974 | 1 | 0.083 | 247 | 82 |

ANNUAL BURDEN ESTIMATES—Continued

| Instrument | Total number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours | Average annual burden hours |
|---|---|---|---|---|---|
| #3 Program Leadership/Managers/Supervisors Interview Guide | 46 | 1 | 2 | 92 | 31 |
| #3 Instructional Staff Interview Guide | 58 | 1 | 2 | 116 | 39 |
| #3 Case Managers/Advisor Interview Guide | 50 | 1 | 2 | 100 | 33 |
| #3 Partners Interview Guide | 54 | 1 | 2 | 108 | 36 |
| #4 Case Managers/Advisors Online Survey | 90 | 1 | 0.5 | 45 | 15 |
| #5 Manager/Supervisor Online Survey | 43 | 1 | 0.5 | 22 | 7 |
| #6 Instructional Staff Online Survey | 136 | 1 | 0.5 | 68 | 23 |
| #7 Study Participant Interview Guide | 210 | 2 | 2.083 | 875 | 292 |
| #7 Study Participant Check-in Call | 210 | 1 | 0.16 | 34 | 11 |
| Total Burden Hours: New Collection | ..... | ..... | ..... | 9,380 | 3,127 |

*Additional Information:* Copies of the proposed collection may be obtained by 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. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov*.

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Email*: *OIRA_SUBMISSION@OMB.EOP.GOV*, *Attn:* Desk Officer for the Administration for Children and Families.

**Steven M. Hanmer,**

*Reports Clearance Officer.*

[FR Doc. 2013–07707 Filed 4–3–13; 8:45 am]

**BILLING CODE 4184–09–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0001]**

### 2013 Parenteral Drug Association/Food and Drug Administration Joint Regulatory Conference: Driving Quality and Compliance Throughout the Product Life Cycle in a Global Regulatory Environment

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public conference.

The Food and Drug Administration (FDA), in co-sponsorship with the Parenteral Drug Association (PDA), is announcing a public conference titled ''Driving Quality and Compliance Throughout the Product Life Cycle in a Global Regulatory Environment.'' The conference will cover current issues affecting the industry as well as explore strategies and approaches for ensuring conformance with regulations to facilitate the development and continuous improvement of safe and effective medical products. The conference establishes a unique forum to discuss the foundations, emerging technologies and innovations in regulatory science, as well as the current quality and compliance areas of concerns. Meeting participants will hear from FDA and industry speakers about the requirements and best practices to consider while implementing robust quality systems in order to deliver the best quality product.

*Date and Time:* The public conference will be held on September 16, 2013, from 7 a.m. to 6 p.m.; September 17, 2013, from 7:30 a.m. to 6:15 p.m.; and September 18, 2013, from 7:30 a.m. to 12:15 p.m.

*Location:* The public conference will be held at the Renaissance Washington Hotel, 999 9th St. NW., Washington, DC 20001, 202–898–9000, FAX: 202–289–0947.

*Contact:* Wanda Neal, Parenteral Drug Association, PDA Global Headquarters, Bethesda Towers, 4350 East West Hwy., suite 200, Bethesda, MD 20814, 301–656–5900, ext. 111, FAX: 301–986–1093, email: *info@pda.org* or Ken Nolan, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 5314, Silver Spring, MD 20993, 301–796–8629, email: *kenneth.nolan@fda.hhs.gov.*

*Accommodations:* Attendees are responsible for their own accommodations. To make reservations at the Renaissance Washington Hotel at the reduced conference rate, contact the Renaissance Washington Hotel (see *Location*)—cite the meeting code ''PDA.'' Room rates are: Single or Double: $299, plus 14.5 percent State and local taxes. Reservations can be made on a space and rate availability basis.

*Registration:* Attendees are encouraged to register at their earliest convenience. The PDA registration fees cover the cost of facilities, materials, and refreshments. Seats are limited; please submit your registration as soon as possible. Conference space will be filled in order of receipt of registration. Those accepted for the conference will receive confirmation. Registration will close after the conference is filled. Onsite registration will be available on a space available basis on each day of the public conference beginning at 7 a.m. on September 16, 2013. The cost of registration is as follows:

COST OF REGISTRATION

| Affiliation | Through August 6, 2013 | After August 6, 2013 |
|---|---|---|
| Member | $1,895 | $2,095 |
| Nonmember | 2,144 | 2,344 |
| Government/Health Authority Member | 700 | 700 |
| Government/Health Authority Nonmember* | 800 | 800 |
| Academic Member | 700 | 700 |
| Academic Nonmember* | 800 | 800 |
| Student Member | 280 | 280 |
| Student Nonmember* | 310 | 310 |

* Applicable Nonmember rates.

Please visit PDA's Web site at *http://www.pda.org/pdafda2013* to confirm the prevailing registration fees. (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

If you need special accommodations due to a disability, please contact Wanda Neal (see *Contact*), at least 7 days in advance of the conference.

*Registration Instructions:* To register, please submit your name, affiliation, mailing address, telephone, fax number, and email address, along with a check or money order payable to ''PDA.'' Mail your registration information along with your payment to: PDA, Global Headquarters, Bethesda Towers, 4350 East West Hwy., suite 200, Bethesda, MD 20814. To register via the Internet, go to PDA's Web site at *http://www.pda.org/pdafda2013.*

The registrar will also accept payment by major credit cards (VISA/American Express/MasterCard only). For more information on the meeting, or for questions on registration, contact PDA (see *Contact*).

*Transcripts:* Please be advised that as soon as a transcript is available, it can be obtained in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

**SUPPLEMENTARY INFORMATION:** The PDA/FDA Joint Regulatory Conference offers the unique opportunity for participants to join FDA representatives and industry experts in face-to-face dialogues. Each year, FDA speakers provide updates on current efforts affecting the development of global regulatory strategies, while industry professionals from some of today's leading pharmaceutical companies present case studies on how they employ global strategies in their daily processes.

Through a series of sessions and meetings, the conference will provide participants with the opportunity to hear directly from FDA experts and representatives of global regulatory authorities on best practices, including:

- Regulatory Submission and Meetings.
- Quality Risk Management Implementation.
- Manufacturing in the Future.
- Quality Systems.
- Regulatory Considerations During Development.
- Cell Therapy Innovations.
- Life Cycle Management.
- Process Validation.
- Validation FDA Guidance.
- Challenges of Contract Manufacturing Organizations.
- Contract Agreements.
- Drug Safety.
- Emerging Active Pharmaceutical Ingredients (API) Regulations.
- Investigations.
- Emerging API Regulations.
- User Fees.
- Excipient Best Practices.
- Good Manufacturing Practices Foreign Inspections Findings.
- Regulatory Process to Approval (Inspectional Readiness).
- Combination Products and Companion Diagnostics.

To help ensure the quality of FDA-regulated products, the workshop helps to achieve objectives set forth in section 406 of the FDA Modernization Act of 1997 (21 U.S.C. 393), which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The workshop also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), as outreach activities by Government Agencies to small businesses.

Dated: April 1, 2013.

**Peter Lurie,**

*Acting Associate Commissioner for Policy and Planning.*

[FR Doc. 2013–07854 Filed 4–3–13; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–D–0126]**

### Draft Compliance Policy Guide Sec. 100.250 Food Facility Registration—Human and Animal Food; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of draft Compliance Policy Guide Sec. 100.250 Food Facility Registration—Human and Animal Food (the draft CPG). The draft CPG, when finalized, will provide guidance for FDA staff on issues related to food facility registration under a section of the Federal Food, Drug, and Cosmetic Act (FD&C Act), including the requirement that certain food facilities register with FDA, the requirement that registered facilities biennially renew their registrations with FDA, and FDA's authority to suspend a food facility's registration.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on this draft CPG before it begins work on the final version of the CPG, submit either electronic or written comments on the draft CPG by May 6, 2013.

**ADDRESSES:** Submit written requests for single copies of the draft CPG to the Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857. Send two self-

addressed adhesive labels to assist that office in processing your request, or fax your request to 240–632–6861. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft CPG.

Submit electronic comments on the draft CPG 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:** Mischelle B. Ledet, Center for Food Safety and Applied Nutrition (HFS–615), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–205–1165; or Kim R. Young, Center for Veterinary Medicine (HFV–230), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9200.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft CPG entitled ''Compliance Policy Guide Sec. 100.250 Food Facility Registration—Human and Animal Food.'' The draft CPG is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft CPG, when finalized, will replace ''Compliance Policy Guide Sec. 110.300 Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.''

Section 415 of the FD&C Act (21 U.S.C. 350d) requires owners, operators, or agents in charge of domestic and foreign facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States to register their facilities with FDA, unless an exception applies (see 21 CFR 1.226 and 1.227). The FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353), enacted on January 4, 2011, amended section 415 of the FD&C Act in relevant part to require registrants for food facilities to submit additional registration information to FDA, and to require facilities required to register with FDA to renew such registrations biennially. FSMA also amended section 415 of the FD&C Act to provide FDA with authority to suspend the registration of a food facility in certain circumstances. Specifically, if FDA determines that food manufactured, processed, packed, received, or held by a registered facility has a reasonable probability of causing serious adverse health consequences or death to humans or animals, FDA may by order suspend the registration of a facility that: (1) Created, caused, or was otherwise responsible for such reasonable probability; or (2) knew of, or had reason to know of, such reasonable probability; and packed, received, or held such food.

The draft CPG is intended to provide guidance for FDA staff regarding enforcement of the food facility registration provisions of section 415 of the FD&C Act, including the requirement that certain food facilities register with FDA, the requirement that registered facilities biennially renew their registrations with FDA, and FDA's authority to suspend a food facility's registration. The draft CPG also contains information that may be useful for the regulated industry and to the public.

The draft CPG, when finalized, will represent the Agency's current thinking on food facility registration requirements of section 415 of the FD&C Act. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations and section 415 of the FD&C Act. 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 21 CFR 1.230 through 1.235 and section 415 of the FD&C Act have been approved under OMB Control No. 0910–0502.

## III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). 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.*

## IV. Electronic Access

Persons with access to the Internet may obtain the draft CPG from FDA's Office of Regulatory Affairs history page. It may be accessed at *http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/default.htm.* Guidance documents are also available at *http://www.regulations.gov.*

Dated: March 22, 2013.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2013–07809 Filed 4–3–13; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0001]**

### Joint Meeting of the Advisory Committee for Reproductive Health Drugs and the Drug Safety and Risk Management Advisory Committee; Amendment of Notice

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of the joint meeting of the Advisory Committee for Reproductive Health Drugs and the Drug Safety and Risk Management Advisory Committee. This meeting was announced in the **Federal Register** of March 14, 2013 (78 FR 16271–16272). The amendment is being made to reflect a change in the *Agenda* portion of the document. There are no other changes.

**FOR FURTHER INFORMATION CONTACT:** Kalyani Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31 rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, *ACRHD@fda.hhs.gov,* or use the FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of March 14, 2013, FDA announced that a joint meeting of the Advisory Committee for Reproductive Health Drugs and the Drug Safety and Risk Management Advisory Committee would be held on April 18, 2013. On page 16272, in the first column, the *Agenda* portion of the document is changed to read as follows:

*Agenda:* The committee will discuss the efficacy and safety of new drug application (NDA) 22219, AVEED (testosterone undecanoate) intramuscular injection, submitted by Endo Pharmaceutical Solutions, Inc., for the proposed indication of replacement

therapy in adult males for conditions associated with a deficiency or absence of testosterone. The safety discussion will focus on postmarketing reports of oil microembolism in the lungs and potential anaphylactic reactions. In addition to AVEED, other approved testosterone injectable products will be referenced, especially in regard to oil microembolism and potential anaphylactic reactions reported for those products.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: March 27, 2013.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2013–07843 Filed 4–3–13; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0001]**

### Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee: Notice of Postponement of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is postponing the meeting of the Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee scheduled for April 5, 2013. The meeting was announced in the **Federal Register** of November 29, 2012 (77 FR 71195). The meeting is postponed because key participants were unavailable due to unforeseen scheduling conflicts. In the meantime, FDA analysis of industry-submitted documents is ongoing. A new meeting date will be announced in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Jamie Waterhouse, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1611, Silver Spring, MD 20993–0002, *Jamie.Waterhouse@fda.hhs.gov,* 301–796–3063, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). Please call the Information Line for up-to-date information on this meeting.

Dated: March 27, 2013.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2013–07842 Filed 4–3–13; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0001]**

### Peripheral and Central Nervous System Drugs Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee:* Peripheral and Central Nervous System Drugs Advisory Committee.

*General Function of the Committee:* To provide advice and recommendations to the Agency on FDA's regulatory issues.

*Date and Time:* The meeting will be held on May 22, 2013, from 8 a.m. to 5 p.m.

*Location:* FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

*Contact Person:* Glendolynn S. Johnson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *PCNS@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

*Agenda:* On May 22, 2013, the committee will discuss new drug application (NDA) 204569, for suvorexant tablets, submitted by Merck Sharp and Dohme Corp., Worldwide Regulatory Group. The proposed indication is for insomnia characterized by difficulties with sleep onset and/or maintenance.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before May 8, 2013. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 30, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by May 1, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical

disabilities or special needs. If you require special accommodations due to a disability, please contact Glendolynn S. Johnson at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 27, 2013.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2013–07841 Filed 4–3–13; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB review; 30-day Comment Request: A Generic Submission for Formative Research, Pretesting, and Customer Satisfaction of NCI's Communication and Education Resources (NCI)

**SUMMARY:** Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on January 2, 2013 (Volume 78, Page 105) and allowed 60-days for public comment. Two public comments were received and responded to. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), the National Institutes of Health 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.

*Direct Comments to OMB:* Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

*Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, contact: Nina Goodman, Public Health Advisor, Office of Communications and Education (OCE), NCI, NIH, 6116 Executive Blvd., Suite 400, Rockville, MD 20892, call non-toll-free number (301) 435–7789 or email your request, including your address to: *goodmann@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

*Proposed Collection:* A Generic Submission For Formative Research, Pretesting, and Customer Satisfaction of NCI's Communication and Education Resources, 0925–0046, Expiration Date 2/28/2013, Reinstatement without Change, National Cancer Institute (NCI), National Institutes of Health (NIH).

*Need and Use of Information Collection:* In order to carry out NCI's legislative mandate to educate and disseminate information about cancer prevention, detection, diagnosis, and treatment to a wide variety of audiences and organizations, it is beneficial for NCI through its Office of Communications and Education (OCE), to pretest NCI communications strategies, concepts, and messages while they are under development. This pretesting, or formative evaluation, helps ensure that the messages, communication materials, and information services created by NCI have the greatest capacity of being received, understood, and accepted by their target audiences. Since NCI's OCE is also responsible for the design, implementation, and evaluation of education programs over the entire cancer continuum, and management of NCI initiatives that address specific challenges in cancer research and treatment, it is also necessary to ensure that customers are satisfied with programs. This customer satisfaction research helps ensure the relevance, utility, and appropriateness of the many educational programs and products that OCE and NCI produce. OCE will use a variety of qualitative (focus groups, interviews) and quantitative (paper, phone, in-person, and web surveys) methodologies to conduct this formative and customer satisfaction research, allowing NCI to: (1) Understand characteristics (attitudes, beliefs, and behaviors) of the intended target audience and use this information in the development of effective communication tools and strategies; (2) use a feedback loop to help refine, revise, and enhance messages, materials, products, and programs—ensuring that they have the greatest relevance, utility, appropriateness, and impact for/to target audiences; and (3) expend limited program resource dollars wisely and effectively. The participants may include, but are not limited to, cancer patients, their families, the general public, health providers, the media, voluntary groups, scientific and medical organizations (affected public could include individuals or households; businesses or other for profit; not-for-profit institutions; and Federal Government; State, Local, or Tribal Government).

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated burden, over three years for this generic request are 6,600 hours.

3-YEAR ESTIMATED BURDEN HOURS (GENERIC REQUEST)

| Category of respondents | Form name | Number of respondents | Frequency of response per respondent | Time per response (in hours) | Burden hours |
|---|---|---|---|---|---|
| Individuals, Households, Local, State, and Federal Governments, and Private Sector. | Focus Groups, Individual In-Depth Interviews, Brief Interviews, Surveys, Website Usability Testing. | 33,000 | 1 | 12/60 | 6,600 |

Dated: March 28, 2013.

**Vivian Horovitch-Kelley,**

*NCI Project Clearance Liaison, NCI, NIH.*

[FR Doc. 2013–07863 Filed 4–3–13; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID: FEMA–2013–0009; OMB No. 1660–0100]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** The Federal Emergency Management Agency, 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 a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the admission applications and student stipend agreements for FEMA courses and programs that are delivered on-campus at the FEMA National Emergency Training Center (NETC) facility and throughout the Nation, in coordination with State and local training officials and local colleges and universities.

**DATES:** Comments must be submitted on or before June 3, 2013.

**ADDRESSES:** To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2010–XXXX. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jo Ann Boyd, Admissions Specialist, United States Fire Administration, 301–447–1451. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

**SUPPLEMENTARY INFORMATION:** Section 7 of Public Law 93–498, Federal Fire Prevention and Control Act, as amended, established the National Fire Academy (NFA) to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities. Section 611.f. of Subchapter VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended 42 U.S.C. 5121–5207, authorizes the Director to conduct or arrange, by contract or otherwise, for the training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness, and to conduct or operate schools or classes. The Administrator established the National Emergency Training Center (NETC), located in Emmitsburg, Maryland, which houses the NFA and the Emergency Management Institute (EMI). FEMA offers courses and programs that are delivered on-campus at the NETC facility and throughout the Nation in coordination with State and local training officials and local colleges and universities. To facilitate meeting these requirements, FEMA collects information necessary to apply and be accepted for courses and for the student stipend reimbursement program for these courses.

#### Collection of Information

*Title:* General Admissions Applications (Long and Short) and Stipend Forms.

*Type of Information Collection:* Revision of a currently approved collection.

*Form Titles and Numbers:* FEMA Form 119–25–1, General Admissions Application; FEMA Form 119–25–2, General Admissions Application Short Form; FEMA Form 119–25–5, National Fire Academy Executive Fire Officer Program Application; FEMA Form 119–25–3, Student Stipend Agreement; and FEMA Form 119–25–4, Student Stipend Agreement (Amendment).

*Abstract:* The National Fire Academy was established to advance the professional development of fire service personnel and other persons engaged in prevention and control activities. The Emergency Management Institute serves as the national focal point for the development and delivery of emergency management training to enhance the capabilities of State, local, and tribal government officials; volunteer organizations; FEMA's disaster workforce; other Federal agencies; and the public and private sectors to minimize the impact of disasters and emergencies on the American public.

*Affected Public:* Business and other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

*Number of Respondents:* 113,100.

*Number of Responses:* 112,800.

*Estimated Total Annual Burden Hours:* 12,900.

*Estimated Cost:* There are no recordkeeping, capital, start-up or maintenance costs associated with this information collection.

#### Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden 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.

Dated: March 28, 2013.

**Charlene D. Myrthil,**

*Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2013–07808 Filed 4–3–13; 8:45 am]

**BILLING CODE 9111–72–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002: Internal Agency Docket No. FEMA–B–1302]**

### Changes in Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

**DATES:** These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

**ADDRESSES:** The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Online location of letter of map revision | Effective date of modification | Community No. |
|---|---|---|---|---|---|---|
| New Mexico: | | | | | | |
| Santa Fe ..... | City of Santa Fe (12–06–1488P). | The Honorable David Coss, Mayor, City of Santa Fe, 200 Lincoln Avenue, Santa Fe, NM 87501. | 200 Lincoln Avenue, Santa Fe, NM 87501. | *http://www.rampp-team.com/lomrs.htm.* | May 23, 2013 ..... | 350070 |
| Oklahoma: | | | | | | |
| Tulsa ..... | City of Tulsa (12–06–1019P). | The Honorable Dewey F. Bartlett, Jr., Mayor, City of Tulsa, 175 East 2nd Street, Suite 690, Tulsa, OK 74103. | Stormwater Design Office, 2317 South Jackson, Suite 302, Tulsa, OK 74107. | *http://www.rampp-team.com/lomrs.htm.* | May 28, 2013 ..... | 405381 |
| Texas: | | | | | | |
| Bexar ..... | City of San Antonio (12–06–2711P). | The Honorable Julian Castro, Mayor, City of San Antonio, 100 Military Plaza, San Antonio, TX 78205. | Municipal Plaza, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205. | *http://www.rampp-team.com/lomrs.htm.* | May 16, 2013 ..... | 480045 |

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Online location of letter of map revision | Effective date of modification | Community No. |
|---|---|---|---|---|---|---|
| Bexar ..... | Unincorporated areas of Bexar County (12–06–1791P). | The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.. | Bexar County Department of Public Works, 233 North Pecos La-Trinidad, Suite 420, San Antonio, TX 78207. | *http://www.rampp-team.com/lomrs.htm.* | May 28, 2013 ..... | 480035 |
| Denton ..... | Town of Trophy Club (12–06–3169P). | The Honorable Connie White, Mayor, Town of Trophy Club, 100 Municipal Drive, Trophy Club, TX 76262. | 100 Municipal Drive, Trophy Club, TX 76262. | *http://www.rampp-team.com/lomrs.htm.* | May 6, 2013 ..... | 481606 |
| Harris ..... | Unincorporated areas of Harris County (13–06–0262P). | The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002. | Harris County, 10555 Northwest Freeway, Houston, TX 77092. | *http://www.rampp-team.com/lomrs.htm.* | May 20, 2013 ..... | 480287 |
| Tarrant ..... | City of Fort Worth (12–06–3303P). | The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102. | Department of Transportation and Public Works, 1000 Throckmorton Street, Fort Worth, TX 76102. | *http://www.rampp-team.com/lomrs.htm.* | May 20, 2013 ..... | 480596 |
| Travis ..... | Unincorporated areas of Travis County (12–06–2557P). | The Honorable Samuel T. Biscoe, Travis County Judge, 700 Lavaca Street, Suite 2700, Austin, TX 78701. | Travis County Permit Center, 411 West 13th Street, 8th Floor, Austin, TX 78701. | *http://www.rampp-team.com/lomrs.htm.* | March 25, 2013 | 481026 |
| Wisconsin: | | | | | | |
| Waukesha ..... | City of New Berlin (12–05–4601P). | The Honorable Jack Chiovatero, Mayor, City of New Berlin, 3805 South Casper Drive, New Berlin, WI 53151. | City Hall, 3805 South Casper Drive, New Berlin, WI 53151. | *http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.* | May 10, 2013 ..... | 550487 |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2013–07812 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1313]**

### Changes in Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR Part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

**DATES:** These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

**ADDRESSES:** The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer

of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Online location of letter of map revision | Effective date of modification | Community No. |
|---|---|---|---|---|---|---|
| New Mexico: | | | | | | |
| San Juan | City of Bloomfield (12–06–0882P). | Mr. David Fuqua, Manager, City of Bloomfield, 915 North 1st Street, Aztec, NM 87413. | 915 North 1st Street, Bloomfield, NM 87413. | *http://www.rampp-team.com/lomrs.htm.* | June 10, 2013 | 350066 |
| San Juan | Unincorporated areas of San Juan County (12–06–0882P). | Mr. Kim Carpenter, County Executive Officer, San Juan County, 100 South Oliver Drive, Aztec, NM 87410. | San Juan County Floodplain Management Office, 209 South Oliver Drive, Aztec, NM 87410. | *http://www.rampp-team.com/lomrs.htm.* | June 10, 2013 | 350064 |
| New York: | | | | | | |
| Nassau | Town of Hempstead (12–02–1677P). | The Honorable Kate P. Murray, Supervisor, Town of Hempstead, 1 Washington Street, Hempstead, NY 11550. | Town Hall, 1 Washington Street, Hempstead, NY 11550. | *http://www.rampp-team.com/lomrs.htm.* | July 16, 2013 | 360467 |
| Nassau | Village of Cedarhurst (12–02–1677P). | The Honorable Andrew J. Parise, Mayor, Village of Cedarhurst, 200 Cedarhurst Avenue, Cedarhurst, NY 11516. | Village Hall, 200 Cedarhurst Avenue, Cedarhurst, NY 11516. | *http://www.rampp-team.com/lomrs.htm.* | July 16, 2013 | 360460 |
| Nassau | Village of Lynbrook (12–02–1677P). | The Honorable William J. Hendrick, Mayor, Village of Lynbrook, P.O. Box 7021, Lynbrook, NY 11563. | Village Hall, 1 Columbus Drive, Lynbrook, NY 11563. | *http://www.rampp-team.com/lomrs.htm.* | July 16, 2013 | 360478 |
| Nassau | Village of Valley Stream (12–02–1677P). | The Honorable Edwin A. Fare, Mayor, Village of Valley Stream, 123 South Central Avenue, Valley Stream, NY 11580. | Village Hall, 123 South Central Avenue, Valley Stream, NY 11580. | *http://www.rampp-team.com/lomrs.htm.* | July 16, 2013 | 360495 |
| Orange | Town of Newburgh (12–02–0928P). | The Honorable Wayne Booth, Supervisor, Town of Newburgh, 1496 Route 300, Newburgh, NY 12550. | Code Compliance Department, 308 Gardnertown Road, Newburgh, NY 12550. | *http://www.rampp-team.com/lomrs.htm.* | July 16, 2013 | 360627 |
| Oklahoma: | | | | | | |
| Comanche | City of Lawton (11–06–3317P). | The Honorable Fred L. Fitch, Mayor, City of Lawton, 212 Southwest 9th Street, Lawton, OK 73501. | City Hall, 212 Southwest 9th Street, Lawton, OK 73501. | *http://www.rampp-team.com/lomrs.htm.* | May 30, 2013 | 400049 |
| Texas: | | | | | | |
| Bexar, Comal and Kendall. | City of Fair Oaks Ranch (11–06–4481P). | The Honorable Cheryl Landman, Mayor, City of Fair Oaks Ranch, 7286 Dietz Elkhorn Road, Fair Oaks Ranch, TX 78015. | City Hall, 7286 Dietz Elkhorn Road, Fair Oaks Ranch, TX 78015. | *http://www.rampp-team.com/lomrs.htm.* | May 28, 2013 | 481644 |
| Collin | City of Allen (12–06–2183P). | The Honorable Stephen Terrell, Mayor, City of Allen, 305 Century Parkway, 1st Floor, Allen, TX 75013. | City Hall, 305 Century Parkway, Allen, TX 75013. | *http://www.rampp-team.com/lomrs.htm.* | May 31, 2013 | 480131 |
| Collin | City of Parker (12–06–2183P). | The Honorable Z. Marshall, Mayor, City of Parker, 5700 East Parker Road, Parker, TX 75002. | City Hall, 5700 East Parker Road, Parker, TX 75002. | *http://www.rampp-team.com/lomrs.htm.* | May 31, 2013 | 480139 |

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Online location of letter of map revision | Effective date of modification | Community No. |
|---|---|---|---|---|---|---|
| Collin ..... | City of Plano (12–06–2183P). | The Honorable Phil Dyer, Mayor, City of Plano, 1520 Avenue K, Plano, TX 75074. | City Hall, 1520 Avenue K, Plano, TX 75074. | *http://www.rampp-team.com/lomrs.htm.* | May 31, 2013 ..... | 480140 |
| Fort Bend ..... | City of Sugar Land (12–06–3366P). | The Honorable James A. Thompson, Mayor, City of Sugar Land, P.O. Box 110, Sugar Land, TX 77487. | Engineering Department, 2700 Town Center Boulevard, Sugar Land, TX 77479. | *http://www.rampp-team.com/lomrs.htm.* | June 6, 2013 ..... | 480234 |
| Fort Bend ..... | Unincorporated areas of Fort Bend County (12–06–3366P). | The Honorable Robert Hebert, Fort Bend County Judge, 301 Jackson Street, Suite 719, Richmond, TX 77469. | Fort Bend County Engineering Department, 1124 Blume Road, Rosenburg, TX 77471. | *http://www.rampp-team.com/lomrs.htm.* | June 6, 2013 ..... | 480228 |
| Hays ..... | City of San Marcos (12–06–2514P). | The Honorable Daniel Guerrero, Mayor, City of San Marcos, 630 East Hopkins Street, San Marcos, TX 78666. | Engineering Department, 630 East Hopkins Street, San Marcos, TX 78666. | *http://www.rampp-team.com/lomrs.htm.* | May 28, 2013 ..... | 485505 |
| Hays ..... | Unincorporated areas of Hays County (12–06–2514P). | The Honorable Bert Cobb, M.D., Hays County Judge, 111 East San Antonio Street, Suite 300, San Marcos, TX 78666. | Hays County Development Services Department, 2171 Yarrington Road, San Marcos, TX 78667. | *http://www.rampp-team.com/lomrs.htm.* | May 28, 2013 ..... | 480321 |
| Montgomery ... | Unincorporated areas of Montgomery County (12–06–1995P). | The Honorable Alan B. Sadler, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301. | Montgomery County Permit Office, 301 North Thompson Street, Suite 208, Conroe, TX 77301. | *http://www.rampp-team.com/lomrs.htm.* | June 6, 2013 ..... | 480483 |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2013–07807 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1314]**

### Changes in Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

**DATES:** These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

**ADDRESSES:** The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Online location of letter of map revision | Effective date of modification | Community No. |
|---|---|---|---|---|---|---|
| Alabama: | | | | | | |
| Baldwin | City of Gulf Shores (12–04–4631P). | The Honorable Robert S. Craft, Mayor, City of Gulf Shores, P.O. Box 299, Gulf Shores, AL 36547. | Community Development Department, 1905 West 1st Street, Gulf Shores, AL 36547. | *http://www.bakeraecom.com/index.php/alabama/baldwin/.* | June 17, 2013 | 015005 |
| Arizona: | | | | | | |
| Maricopa | City of Phoenix (12–09–2591P). | The Honorable Greg Stanton, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, AZ 85003. | Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003. | *http://www.r9map.org/Docs/12-09-2591P-040051-102IAC.pdf.* | June 14, 2013 | 040051 |
| Yuma | Unincorporated areas Yuma County (13–09–0814P). | The Honorable Gregory S. Ferguson, Chairman, Yuma County Board of Supervisors, 198 South Main Street, Yuma, AZ 85364. | Yuma County Department of Development Services, 2351 West 26th Street, Yuma, AZ 85364. | *http://www.r9map.org/Docs/13-09-0814P-040099-102IAC.pdf.* | June 14, 2013 | 040099 |
| California: | | | | | | |
| Sacramento | City of Elk Grove (12–09–0565P). | The Honorable Gary Davis, Mayor, City of Elk Grove, 8401 Laguna Palms Way, Elk Grove, CA 95758. | Department of Public Works, 8401 Laguna Palms Way, Elk Grove, CA 95758. | *http://www.r9map.org/Docs/12-09-0565P-060767-102IAC.pdf.* | June 21, 2013 | 060767 |
| Contra Costa | City of Pittsburg (12–09–2983P). | The Honorable Ben Johnson, Mayor, City of Pittsburg, 65 Civic Avenue, Pittsburg, CA 94565. | City Hall, Engineering Records Section, 65 Civic Avenue, Pittsburg, CA 94565. | *http://www.r9map.org/Docs/12-09-2983P-060033-102IAC.pdf.* | May 6, 2013 | 060033 |
| San Joaquin | Unincorporated areas San Joaquin County (12–09–2566P). | The Honorable Ken Vogel, Chairman, San Joaquin County Board of Supervisors, 44 North San Joaquin Street, 6th Floor, Stockton, CA 95202. | San Joaquin County Public Works Department, 1810 East Hazelton Avenue, Stockton, CA 95205. | *http://www.r9map.org/Docs/12-09-2566P-060299-102IAC.pdf.* | June 28, 2013 | 060299 |
| Colorado: | | | | | | |
| Boulder | City of Boulder (12–08–0778P). | The Honorable Matthew Appelbaum, Mayor, City of Boulder, P.O. Box 791, Boulder, CO 80306. | Municipal Building Plaza, 1777 Broadway Street, Boulder, CO 80302. | *http://www.bakeraecom.com/index.php/colorado/boulder/.* | June 17, 2013 | 080024 |
| Jefferson | Unincorporated areas Jefferson County (12–08–0863P). | The Honorable Donald Rosier, Chairman, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Golden, CO 80419. | Jefferson County Department of Planning and Zoning, 100 Jefferson County Parkway, Golden, CO 80419. | *http://www.bakeraecom.com/index.php/colorado/jefferson-5/.* | June 28, 2013 | 080087 |
| Jefferson | Unincorporated areas Jefferson County (13–08–0089P). | The Honorable Donald Rosier, Chairman, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Golden, CO 80419. | Jefferson County Department of Planning and Zoning, 100 Jefferson County Parkway, Golden, CO 80419. | *http://www.bakeraecom.com/index.php/colorado/jefferson-5/.* | May 31, 2013 | 080087 |
| Florida: | | | | | | |
| Collier | City of Naples (12–04–7151P). | The Honorable John F. Sorey, III, Mayor, City of Naples, 735 8th Street South, Naples, FL 34102. | City Hall, 735 8th Street South, Naples, FL 34102. | *http://www.bakeraecom.com/index.php/florida/collier/.* | June 17, 2013 | 125130 |

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Online location of letter of map revision | Effective date of modification | Community No. |
|---|---|---|---|---|---|---|
| Escambia ..... | Unincorporated areas Escambia County (12–04–8486P). | The Honorable Gene M. Valentino, Chairman, Escambia County Board of Commissioners, 221 Palafox Place, Suite 400, Pensacola, FL 32502. | Escambia County Department of Planning and Zoning, 1190 West Leonard Street, Pensacola, FL 32501. | *http://www.bakeraecom.com/index.php/florida/escambia-2/.* | June 21, 2013 .... | 120080 |
| Orange ..... | City of Orlando (12–04–6931P). | The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808. | One City Commons, 400 South Orange Avenue, Orlando, FL 32808. | *http://www.bakeraecom.com/index.php/florida/orange-2/.* | March 8, 2013 ... | 120186 |
| North Carolina: | | | | | | |
| Union ..... | Unincorporated areas of Union County (12–04–5213P). | The Honorable Cynthia Coto, Union County Manager, 500 North Main Street, Room 918, Monroe, NC 28112. | Union County Planning Department, 407 North Main Street, Room 149, Monroe, NC 28112. | *http://www.ncfloodmaps.com/fhd.htm.* | June 12, 2013 .... | 370234 |
| South Carolina: | | | | | | |
| Charleston ..... | City of North Charleston (13–04–1047P). | The Honorable R. Keith Summey, Mayor, City of North Charleston, P.O. Box 190016, North Charleston, SC 29419. | Building Inspections Department, 2500 City Hall Lane, North Charleston, SC 29406. | *http://www.bakeraecom.com/index.php/southcarolina/charleston-2/.* | June 14, 2013 .... | 450042 |
| Greenwood .... | Unincorporated areas of Greenwood County (12–04–3813P). | The Honorable Mark Allison, Chairman, Greenwood County Council, 600 Monument Street, Suite 102, Greenwood, SC 29646. | Greenwood County Courthouse, 600 Monument Street, Greenwood, SC 29646. | *http://www.bakeraecom.com/index.php/southcarolina/greenwood.* | June 28, 2013 .... | 450094 |
| Horry ..... | City of Myrtle Beach (13–04–1594P). | The Honorable John T. Rhodes, Mayor, City of Myrtle Beach, P.O. Box 2468, Myrtle Beach, SC 29578. | City Services Building, Construction Services Department, 921 Oak Street, Myrtle Beach, SC 29577. | *http://www.bakeraecom.com/index.php/southcarolina/horry/.* | June 21, 2013 .... | 450109 |
| Utah: | | | | | | |
| Summit ..... | City of Park City (12–08–1031P). | The Honorable Dana Williams, Mayor, City of Park City, P.O. Box 1480, Park City, UT 84060. | City Hall, 445 Marsac Avenue, Park City, UT 84060. | *http://www.bakeraecom.com/index.php/utah/summit-2/.* | June 13, 2013 .... | 490139 |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2013–07806 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002]**

### Changes in Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final Notice.

**SUMMARY:** New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

**DATES:** The effective date for each LOMR is indicated in the table below.

**ADDRESSES:** Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov*.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html*.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard determinations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being

already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

These new or modified flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov*.

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Effective date of modification | Community No. |
|---|---|---|---|---|---|
| Ohio: Fulton (FEMA Docket No.: B–1278) ..... | Unincorporated areas of Fulton County. (11–05–8659P) ..... | The Honorable Dean Genter, President, Fulton County Board of Commissioners, 152 South Fulton Street, Suite 270, Wauseon, OH 43567. | 152 South Fulton Street, Wauseon, OH 43567. | September 12, 2012 ..... | 390182 |
| Fulton (FEMA Docket No.: B–1278). | Village of Delta (11–05–8659P). | The Honorable Dan D. Miller, Mayor, Village of Delta, 401 Main Street, Delta, OH 34515. | 401 Main Street, Delta, OH 43515 ..... | September 12, 2012 ..... | 390183 |
| Texas: Bexar (FEMA Docket No.: B–1278). | City of Shavano Park (12–06–1046P). | The Honorable A. David Marne, Mayor, City of Shavano Park, 900 Saddletree Court, Shavano Park, TX 78231. | City Hall, 900 Saddletree Court, Shavano Park, TX 78231. | August 30, 2012 ..... | 480047 |
| Denton (FEMA Docket No.: B–1278). | City of The Colony (12–06–0484P). | The Honorable Joe McCourry, Mayor, City of The Colony, 6800 Main Street, The Colony, TX 75056. | 6800 Main Street, The Colony, TX 75056 | September 6, 2012 ..... | 481581 |
| Harris (FEMA Docket No.: B–1278). | Unincorporated areas of Harris County (12–06–1235P). | The Honorable Ed Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002. | 10555 Northwest Freeway, Suite 120, Houston, TX 77092. | September 5, 2012 ..... | 480287 |
| Harris (FEMA Docket No.: B–1278). | Unincorporated areas of Harris County (12–06–1269P). | The Honorable Ed Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002. | 10555 Northwest Freeway, Suite 120, Houston, TX 77092. | September 28, 2012 ..... | 480287 |
| Montgomery (FEMA Docket No.: B–1278). | Unincorporated areas of Montgomery County (12–06–0710P). | The Honorable Alan B. Sadler, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301. | Montgomery County Permitting Department, 501 North Thompson Street, Suite 100, Conroe, TX 77301. | September 7, 2012 ..... | 480483 |
| Tarrant (FEMA Docket No.: B–1278). | City of North Richland Hills (12–06–0693P). | The Honorable T. Oscar Trevino, Jr. P.E., Mayor, City of North Richland Hills, 7301 Northeast Loop 820, North Richland Hills, TX 76180. | 7301 Northeast Loop 820, North Richland Hills, TX 76180. | September 7, 2012 ..... | 480607 |
| Webb (FEMA Docket No.: B–1278). | City of Laredo (11–06–3586P). | The Honorable Raul G. Salinas, Mayor, City of Laredo, 1110 Houston Street, Laredo, TX 78040. | 1120 San Bernardo Avenue, Laredo, TX 78042. | September 12, 2012 ..... | 480651 |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2013–07810 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002]**

### Final Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final Notice.

**SUMMARY:** Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

**DATES:** The effective date of September 4, 2013 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

**ADDRESSES:** The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Adminstrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov*.

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

| Community | Community Map Repository Address |
|---|---|
| **Charles County, Maryland, and Incorporated Areas Docket No.: FEMA–B–1255** | |
| Town of Indian Head | Town Hall, 4195 Indian Head Highway, Indian Head, MD 20640. |
| Town of La Plata | Town Hall, 305 Queen Anne Street, La Plata, MD 20646. |
| Unincorporated Areas of Charles County | Charles County Government Building, 200 Baltimore Street, La Plata, MD 20646. |
| **Newport County, Rhode Island (All Jurisdictions) Docket No.: FEMA–B–1255** | |
| City of Newport | Planning, Zoning and Inpsections Department, City Hall, 3rd Floor, 43 Broadway, NewPort, RI 02840. |
| Town of Jamestown | Town Hall, 93 Narragansett Avenue, Jamestown, RI 02835. |
| Town of Little Compton | Town Hall, 40 Commons, Little Compton, RI 02837. |
| Town of Middletown | Town Hall, 350 East Main Road, Middletown, RI 02842. |
| Town of Portsmouth | Building Inspection Department, Town Hall, 2nd Floor, 2200 East Main Road, Portsmouth, RI 02871. |
| Town of Tiverton | Town Hall, 343 Highland Road, Tiverton, RI 02878. |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2013–07805 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002]**

### Final Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final Notice.

**SUMMARY:** Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

**DATES:** The effective date of August 5, 2013, which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

**ADDRESSES:** The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations

listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Adminstrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

| Community | Community Map Repository Address |
|---|---|
| **Chatham County, Georgia, and Incorporated Areas Docket No.: FEMA–B–1254** | |
| City of Bloomingdale | 8 West U.S. Route 80, Bloomingdale, GA 31302. |
| City of Garden City | City Hall, 100 Central Avenue, Garden City, GA 31405. |
| City of Pooler | City Hall, 100 Southwest U.S. Route 80, Pooler, GA 31322. |
| City of Savannah | City Hall, 2 East Bay Street, Savannah, GA 31401. |
| Unincorporated Areas of Chatham County | 124 Bull Street, Suite 430, Savannah, GA 31401. |
| **Boyd County, Kentucky, and Incorporated Areas Docket No.: FEMA–B–1259** | |
| City of Ashland | Department of Planning and Community Development, 1700 Greenup Avenue, Room 208, Ashland, KY 41101. |
| City of Catlettsburg | City Hall, 216 26th Street, Catlettsburg, KY 41129. |
| Unincorporated Areas of Boyd County | Boyd County Courthouse, 2800 Louisa Street, Catlettsburg, KY 41129. |
| **Talbot County, Maryland, and Incorporated Areas Docket No.: FEMA–B–1254** | |
| Town of Easton | Planning Office, 14 South Harrison Street, Easton, MD 21601. |
| Town of Oxford | Town Hall, 101 Market Street, Oxford, MD 21654. |
| Town of St. Michaels | Edgar M. Bosely, Jr., Municipal Building, 300 Mill Street, St. Michaels, MD 21663. |
| Town of Trappe | Town Office, 4011 Powell Avenue, Trappe, MD 21673. |
| Unincorporated Areas of Talbot County | Talbot County Courthouse, 11 North Washington Street, Easton, MD 21601. |
| **Knox County, Tennessee, and Incorporated Areas Docket No.: FEMA–B–1255** | |
| City of Knoxville | City of Knoxville Engineering Division, City County Building, 400 Main Street, Room 480, Knoxville, TN 37902. |
| Town of Farragut | Town Hall, Engineering Department, 11408 Municipal Center Drive, Farragut, TN 37934. |
| Unincorporated Areas of Knox County | Knox County Engineering and Public Works Department, 205 West Baxter Avenue, Knoxville, TN 37917. |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2013–07818 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1301]**

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition,

the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before July 3, 2013.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1301, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

**I. Watershed-Based Studies**

| Community | Community map repository address |
|---|---|
| **East Central Louisiana Coastal Watershed and Eastern Louisiana Coastal Watershed Jefferson Parish, Louisiana, and Incorporated Areas** | |
| Maps Available for Inspection Online at: *http://www.riskmap6.com/Community.aspx?cid=101&sid=2* | |
| City of Gretna | City Hall, 2nd Street and Huey P. Long Avenue, Gretna, LA 70054. |
| City of Harahan | City Hall, 6437 Jefferson Highway, Harahan, LA 70123. |
| City of Kenner | City Hall, 1801 Williams Boulevard, Kenner, LA 70062. |
| City of Westwego. | City Hall, 419 Avenue A, Westwego, LA 70094. |
| Town of Grand Isle | Town Hall, 170 Ludwig Lane, Grand Isle, LA 70358. |
| Town of Jean Lafitte | Jean Lafitte Town Government Building, 2654 Jean Lafitte Boulevard, Lafitte, LA 70067. |
| Unincorporated Areas of Jefferson Parish | Jefferson Parish Building, 1221 Elmwood Park Boulevard, Harahan, LA 70123. |
| **New Orleans/Orleans Parish, Louisiana** | |
| Maps Available for Inspection Online at: *http://riskmap6.com/Community.aspx?cid=111&sid=2* | |
| New Orleans/Orleans Parish | Orleans Parish Civil District Courthouse, 421 Loyola Avenue, Suite 402, New Orleans, LA 70112. |
| **Plaquemines Parish, Louisiana, and Incorporated Areas** | |
| Maps Available for Inspection Online at: *http://riskmap6.com/Community.aspx?cid=113&sid=2* | |
| Unincorporated Areas of Plaquemines Parish | Plaquemines Parish Government Building, 8056 Highway 23, Belle Chasse, LA 70037. |

| Community | Community map repository address |
|---|---|
| **St. Bernard Parish, Louisiana, and Incorporated Areas** | |
| Maps Available for Inspection Online at: *http://riskmap6.com/Community.aspx?cid=119&sid=2* | |
| Unincorporated Areas of St. Bernard Parish | St. Bernard Parish Community Development Office, 8201 West Judge Perez Drive, Chalmette, LA 70043. |
| **St. Charles Parish, Louisiana, and Incorporated Areas** | |
| Maps Available for Inspection Online at: *http://www.riskmap6.com/Community.aspx?cid=120&sid=2* | |
| Unincorporated Areas of St. Charles Parish | St. Charles Parish Planning and Zoning Department, 14996 River Road, Hahnville, LA 70057. |

**II. Non-Watershed-Based Studies**

| Community | Community Map Repository Address |
|---|---|
| **Kent County, Delaware, and Incorporated Areas** | |
| Maps Available for Inspection Online at: *www.rampp-team.com/de.htm* | |
| City of Dover | City Hall, Planning Department and Inspection, 15 Loockerman Plaza, Dover, DE 19901. |
| City of Harrington | City Hall, 106 Dorman, Harrington, DE 19952. |
| Town of Bowers | Bowers Town Hall, 3308 Main Street, Frederica, DE 19946. |
| Town of Camden | Town Hall, 1783 Friends Way, Camden, DE 19934. |
| Town of Felton | Town Hall, 24 East Sewell Street, Felton, DE 19943. |
| Town of Frederica | Town Hall, 2 East David Street, Frederica, DE 19946. |
| Town of Leipsic | Town Hall, 207 Main Street, Leipsic, DE 19901. |
| Town of Little Creek | Little Creek Fire Hall, 311 Main Street, Little Creek, DE 19961. |
| Town of Smyrna | Town Hall, 27 South Market Street, Smyrna, DE 19977. |
| Town of Wyoming | Municipal Building, 1 North Railroad Avenue, Wyoming, DE 19934. |
| Unincorporated Areas of Kent County | Kent County Administrative Complex, Department of Planning Services, 555 Bay Road, Dover, DE 19901. |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2013–07817 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1303]**

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before July 3, 2013.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1303, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community

listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

| Community | Community Map Repository Address |
|---|---|
| **Concord River Watershed<br>Worcester County and Middlesex County, Massachusetts (All Jurisdictions)** | |
| Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionI/ConcordWatershed/* | |
| City of Lowell | City Hall, 375 Merrimack Street, Lowell, MA 01852. |
| City of Marlborough | City Hall, 140 Main Street, Marlborough, MA 01752. |
| Town of Acton | Town Hall, 472 Main Street, Acton, MA 01720. |
| Town of Ashland | Town Hall, 101 Main Street, Ashland, MA 01721. |
| Town of Bedford | Town Hall, 10 Mudge Way, Bedford, MA 01730. |
| Town of Berlin | Municipal Building, 23 Linden Street, Berlin, MA 01503. |
| Town of Billerica | Town Hall, 365 Boston Road, Billerica, MA 01821. |
| Town of Bolton | Town Hall, 663 Main Street, Bolton, MA 01740. |
| Town of Boxborough | Town Hall, 29 Middle Road, Boxborough, MA 01719. |
| Town of Boylston | Town Hall, 221 Main Street, Boylston, MA 01505. |
| Town of Carlisle | Town Hall, 66 Westford Drive, Carlisle, MA 01741. |
| Town of Chelmsford | Town Hall, 50 Billerica Road, Chelmsford, MA 01824. |
| Town of Clinton | Town Hall, 242 Church Street, Clinton, MA 01510. |
| Town of Concord | Planning and Development Building, 141 Keyes Road, Concord, MA 01742. |
| Town of Framingham | Town Hall, 150 Concord Street, Framingham, MA 01702. |
| Town of Harvard | Town Hall, 13 Ayer Road, Harvard, MA 01451. |
| Town of Holliston | Town Hall, 703 Washington Street, Holliston, MA 01746. |
| Town of Hopkinton | Town Hall, 18 Main Street, Hopkinton, MA 01748. |
| Town of Hudson | Town Hall, 78 Main Street, Hudson, MA 01749. |
| Town of Lincoln | Town Office, 16 Lincoln Road, Second Floor, Lincoln, MA 01773. |
| Town of Littleton | Town Office Building, 37 Shattuck Street, Littleton, MA 01460. |
| Town of Maynard | Town Hall, 195 Main Street, Maynard, MA 01754. |
| Town of Natick | Town Hall, 13 East Central Street, Natick, MA 01760. |
| Town of Northborough | Town Offices, 63 Main Street, Northborough, MA 01532. |
| Town of Sherborn | Town Hall, 19 Washington Street, Sherborn, MA 01770. |
| Town of Shrewsbury | Town Hall, 100 Maple Avenue, Shrewsbury, MA 01545. |
| Town of Southborough | Town House, 17 Common Street, Southborough, MA 01772. |
| Town of Stow | Town Hall, 380 Great Road, Stow, MA 01775. |
| Town of Sudbury | Flynn Building, 278 Old Sudbury Road, Sudbury, MA 01776. |
| Town of Tewksbury | Town Hall, 1009 Main Street, Tewksbury, MA 01876. |
| Town of Wayland | Town Hall, 41 Cochituate Road, Wayland, MA 01778. |
| Town of Westborough | Town Hall, 34 West Main Street, Westborough, MA 01581. |
| Town of Westford | Town Hall, 55 Main Street, Westford, MA 01886. |
| **Upper Rock Watershed<br>Dodge County, Wisconsin, and Incorporated Areas** | |
| Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/DodgeRockRiverWI* | |
| City of Beaver Dam | City Hall, 205 South Lincoln Avenue, Beaver Dam, WI 53916. |
| City of Columbus | City Hall, 105 North Dickason Boulevard, Columbus, WI 53925. |
| City of Hartford | City Hall, 109 North Main Street, Hartford, WI 53027. |

| Community | Community Map Repository Address |
|---|---|
| City of Horicon | City Hall, 404 East Lake Street, Horicon, WI 53032. |
| City of Mayville | City Hall, 15 South School Street, Mayville, WI 53050. |
| City of Watertown | City Hall, 106 Jones Street, Watertown, WI 53094. |
| City of Waupun | City Hall, 201 East Main Street, Waupun, WI 53963. |
| Unincorporated Areas of Dodge County | Administrative Building, 127 East Oak Street, Juneau, WI 53039. |
| Village of Hustisford | Village Hall, 201 South Lake Street, Hustisford, WI 53034. |
| Village of Kekoskee | Village Hall, 21 Valley Street, Mayville, WI 53050. |
| Village of Lowell | Village Hall, 105 North River Street, Lowell, WI 53557. |
| Village of Neosho | Village Hall, 210 South Schuyler Street, Neosho, WI 53059. |
| Village of Reeseville | Village Hall, 206 South Main Street, Reeseville, WI 53579. |
| Village of Theresa | Village Hall, 202 South Milwaukee Street, Theresa, WI 53091. |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2013–07813 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1304]**

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before July 3, 2013.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1304, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

| Community | Community map repository address |
|---|---|
| **Crawford County, Indiana, and Incorporated Areas** | |
| Maps Available for Inspection Online at: *http://www.in.gov/dnr/water/6674.htm* | |
| Town of Alton | Alton Town Hall, 100 East High Street, Leavenworth, IN 47137. |
| Town of English | Town Hall, 204 North Main Street, English, IN 47118. |
| Town of Leavenworth | Town Hall, 636 West Plaza Drive, Leavenworth, IN 47137. |
| Town of Marengo | Town Hall, 117 East Water Street, Marengo, IN 47140. |
| Town of Milltown | Town Hall, 215 West Main Street, Milltown, IN 47145. |
| Unincorporated Areas of Crawford County | Crawford County Judicial Complex, 715 Judicial Plaza Drive, English, IN 47118. |
| **Martin County, Indiana, and Incorporated Areas** | |
| Maps Available for Inspection Online at: *http://www.in.gov/dnr/water/6474.htm* | |
| City of Loogootee | City Municipal Building, 401 John F. Kennedy Avenue, Loogootee, IN 47553. |
| Town of Shoals | Town Hall, 201 Water Street, Shoals, IN 47581. |
| Unincorporated Areas of Martin County | Martin County Courthouse, 111 South Main Street, Shoals, IN 47581. |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2013–07801 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1300]**

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before July 3, 2013.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1300, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of

the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

| Community | Community Map Repository Address |
|---|---|
| **Solano County, California, and Incorporated Areas** | |
| Maps Available for Inspection Online at: *http://www.r9map.org/Pages/ProjectDetailsPage.aspx?choLoco=48&choProj=285* | |
| City of Vallejo | Public Works, 555 Santa Clara Street, Vallejo, CA 94590. |
| Unincorporated Areas of Solano County | Public Works Department, 675 Texas Street, Suite 5500, Fairfield, CA 94533. |
| **Charlton County, Georgia, and Incorporated Areas** | |
| Maps Available for Inspection Online at: *http://www.georgiadfirm.com/status/mapmodStatus.html* | |
| City of Folkston | City Hall, 103 North First Street, Folkston, GA 31537. |
| Town of Homeland | Town Hall, 607 Pennsylvania Avenue, Homeland, GA 31537. |
| Unincorporated Areas of Charlton County | Charlton County Courthouse, 68 Kingsland Drive, Folkston, GA 31537. |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2013–07816 Filed 4–3–13; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Modification and Expansion of CBP Centers of Excellence and Expertise Test To Include Six Additional Centers

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This document announces U.S. Customs and Border Protection's (CBP's) plan to modify and expand its test for the Centers of Excellence and Expertise (CEEs), originally published in the **Federal Register** on August 28, 2012. This document announces that six new CEEs—the Agriculture & Prepared Products CEE; the Apparel, Footwear & Textiles CEE; the Base Metals CEE; the Consumer Products & Mass Merchandising CEE; the Industrial & Manufacturing Materials CEE; and the Machinery CEE—will be opened and tested to determine how they will operate with broad decision-making authority. This notice invites public comment concerning the methodology of the test program, identifies the purpose of the test and the regulations that will be affected, determines the length of the test, explains the application process and application timeframes, and provides the eligibility and selection criteria for voluntary participation in the test. This document also provides the legal authority for the test and explains the repercussions and appeals process for misconduct under the test. This notice also expands the regulations that will be included in the test for the six new CEEs as well as the four CEEs currently participating in the test: the Electronics CEE; the Pharmaceuticals, Health & Chemicals CEE; the Automotive & Aerospace CEE; and the Petroleum, Natural Gas & Minerals CEE. To the extent not modified by this notice, all provisions, terms, conditions, and requirements of the August 28, 2012 test notice continue to apply.

**DATES:** For the Base Metals CEE; the Industrial & Manufacturing Materials CEE; and the Machinery CEE, applications for participation may be submitted beginning April 4, 2013 and selection of initial test participants for these three CEEs will begin no later than May 6, 2013. Applications will be accepted throughout the duration of this test.

For the Agriculture & Prepared Products CEE; the Apparel, Footwear & Textiles CEE; and the Consumer Products & Mass Merchandising CEE, applications for participation may be submitted beginning June 3, 2013 and selection of initial test participants for these three CEEs will begin no later than July 3, 2013. Applications will be accepted throughout the duration of this test.

Applications for participation in the test announced on August 28, 2012 in the **Federal Register** (77 FR 52048) will continue to be accepted throughout the duration of that test. Selected applicants for all of the CEEs will be individually notified of their participation date.

**ADDRESSES:** If interested in participating in the CEE test, please either (1) send an email to *CEE@cbp.dhs.gov,* with a subject line identifier reading ''Participating in CEE'' that includes the information listed in the Application Process section of this document and identify the name of the CEE, or (2) a letter directed to U.S. Customs and Border Protection, Office of Field Operations, Trade Operations Division, 1300 Pennsylvania Ave. NW., Suite 2.3D, Washington, DC 20229–1015, that includes the information listed in the Application Process section of this document including the name of the CEE.

Comments concerning this test program may be submitted via email, with the subject line identifier reading ''Comment on CEE test,'' to *CEE@cbp.dhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Lori Whitehurst, Program Manager, Office of Field Operations, at (202) 344–2536; or Thomas Overacker, Project Coordinator, Office of International Trade at (859) 331–9020 ext. 137.

**SUPPLEMENTARY INFORMATION:**

**Background**

In October 2011, U.S. Customs and Border Protection (CBP) established two Centers of Excellence and Expertise (CEEs): The Electronics CEE in Long Beach, California and the Pharmaceuticals, Health & Chemicals CEE in New York City, New York. When these CEEs were established in October 2011, the CEEs were staffed with CBP employees who facilitated trade by providing account management for Customs-Trade Partnership Against Terrorism (C–TPAT) and Importer Self-Assessment (ISA) members in the identified industries; they engaged in risk segmentation and trade outreach. The CEEs had the ability to review entries and the CEE Directors tasked with leading the CEEs made entry processing recommendations to the Port Directors concerning pharmaceutical and electronics entries. The Electronics CEE specializes in merchandise related to information technology, integrated circuits, automated data processing equipment, and consumer electronics. The Pharmaceuticals, Health & Chemicals CEE specializes in merchandise related to pharmaceuticals, health-related equipment, and products of the chemical and allied industries.

On May 10, 2012, the Acting Commissioner of CBP announced at the West Coast Trade Symposium two more CEEs: The Automotive & Aerospace CEE in Detroit, Michigan, and the Petroleum, Natural Gas & Minerals CEE in Houston, Texas. The Automotive & Aerospace CEE specializes in merchandise related to the automotive, aerospace, or other transportation equipment and related parts industries. The Petroleum, Natural Gas & Minerals CEE specializes in merchandise related to the petroleum, natural gas, petroleum related, minerals, or mining industries.

On August 28, 2012, CBP published a General Notice in the **Federal Register** (77 FR 52048) announcing a test broadening the ability of the CEEs to make decisions by waiving certain identified regulations to the extent to provide the CEE Directors with the authority to make the decisions normally reserved for the Port Directors. The notice provided centralized decision-making authority to the: Electronics CEE; Pharmaceuticals, Health & Chemicals CEE; Automotive & Aerospace CEE; and Petroleum, Natural Gas & Minerals CEE. The notice invited all businesses that met the eligibility criteria set forth in the notice to apply, including, but not limited to C–TPAT and ISA members.

On November 27, 2012, the Deputy Commissioner of CBP announced at the East Coast Trade Symposium six new CEEs: the Agriculture & Prepared Products CEE in Miami, Florida; the Apparel, Footwear & Textiles CEE in San Francisco, California; the Base Metals CEE in Chicago, Illinois; the Consumer Products & Mass Merchandising CEE in Atlanta, Georgia; the Industrial & Manufacturing Materials CEE in Buffalo, New York; and the Machinery CEE in Laredo, Texas.

This document expands the test to provide broad decision-making authority to the six new CEEs: The Agriculture & Prepared Products CEE; the Apparel, Footwear & Textiles CEE; the Base Metals CEE; the Consumer Products & Mass Merchandising CEE; the Industrial & Manufacturing Materials CEE; and the Machinery CEE. Specifically, the test waives certain regulations to the extent that they provide Port Directors with the authority to make certain decisions. Those regulations are waived only to the extent to allow the CEE Directors for the four CEEs that are currently participating in the test and the six new CEEs to make those decisions.

This document also expands the list of regulations that will be waived for the four existing CEEs and the six new CEEs that are joining the test. These regulations will be waived only to the extent to provide the CEE Directors with decision-making authority reserved for the Port Directors.

This document identifies the purpose of the test and the regulations that will be affected, determines the length of the test, explains the application process, and provides the eligibility and selection criteria for voluntary participation in the test. This document also provides the legal authority for the test and explains the repercussions and appeals process for misconduct under the test.

**Purpose of the Test and Suspension of Certain Regulations for the Four Previously Announced CEEs and the Six Newly Identified CEEs**

CBP's goal is to incrementally transition the operational trade functions that traditionally reside with the ports of entry until they reside entirely with the CEEs. By focusing on industry-specific issues and providing tailored support for the participating importers, CBP is seeking to facilitate trade, reduce transaction costs, increase compliance with applicable import laws, and achieve uniformity of treatment at the ports of entry for the identified industries. CBP believes that providing broad decision-making authority to the CEEs for entry processing issues will better enable the CEEs to achieve these goals for CBP and the trade.

Currently, pursuant to the CBP regulations in title 19 of the Code of Federal Regulations (19 CFR), Port Directors have the authority to make decisions regarding products imported into the ports. In the General Notice published in the **Federal Register** (77 FR 52048) on August 28, 2012 announcing the test for the Electronics CEE, Pharmaceuticals, Health & Chemicals CEE, Automotive & Aerospace CEE, and Petroleum, Natural Gas & Minerals CEE, certain regulations in the following sections of title 19 of the CFR (19 CFR) providing Port Directors with certain decision-making authority were waived only to the extent to provide the CEE Directors with the authority to make those decisions: §§ 10.1, 10.8, 10.9, 10.21, 10.24,10.66, 10.67, 10.84, 10.91, 10.102, 10.134, 10.172–10.175, 10.177, Subparts B–K, M, N, and P of Part 10, §§ 12.3, 12.73(j) and (k), 12.80, 12.121(a)(2)(ii); Part 113; §§ 134.3, 134.25, 134.26, 134.34, 134.51, 134.52, 134.53, 134.54(a),[1] 141.20, 141.35, 141.38, 141.44, 141.45, 141.46, 141.57, 141.58, 141.88, 141.91, 141.92, 141.113, 142.13, 144.12, 144.34(a), 144.38, 144.41, 146.63, 151.11, 152.2, 152.13, 152.101, 159.7, 159.12, 159.58, 162.79b, 163.7, 173.1, 173.2, 173.4, 173.4a, 174.12, 174.15, 174.16, 174.21, 174.22, 174.23, 174.24, 174.26, 174.27, 174.29, 174.30, 181.12, 181.13, 181.22, 181.23, 181.32, 181.33, 181.64, 181.112, 181.113, 181.114, 181.115, 181.116, 181.121, and 191.61.

These regulations are also waived for the six new CEEs, only to the extent to provide the CEE Directors with the authority to make the decisions otherwise designated for the Port Directors.

When test participants file an entry in a port, the required entry documents will be routed to the CEE assigned to that importer and certain revenue-related functions, including but not limited to those indicated below, will be performed by the applicable CEE Director instead of the Port Director:

- Determinations, notifications, and processing concerning duty refund claims based on 19 U.S.C. 1520(d) (*see* 19 CFR 10.441, 10.442, 10.591, 10.592, 181.33, 10.870, and 10.871);

[1] Please note that 19 CFR 134.54(a) will be waived only to the extent to provide the CEE Directors with the authority to extend the number of days from the date of the notice of redelivery for the importer to properly mark or redeliver all merchandise previously released to him. The Port Director will continue to retain the authority for demanding liquidated damages incurred under the bond in an amount equal to the entered value of the articles not properly marked or redelivered.

• Requests for computed value information (*see* 19 CFR 141.88);

• Waivers of invoice requirements (*see* 19 CFR 141.92);

• Determinations concerning the time of submission for all entry summaries and estimated duties (*see* 19 CFR 142.13);

• Issuances of all Requests for Information (CBP Form 28) (*see* 19 CFR 151.11);

• Issuances of all Notices of Action (CBP Form 29) (*see* 19 CFR 152.2);

• Notifications and processing concerning any commingling of merchandise (*see* 19 CFR 152.13);

• Processing of requests for application of the computed value method (*see* 19 CFR 152.101);

• Extensions and suspensions of liquidations (*see* 19 CFR 159.12);

• Reviewing and correcting for errors in transactions (*see* 19 CFR 173.1); and

• Reviewing and acting on protests (*see* 19 CFR 173.2, 174.21, and 174.29).

**Additional Regulations That Will Be Waived for the Four Previously Announced CEEs and the Six Newly Identified CEEs**

In addition, for the four CEEs currently participating in the test and for the six new CEEs that will be joining the test pursuant to this notice, this document waives Subparts Q, R, and T of Part 10 of 19 CFR only to the extent to provide the CEE Directors with the authority to make the decisions otherwise designated for the Port Directors. Subpart S of Part 10 will also be waived to the extent to provide the CEE Directors with the authority to make decisions otherwise designated for the Port Directors upon publication of the U.S.—Panama Trade Promotion Agreement regulations.

**Change to Previously Published Federal Register Notice Regarding Prior Disclosures**

In the CEE test notice published on August 28, 2012 in the **Federal Register** (77 FR 52048), CBP waived § 162.74(e)(1) to require test participants to file any prior disclosures with their designated CEE rather than at the port of entry. This document retracts the waiver to § 162.74(e)(1) insofar as requiring all test participants, including those already participating, to file any prior disclosures with their designated CEE. Test participants may either continue to file any prior disclosures with a CBP officer at the CBP port of entry of the disclosed violation or at their designated CEE.

**CEE Determinations Not Requiring Regulatory Suspension**

The following determinations do not require the waiver of regulations, but are determinations that would usually otherwise be made by the Port Directors, and will be made by the CEE Directors under this test: Performing all entry summary reviews and verifications; reviewing and processing of post entry amendments and post summary corrections; and fixing the final appraisement of merchandise, and fixing the classification and duty rate of such merchandise.

**Processes That Will Change for Test Participants**

The following is a list of processes that will change for test participants effective upon acceptance into this test and CBP transitioning such processing to the respective CEE. (For effective date of transition, check the ''Centers of Excellence and Expertise Test Guidelines'' (CEE Test Guidelines) posted on the web at *http://www.cbp.gov/linkhandler/cgov/trade/trade_transformation/industry_int/test_guidelines.ctt/test_guidelines.pdf*):

• Requests for entry cancellations must be submitted electronically to the CEE;

• Census resolution processes will be handled by the CEE; therefore, rejected ACS entry summaries must be electronically transmitted to the CEE's email address, unless other arrangements have been made with the CEE to resolve Census issues;

• Timely responses to Requests for Information (CBP Form 28) and Notices of Action (CBP Form 29) must be sent directly to the CEE;

• Requests for Internal Advice must be submitted electronically to the CEE for further coordination with Regulations and Rulings, Office of International Trade; and

• Protests must be filed via the electronic protest module in ACS (including a note in the filing that designates the CEE team), or, submitted electronically on a scanned copy of the CBP Form 19 with all supporting documents to the CEE via the ACE Portal or the CEE's email address.

**Processes That Will Remain Unchanged for Selected Test Participants**

Unless specified in this document or in the CEE Test Guidelines, all current processes will remain unchanged. For example, the following processes will remain unchanged:

• Quota entry summaries will continue to be processed by the ports of entry;

• The bulletin notice of liquidation (CBP Form 4333) will continue to be posted at the ports of entry;

• Revenue collection and the resolution of discrepancies in the amount of monies presented will remain with the ports of entry;

• Decisions on requests for further review and decisions on requests to void the denial of a protest will continue to be issued by Regulations and Rulings, Office of International Trade;

• Entry filers must continue to file Electronic Invoice Program (EIP) and Remote Location Filing (RLF) entry summaries as usual in the Automated Commercial System (ACS) or Automated Commercial Environment (ACE); and

• Entry filers must continue to submit entry summaries through the ACS or ACE and will not be required to change the respective port of entry.

**CEE Test Guidelines and Scope of the CEEs' Broad Decision-Making Authority**

All of the regulations cited above that require waiving to provide the CEE Directors with authority to make decisions that are otherwise designated for the Port Director will be waived upon publication of this notice for participants assigned to the six new CEEs and continue to be waived for participants assigned to the previously established four CEEs, with the exception of §§ 159.7 and 191.61, which will be waived on a date that will be indicated in the above referenced CEE Test Guidelines. Regulations that are waived for the first time with publication of this notice will be waived for participants at all ten CEEs upon the date of publication. CBP has posted CEE Test Guidelines on the web to provide information regarding CEE operations. Test participants must check the CEE Test Guidelines on a weekly basis to determine: (1) How their responsibilities and required processes will differ from non-CEE participants and the effective date of the new responsibility or required processes; (2) whether the new responsibilities and required processes are being changed again and the effective date of the change; (3) whether there will be a change to any procedure that is required by CBP in a manner otherwise than by regulation, e.g., reconciliation test notice; and (4) when §§ 159.7 and 191.61 will be waived.

All changes to procedures during the test will be posted in the CEE Test Guidelines two weeks before the change goes into effect.

The broad decision-making authority provided to the CEEs and the new

processes for entry filers will apply only to participants in the test. Port Directors will continue to make these decisions for all other importers. Decisions made by a CEE which are within the authority granted under this test shall govern the transactions to which they pertain; test participants may not seek to have such decisions referred to a Port Director or another CEE Director. For efficiency and trade facilitation, all consumption entries filed before and during participation in the test, except for antidumping and countervailing duty entries, will be processed by the designated CEE, regardless of the commodity listed on the entry line upon transition of processing as set forth in the CEE guidelines. These entries will continue to be processed by the CEE, even if the test participant voluntarily withdraws from the test. Similarly, regardless of whether a protestable decision was made by a Port Director or a CEE Director, any protests filed after participation in the test commences will be processed and decided upon by the CEE Director. The processing and decision-making authority for these protests will remain with the CEE Director, even if the test participant voluntarily withdraws from the test.

**Timeline for Test**

The test for the six new CEEs is intended to last three years from July 3, 2013. The test timeline for the four CEEs announced on August 28, 2012 in the **Federal Register** (77 FR 52048) will be changed to reflect the same timeline as the six newly identified CEEs. At the conclusion of the test, an evaluation will be conducted to assess the effect that providing CEEs with broad decision-making authority has on improving trade facilitation, lowering transaction costs for importers, and ensuring importers' compliance with applicable import laws and CBP uniformity of actions. CBP plans to publish a notice when the test closes.

**Application Process**

Importers of the products defined in the ''Eligibility Criteria for Voluntary Participation'' section of this document, that meet the eligibility criteria indicated in that section, and wish to participate must submit a letter to U.S. Customs and Border Protection, Office of Field Operations, Trade Operations Division, 1300 Pennsylvania Ave. NW., Suite 2.3D, Washington, DC 20229–1015, or an email to *CEE@cbp.dhs.gov.* The letter or email must include the name and contact information for the business interested in participating in the test, the name of the CEE in which the business wants to participate, and the business's importer of record (IOR) number(s). Only businesses that meet the eligibility criteria provided in this document are invited to apply for participation. Anyone providing incomplete information, or otherwise not meeting participation requirements, will be notified and given the opportunity to resubmit. CBP may contact applicants with regard to any additional information that may be needed.

Test participants will be required to update their designated CEE with any changes or additions to IOR numbers during the course of the test.

Additional participants may join throughout the duration of the test by following the procedures above.

**Eligibility Criteria for Voluntary Participants**

For inclusion in the Agriculture & Prepared Products CEE, applicants must be part of the agriculture, aquaculture, animal products, vegetable products, prepared food, beverage, alcohol, tobacco or similar industries, with the highest percentage of their entries comprised of related merchandise. For the purposes of this test ''agriculture and prepared products'' includes merchandise classified under Chapters 1 through 24 of the Harmonized Tariff Schedule of the United States (HTSUS).

For inclusion in the Apparel, Footwear & Textiles CEE, applicants must be part of the wearing apparel, footwear, textile mill, textile mill products, or similar industries, with the highest percentage of their entries comprised of related merchandise. For the purposes of this test ''apparel, footwear, and textiles'' includes merchandise classified under headings 4015, 4203, 4303, 4304, 5001 through 5007, 5101 through 5113, 5201 through 5212, 5301, 5302, 5303, 5305 through 5311, 5401 through 5408, 5501 through 5516, 5601 through 5609, 5701 through 5705, 5801 through 5811, 5901 through 5911, 6001 through 6006, 6101 through 6117, 6201 through 6217, 6301 through 6310, 6401 through 6406, 6501, 6502, 6504, 6505 6506, and 6507 of the HTSUS.

For inclusion in the Base Metals CEE, applicants must be part of the steel, steel mill products, ferrous and nonferrous metal, or similar industries, with the highest percentage of their entries comprised of related merchandise. For the purposes of this test ''base metals'' includes merchandise classified under headings 7201 through 7318, 7320, 7322, 7324 through 7414, 7419 through 7614, 7616 through 8113 of the HTSUS.

For inclusion in the Consumer Products and Mass Merchandising CEE, applicants must be part of the household goods, consumer products, or similar industries, and or mass merchandisers of products typically sold for home use, with the highest percentage of their entries comprised of related merchandise. For the purposes of this test ''consumer products and mass merchandising'' includes merchandise classified under headings 3303 through 3307, 3401, 3406, 3605, 3924, 3926, 4201, 4202, 4205, 4206, 4414, 4419, 4420, 4421, 4602, 4803, 4817, 4818, 4820, 4901 through 4911, 6601 through 6603, 6701 through 6704, 6911 through 6913, 7013, 7113 through 7118, 7319, 7321, 7323, 7418, 7615, 8211 through 8215, 8301, 8303 through 8306, 8469, 8470, 8508, 8509, 8510, 8513, 8516, 8712, 8715, 9001 through 9006, 9013, 9101 through 9114, 9201, 9202, 9205 through 9209, 9401, 9403 through 9405, 9503 through 9508, 9601 through 9618, and 9701 through 9706 of the HTSUS.

For inclusion in the Industrial & Manufacturing Materials CEE, applicants must be part of the plastics, polymers, rubber, leather, wood, paper, stone, glass, precious stones or precious metals, or similar industries, with the highest percentage of their entries comprised of related merchandise. For the purposes of this test ''industrial and manufacturing materials'' includes merchandise classified under headings 3901 through 3923, 3925, 4001 through 4010, 4016 through 4115, 4301, 4302, 4401 through 4413, 4414 through 4418, 4501 through 4601, 4701 through 4802, 4804 through 4816, 4819, 4821, 4822, 4823, 6801 through 6910, 6914 through 7011, 7014 through 7112 of the HTSUS.

For inclusion in the Machinery CEE, applicants must be part of the tools, machine tools, production equipment, instruments, or similar industries, with the highest percentage of their entries comprised of related merchandise. For the purposes of this test ''machinery'' includes merchandise classified under headings 8201 through 8210, 8302, 8307 through 8311, 8401 through 8405, 8413 through 8468, 8472, 8474 through 8485, 8486, 8487, 8505 through 8507, 8511, 8514, 8515, 8539, 9007, 9008, 9010, 9011, 9012, 9014 through 9017, 9020, 9023 through 9033, 9301 through 9307, and 9406, of the HTSUS.

Participants in any CEE must also have an ACE portal account.

**Selection Criteria for Voluntary Participants**

Importers that meet the criteria above may be selected for inclusion in the test. In the initial phase of the test, priority

consideration for participation will be given to importers enrolled in the C–TPAT Program as Tier 2 or Tier 3 members, and members of the Importer Self-Assessment (ISA) Program. Importers interested in participating at this time, however, need not be C–TPAT or ISA participants to apply to the four CEEs that were announced in the August 28, 2012 **Federal Register** (77 FR 52048) notice, or to the six newly identified CEEs. CBP will notify the selected applicants in writing of their selection, their designated CEE, and the starting date of their participation. Selected participants may have different starting dates.

**Legal Authority for General Testing**

Section 101.9(a) of the CBP regulations (19 CFR 101.9(a)) allows CBP to conduct a test program or procedure to evaluate the effectiveness of operational procedures regarding the processing of passengers, vessels, or merchandise by imposing requirements different from those specified in the CBP regulations but only to the extent that such different requirements do not affect the collection of the revenue, public health, safety, or law enforcement. This test is established pursuant to 19 CFR 101.9(a) to test the effectiveness of new operational procedures. Revenue collection will continue to be handled electronically through the Automated Clearing House (ACH) and by the ports of entry and the test will not affect public health, safety, or law enforcement.

**Misconduct Under the Test**

A CEE test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, and/or discontinuance from participation in this test for any of the following:

- Failure to follow the terms and conditions of this test.
- Failure to exercise reasonable care in the execution of participant obligations.
- Failure to abide by applicable laws and regulations that have not been waived.
- Failure to deposit duties or fees in a timely manner.

If the CEE Director finds that there is a basis for discontinuance of test participation privileges, the test participant will be provided a written notice proposing the discontinuance with a description of the facts or conduct warranting the action. The test participant will be offered the opportunity to appeal the CEE Director's decision in writing within 10 calendar days of receipt of the written notice. The appeal must be submitted to U.S. Customs and Border Protection, Office of Field Operations, Cargo and Conveyance Security (CCS) Division, 1300 Pennsylvania Ave. NW., Suite 2.3D, Washington, DC 20229–1015 or by email to *CEE@cbp.dhs.gov.* The Executive Director, Cargo and Conveyance Security, Office of Field Operations (OFO), CBP Headquarters, will issue a decision in writing on the proposed action within 30 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the proposed notice becomes the final decision of the Agency as of the date that the appeal period expires. A proposed discontinuance of a test participant's participation privileges will not take effect unless the appeal process under this paragraph has been concluded with a written decision adverse to the test participant.

In the case of willfulness or those in which public health, interest, or safety so requires, the CEE Director may immediately discontinue the test participant's participation privileges upon written notice to the test participant. The notice will contain a description of the facts or conduct warranting the immediate action. The test participant will be offered the opportunity to appeal the CEE Director's decision within 10 calendar days of receipt of the written notice providing for immediate discontinuance. The appeal must be submitted to U.S. Customs and Border Protection, Office of Field Operations, CCS Division, 1300 Pennsylvania Ave. NW., Suite 2.3D, Washington, DC 20229–1015 or by email to *CEE@cbp.dhs.gov.* The immediate discontinuance will remain in effect during the appeal period. The Executive Director, Cargo and Conveyance Security, Office of Field Operations (OFO), CBP Headquarters, will issue a decision in writing on the discontinuance within 15 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

Dated: March 29, 2013.

**David V. Aguilar,**

*Deputy Commissioner, U.S. Customs and Border Protection.*

[FR Doc. 2013–07840 Filed 4–3–13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning April 1, 2013, the interest rates for overpayments will be 2 percent for corporations and 3 percent for non-corporations, and the interest rate for underpayments will be 3 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

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

**FOR FURTHER INFORMATION CONTACT:** Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4516.

**SUPPLEMENTARY INFORMATION:**

**Background**

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2013–6, the IRS determined the rates of interest for the calendar quarter beginning April 1, 2013, and ending on June 30, 2013. The interest rate paid to the Treasury for

underpayments will be the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus one percentage point (1%) for a total of two percent (2%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). These interest rates are subject to change for the calendar quarter beginning July 1, 2013, and ending September 30, 2013.

For the convenience of the importing public and U.S. Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

| Beginning date | Ending date | Under-payments (percent) | Over-payments (percent) | Corporate overpayments (Eff. 1–1–99) (percent) |
|---|---|---|---|---|
| 070174 | 063075 | 6 | 6 | |
| 070175 | 013176 | 9 | 9 | |
| 020176 | 013178 | 7 | 7 | |
| 020178 | 013180 | 6 | 6 | |
| 020180 | 013182 | 12 | 12 | |
| 020182 | 123182 | 20 | 20 | |
| 010183 | 063083 | 16 | 16 | |
| 070183 | 123184 | 11 | 11 | |
| 010185 | 063085 | 13 | 13 | |
| 070185 | 123185 | 11 | 11 | |
| 010186 | 063086 | 10 | 10 | |
| 070186 | 123186 | 9 | 9 | |
| 010187 | 093087 | 9 | 8 | |
| 100187 | 123187 | 10 | 9 | |
| 010188 | 033188 | 11 | 10 | |
| 040188 | 093088 | 10 | 9 | |
| 100188 | 033189 | 11 | 10 | |
| 040189 | 093089 | 12 | 11 | |
| 100189 | 033191 | 11 | 10 | |
| 040191 | 123191 | 10 | 9 | |
| 010192 | 033192 | 9 | 8 | |
| 040192 | 093092 | 8 | 7 | |
| 100192 | 063094 | 7 | 6 | |
| 070194 | 093094 | 8 | 7 | |
| 100194 | 033195 | 9 | 8 | |
| 040195 | 063095 | 10 | 9 | |
| 070195 | 033196 | 9 | 8 | |
| 040196 | 063096 | 8 | 7 | |
| 070196 | 033198 | 9 | 8 | |
| 040198 | 123198 | 8 | 7 | |
| 010199 | 033199 | 7 | 7 | 6 |
| 040199 | 033100 | 8 | 8 | 7 |
| 040100 | 033101 | 9 | 9 | 8 |
| 040101 | 063001 | 8 | 8 | 7 |
| 070101 | 123101 | 7 | 7 | 6 |
| 010102 | 123102 | 6 | 6 | 5 |
| 010103 | 093003 | 5 | 5 | 4 |
| 100103 | 033104 | 4 | 4 | 3 |
| 040104 | 063004 | 5 | 5 | 4 |
| 070104 | 093004 | 4 | 4 | 3 |
| 100104 | 033105 | 5 | 5 | 4 |
| 040105 | 093005 | 6 | 6 | 5 |
| 100105 | 063006 | 7 | 7 | 6 |
| 070106 | 123107 | 8 | 8 | 7 |
| 010108 | 033108 | 7 | 7 | 6 |
| 040108 | 063008 | 6 | 6 | 5 |
| 070108 | 093008 | 5 | 5 | 4 |
| 100108 | 123108 | 6 | 6 | 5 |
| 010109 | 033109 | 5 | 5 | 4 |
| 040109 | 123110 | 4 | 4 | 3 |
| 010111 | 033111 | 3 | 3 | 2 |
| 040111 | 093011 | 4 | 4 | 3 |
| 100111 | 063013 | 3 | 3 | 2 |

Dated: April 1, 2013.

**Thomas S. Winkowski,**

*Deputy Commissioner of U.S. Customs and Border Protection, Performing the duties of the Commissioner of CBP.*

[FR Doc. 2013–07838 Filed 4–3–13; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5687–N–16]**

### Notice of Proposed Information Collection; Comment Request: Management Certifications and Management Entity Profile

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* June 3, 2013.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Relay Service (1–800–877–8339).

**FOR FURTHER INFORMATION CONTACT:** Harry Messner, Office of Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–2626 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** HUD is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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 the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Management Certifications and Management Entity Profile.

*OMB Control Number, if applicable:* 2502–0305.

*Description of the need for the information and proposed use:* Owners of HUD-held, -insured, or subsidized multifamily housing projects must provide information for HUD's oversight of management agents/entities.

*Agency form numbers, if applicable:* HUD–9832, HUD–9839A, HUD–9839B, HUD–9839C.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of burden hours is 3,181. The number of respondents is 29,942, the number of responses is 1,871, the frequency of response is on occasion, and the burden hour per response is 2.50.

*Status of the proposed information collection:* Extension of a currently approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 27, 2013.

**Laura M. Marin,**

*Acting General Assistant Secretary for Housing—Acting General Deputy Federal Housing Commissioner.*

[FR Doc. 2013–07785 Filed 4–3–13; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5687–N–17]**

### Notice of Proposed Information Collection; Comment Request: Application for Multifamily Project Mortgage Insurance

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* June 3, 2013.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Relay Service (1–800–877–8339).

**FOR FURTHER INFORMATION CONTACT:** Ted Toon, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–8386 for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** Is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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 the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Application for Multifamily Project Mortgage Insurance.

*OMB Control Number, if applicable:* 2502–0029.

*Description of the need for the information and proposed use:* HUD reviews the information collection to determine the acceptability of the mortgagor, sponsor, and other key principles for an application for mortgage insurance. The Owner and Architect represent that they are familiar with HUD's architectural requirements and will comply with all rules and regulations as prescribed by HUD. These forms are available on Department's Web site. The forms are pdf fillable and will be sent by

electronic mail with other required Multifamily Development application forms.

HUD–2, HUD–92013, HUD–92013A, HUD–92013–B, HUD–92013–C, HUD–92013–SUPP, HUD–92013E, HUD–92264, HUD–92264–A, HUD–92273, HUD–92274, HUD–92326, HUD–92329, HUD–92331, HUD–92452, HUD–92485, HUD–92415, HUD–92447, HUD–92010, HUD–91708, HUD–92408M,FM–1006, HUD2880, HUD–92446 (Rider Forms-HUD–92466–R1, 92466–R2, 92466–R3, 92466 R4) HUD 2408 covered under OMB 2502–0029.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* An estimation of the total number of hours needed to prepare the information collection is 2. The estimated number of respondents is 3442. The estimated total number of annual burden hours is 385,496. The forms are submitted only once during the application for FHA mortgage insurance.

*Status of the proposed information collection:* Revision, with change, of a previously approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 28, 2013.

**Laura M. Marin,**

*Acting General Deputy Assistant Secretary for Housing—Acting General Deputy Federal Housing Commissioner.*

[FR Doc. 2013–07788 Filed 4–3–13; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R2–ES–2013–N064; FXES11130200000–134–FF02ENEH00]**

### Endangered and Threatened Species Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications; request for public comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. The Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activities. The Act and the National Environmental Policy Act also require that we invite public comment before issuing these permits.

**DATES:** To ensure consideration, written comments must be received on or before May 6, 2013.

**ADDRESSES:** Marty Tuegel, Section 10 Coordinator, by U.S. mail at Division of Endangered Species, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM, at 505–248–6920. Please refer to the respective permit number for each application when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Susan Jacobsen, Chief, Endangered Species Division, P.O. Box 1306, Albuquerque, NM 87103; 505–248 –6651.

**SUPPLEMENTARY INFORMATION:**

#### Public Availability of Comments

The Act (16 U.S.C. 1531 et seq.) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementation of section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

#### Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following applications. Please refer to the appropriate permit number (e.g., Permit No. TE–123456) when requesting application documents and when submitting comments.

Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

*Permit TE–94344A*

*Applicant:* Shannon Bird, Carrolton, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Arkansas, Oklahoma, Texas, South Dakota, and Kansas.

*Permit TE–216075*

*Applicant:* Martin Heaney, Rosenberg, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of Indiana bat (*Myotis sodalis*) and gray bat (*Myotis grisenscens*) within Texas.

*Permit TE–94689A*

*Applicant:* Joseph Quick, Tuscola, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of golden-cheeked warblers (*Dendroica chrysoparia*), interior least terns (*Sterna antillarum*), and black-capped vireos (*Vireo atricapilla*) within Texas.

*Permit TE–800611*

*Applicant:* SWCA Inc., San Antonio, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of and temporary hold and collect the following species in Landa Lake, Comal County, Texas:

- Comal Springs dryopid beetle (*Stygoparnus comalensis*)
- Comal Springs riffle beetle (*Heterelmis comalensis*)
- Fountain darter (*Etheostoma fonticola*)
- Peck's Cave amphipod (*Stygobromus pecki*)
- Texas blind salamander (*Typhlomolge rathbuni*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)—all of Texas
- Whooping crane (*Grus americana*)—all of Texas

*Permit TE–94739A*

*Applicant:* Travis Audubon Society, Austin, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of golden-cheeked warbler (*Dendroica chrysoparia*) within Texas.

*Permit TE–94746A*

*Applicant:* Lee Rex McAliley, Abilene, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of interior least tern (*Sterna antillarum*), black-capped vireo (*Vireo atricapilla*),

and golden-cheeked warbler (*Dendroica chrysoparia*) within Texas.

*Permit TE–95666A*

*Applicant:* Ilyse Gold, Hesperus, Colorado.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys southwestern willow flycathcher (*Empidonax traillii extimus*), Knowlton's cactus (*Pediocactus knowltonii*), and Mancos milk-vetch (*Astragalus humillimus*) within New Mexico, Colorado, Utah, and Arizona.

*Permit Application Number: TE–125620*

*Applicant:* Burns and McDonnell Engineering, Kansas City, Missouri.

Applicant requests an amendment to a current permit for research and recovery purposes to capture and release American burying beetles (*Nicrophorus americanus*) for presence/absence surveys in Oklahoma.

*Permit TE–97824A*

*Applicant:* Smith Environmental Research and Consulting House, Siloam Springs, Arkansas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Arkansas, Kansas, Missouri, Nebraska, Oklahoma, South Dakota, and Texas.

*Permit TE–082492*

*Applicant:* Charles Hathcock, Los Alamos, New Mexico.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of southwestern willow flycatcher (*Empidonax traillii extimus*) within New Mexico.

*Permit TE–819491*

*Applicant:* Ecosphere Environmental Services, Durango, Colorado.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of southwestern willow flycatcher (*Empidonax traillii extimus*) within Utah and black-footed ferret (*Mustela nigripes*) within Wyoming, New Mexico, Colorado, Utah, and Arizona.

*Permit TE–97830A*

*Applicant:* United States Fish and Wildlife Service, Ozark Plateau National Wildlife Refuge, Colcord, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct the following activities for Ozark big-eared bat (*Corynorhinus townsendii ingens*) and Indiana bat (*Myotis grisenscens*) within the Ozark Plateau National Wildlife Refuge: presence/absence surveys; capture, identify, and release using mist nets and harp traps; collect tissue samples using wing punches, hair samples and/or fungal tape-lift samples; and band using aluminum bat bands.

*Permit TE–160521*

*Applicant:* Tetra Tech, Salt Lake City, Utah.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of southwestern willow flycatcher (*Empidonax traillii extimus*) within Utah, Colorado, New Mexico, and Arizona.

*Permit TE–192855*

*Applicant:* Amnis Opes Institute, LLC, Bend, Oregon.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of following species throughout New Mexico, Arizona, and Colorado:

- Colorado pikeminnow (*Ptychocheilus lucius*)
- Gila chub (*Gila intermedia*)
- Gila topminnow (*Poeciliopsis occidentalis*)
- Loach minnow (*Tiaroga cobitis*)
- Razorback sucker (*Xyrauchen texanus*)
- Rio Grande silvery minnow (*Hybognathus amarus*)
- Spikedace (*Mega fulgida*)

*Permit TE–98559A*

*Applicant:* Bat Conservation International, Austin, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of, visit cave locations, watch emergences, evaluate foraging habitat, visit drinking sites, and capture lesser long-nosed bats (*Leptonycteris nivalis*) within Arizona.

*Permit TE–207863*

*Applicant:* URS Corporation, Austin, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of golden-cheeked warbler (*Dendroica chrysoparia*), black-capped vireo (*Vireo atricapilla*), and Houston toad (*Bufo houstonensis*) within Texas and Oklahoma.

*Permit TE–98622A*

*Applicant:* University of Texas–Pan American, South Padre Island, Texas.

Applicant requests a new permit for sea turtle stranding activities, transport, and holding of the following endangered sea turtles in Texas:

- Kemp's ridley (*Lepidochelys kempii*)
- Leather back (*Dermochelys coriacea*)
- Hawksbill (*Eretmochelys imbricata)*

*Permit TE–98704A*

*Applicant:* Dogs for Conservation, Washington, Texas.

Applicant requests a new permit for research and recovery purposes to hold capitvely bred Houston toads (*Bufo houstonensis*) from the Houston Zoo for work with training dogs how to detect Houston toads in the wild. Toads will be held at the trainer's facility and used to train dogs to detect scent in the wild. Toads will be returned to the zoo once the training is complete.

**National Environmental Policy Act (NEPA)**

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

**Public Availability of Comments**

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

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.

**Authority:** We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: March 21, 2013.

**Joy E. Nicholopoulos,**

*Acting Regional Director, Southwest Region.*

[FR Doc. 2013–07767 Filed 4–3–13; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNML00000 L12200000.DF0000]**

### Notice of Public Meeting, Las Cruces District Resource Advisory Council Meeting, New Mexico

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Public Meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the Bureau of Land Management's (BLM) Las Cruces District Resource Advisory Council (RAC) will meet as indicated below.

**DATES:** The RAC will meet on April 23, 2013, at the BLM Las Cruces District Office Main Conference Room from 9 a.m.–4 p.m. The public may send written comments to the RAC at the BLM Las Cruces District Office, 1800 Marquess Street, Las Cruces, NM 88005.

**FOR FURTHER INFORMATION CONTACT:** Rena Gutierrez, BLM Las Cruces District, 1800 Marquess Street, Las Cruces, NM, 88005, 575–525–4338. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The 10-member Las Cruces District RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in New Mexico. Planned agenda items include opening remarks from the BLM Las Cruces District Manager, updates on ongoing issues and planning efforts, presentation on the TriCounty Resource Management Plan/Environmental Impact Statement, and discussions related to off-highway vehicle use.

A half-hour public comment period during which the public may address the RAC will begin at 3:00 p.m. All RAC meetings are open to the public. Depending on the number of individuals wishing to comment and time available, the time for individual oral comments may be limited.

**Jim C. McCormick, Jr.,**

*Acting District Manager, Las Cruces.*

[FR Doc. 2013–07815 Filed 4–3–13; 8:45 am]

**BILLING CODE 4310–VC–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 and 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 May 8–9, 2013. The May 8 meeting will begin at 10 a.m. with a 30-minute public comment period and will adjourn at 4:30 p.m. The May 9 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 Holiday Village Mall Community Center at 1753 US Hwy 2 West, Havre, 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; Climatologist presentation; Recreation Fees on the Upper Missouri Wild and Scenic River; Fish, Wildlife and Parks Director to discuss bison; DVD on BLM's Wild Horse Documentary; Fish, Wildlife and Parks Commission perspective on Bison; National Landscape Conservation Strategy; Campground Fee Proposal for Camp Creek and Montana Gulch; and District Manager updates. 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. 2013–07814 Filed 4–3–13; 8:45 am]

**BILLING CODE 4310–DN–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLUT030000–L17110000–PH0000–24–1A]**

### Notice of Grand Staircase-Escalante National Monument Advisory Committee Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM), Grand Staircase-Escalante National Monument Advisory Committee (GSENMAC) will meet as indicated below.

**DATES:** The GSENMAC will meet Tuesday, May 7, 2013, (1:00–6:00 p.m.) and Wednesday, May 8, 2013, (8:00 a.m.–5:00 p.m.) in Escalante, Utah.

**ADDRESSES:** The GSENMAC will meet at the Escalante Interagency Visitor Center, located at 755 West Main Street, Escalante, Utah 84741.

**FOR FURTHER INFORMATION CONTACT:** Larry Crutchfield, Public Affairs Officer, Grand Staircase-Escalante National Monument, Bureau of Land Management, 669 South Highway 89A, Kanab, Utah 84741; phone 435–644–1209.

**SUPPLEMENTARY INFORMATION:** The 15-member GSENMAC was appointed by the Secretary of the Interior on August 2, 2011, pursuant to the Monument Management Plan, the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA). As specified in the Monument Management Plan, the GSENMAC has several primary tasks: (1) Review evaluation reports produced by the Management Science Team and make recommendations on protocols and projects to meet overall objectives; (2) Review appropriate research proposals and make recommendations on project necessity and validity; (3) Make recommendations regarding allocation

of research funds through review of research and project proposals as well as needs identified through the evaluation process above; and, (4) Could be consulted on issues such as protocols for specific projects.

Topics to be discussed by the GSENMAC during this meeting include: an update on the Monument Management Plan amendment; review of the draft BLM-Utah National Landscape Conservation System (NLCS) strategic plan; updates on the Colorado Mesa University Visitor Experience Baseline Study and the Arizona State University Appreciative Inquiry Study on Tourism; subcommittee reports; GSENM division reports, future meeting dates; and, other matters as may reasonably come before the GSENMAC.

Members of the public are welcome to address the GSENMAC during a public comment period at 5:00 p.m., local time, on May 7, 2013. Depending on the number of persons wishing to speak, a time limit could be established. Written statements can be sent to the GSENM address listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Information to be distributed to the GSENMAC is requested 10 days prior to the start of the meeting. A field trip is planned for the morning of May 8, 2013, to familiarize GSENMAC members with grazing management.

All meetings are open to the public; however, transportation, lodging, and meals are the responsibility of the participating public.

**Jenna Whitlock,**

*Associate State Director.*

[FR Doc. 2013–07811 Filed 4–3–13; 8:45 am]

**BILLING CODE 4310–DQ–P**

## DEPARTMENT OF JUSTICE

### Federal Bureau of Investigation

### Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

**AGENCY:** Federal Bureau of Investigation.

**ACTION:** Meeting Notice.

**SUMMARY:** The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus far, the Federal Government and 29 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative federal-state system to exchange such records.

The United States Attorney General appointed 15 persons from state and federal agencies to serve on the Council. The Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index system for noncriminal justice purposes.

Matters for discussion are expected to include:

(1) Methods to Reduce the Civil Fingerprint Submission Reject Rate

(2) Revised Privacy Act Statement for Applicants/Licensees and Other Civil Submitters of Fingerprints

(3) National Crime Prevention and Privacy Compact Ratification Strategies

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement with the Council or wishing to address this session of the Council should notify the Federal Bureau of Investigation (FBI) Compact Officer, Mr. Gary S. Barron at (304) 625–2803, at least 24 hours prior to the start of the session. The notification should contain the individual's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed and the time needed for the presentation. Individuals will ordinarily be allowed up to 15 minutes to present a topic.

*Dates and Times:* The Council will meet in open session from 9 a.m. until 5 p.m., on May 15–16, 2013.

**ADDRESSES:** The meeting will take place at the Hyatt Regency Louisville, 311 South 4th Street, Louisville, Kentucky, telephone (502) 581–1234.

**FOR FURTHER INFORMATION CONTACT:** Inquiries may be addressed to Mr. Gary S. Barron, FBI Compact Officer, Module D3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone (304) 625–2803, facsimile (304) 625–2868.

Dated: March 26, 2013.

**Gary S. Barron,**

*FBI Compact Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.*

[FR Doc. 2013–07708 Filed 4–3–13; 8:45 am]

**BILLING CODE 4410–02–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Availability of Funds and Solicitation for Grant Applications for *Face Forward—Serving Juvenile Offenders*

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of Solicitation for Grant Applications (SGA).

*Funding Opportunity Number:* SGA/DFA PY–12–09

**SUMMARY:** The U.S. Department of Labor (we, the Department or DOL) Employment and Training Administration (ETA), announces the availability of approximately $26 million in grant funds authorized by the Workforce Investment Act.

Under this solicitation, DOL expects to award 26 grants for up to $1,000,000 each to cover a 39-month period of performance, which includes a planning period of up to six months, program operation period of 24 months, and a minimum of nine months of post program support and follow-up services provided to each participant. Any non-profit organization with IRS 501(c)(3) status, unit of state or local government, or any Indian and Native American entity eligible for grants under WIA Section 166, may apply for these grants to provide services to eligible participants in areas with high-poverty and high-crime rates. These services will include diversion and/or expungement (required for all participants), case management, mentoring, education, training leading to industry-recognized credentials for in demand industries and occupations in the State or local area, service-learning, workforce activities, and post-program support and follow-up services.

The complete SGA and any subsequent SGA amendments in connection with this solicitation are described in further detail on ETA's Web site at *http://www.doleta.gov/grants/* or on *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures, and other program requirements governing this solicitation.

**DATES:** The closing date for receipt of applications under this announcement is May 10, 2013. Applications must be received no later than 4:00:00 p.m. Eastern Time.

**FOR FURTHER INFORMATION CONTACT:** Mamie Williams, 200 Constitution

Avenue NW., Room N–4716, Washington, DC 20210; Telephone: 202–693–3341.

Signed March 29, 2013 in Washington, DC

**Donna Kelly,**

*Grant Officer, Employment and Training Administration.*

[FR Doc. 2013–07791 Filed 4–3–13; 8:45 am]

**BILLING CODE 4510–FN–P**

## LEGAL SERVICES CORPORATION

### Sunshine Act Meeting

**DATE AND TIME:** The Legal Services Corporation's Institutional Advancement Committee will meet telephonically on April 9, 2013. The meeting will commence at 4:00 p.m., Eastern Daylight Time (e.d.t.), and will continue until the conclusion of the Committee's agenda.

**LOCATION:** John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington DC 20007.

**STATUS OF MEETING:** Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to discuss prospective funders for LSC's development activities and 40th anniversary celebration and prospective members for an honorary auxiliary group.

A verbatim written transcript will be made of each closed session meeting of the Institutional Advancement Committee. The transcript of any portion of the closed sessions falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) and (9) will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closings are authorized by law will be available upon request.

**MATTERS TO BE CONSIDERED:**

**Open**

1. Approval of agenda.
2. Discussion of fundraising objectives.
3. Public comment.
4. Consider and act on other business.

**Closed**

5. Discussion of prospective funders for LSC's development activities and 40th anniversary celebration.
6. Discussion of prospective members for an honorary auxiliary group.
7. Consider and act on adjournment of meeting.

**CONTACT PERSON FOR INFORMATION:** Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

**ACCESSIBILITY:** LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov*, at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: April 2, 2013.

**Victor M. Fortuno,**

*Vice President & General Counsel.*

[FR Doc. 2013–08010 Filed 4–2–13; 4:15 pm]

**BILLING CODE 7050–01–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: 13–034]**

### NASA Advisory Council; Science Committee; Astrophysics Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The Meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

**DATES:** Tuesday, April 16, 2013, 9:00 a.m. to 5:00 p.m., and Wednesday, April 17, 2013, 9:00 a.m. to 3:00 p.m., Local Time.

**ADDRESSES:** Holiday Inn Capitol, 550 C Street SW., Discovery II Room, Washington, DC 20024, and NASA Headquarters, 300 E Street SW., Room 6H45, Washington, DC 20546, respectively.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–3094, or *mnorris@nasa.gov*.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 800–857–7040, pass code APS, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com,* meeting number on April 16 is 993 342 017, and password APS@Apr16; the meeting number on April 17 is 993 894 322, and password *APS@Apr17*. The agenda for the meeting includes the following topics:

—Astrophysics Division Update

—Report from Astrophysics Roadmap Team

—James Webb Space Telescope Update

—Research and Analysis Update

—Report on Balloon Program

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Publication with less than 15 calendar day notice due to sequestration requirements. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Marian Norris via email at *mnorris@nasa.gov* or by fax at (202) 358–3094. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Marian Norris.

**Patricia D. Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 2013–07775 Filed 4–3–13; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 13–037]**

### NASA Advisory Council; Science Committee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–462, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

**DATES:** Thursday, April 18, 2013, 8:00 a.m. to 4:30 p.m., and Friday, April 19, 2013, 8:30 a.m. to 3:00 p.m., Local Time.

**ADDRESSES:** NASA Headquarters, 300 E Street SW., Room 6H45, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–3094, or *mnorris@nasa.gov.*

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 800–857–7040, pass code ''Science Committee'', to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number on April 18 is 996 295 902, and the password is SC@Apr18; the meeting number on April 19 is 995 890 198, and the password is SC@Apr19.

The agenda for the meeting includes the following topics:

—Science Mission Directorate Overview and Program Status
—Subcommittee Reports
—Joint Session with the NASA Advisory Council's Human Exploration and Operations Committee on Status of the Human Exploration and Operations Mission Directorate

The joint session with the NAC Human Exploration and Operations Committee will be on Thursday, April 18, 2013, 9:30 a.m. to 11:00 a.m., Local Time, at NASA Headquarters, 300 E Street SW., Room 9H46, Washington, DC 20546. Any interested person may call the USA toll free conference call number 877–923–0445, pass code ''1310790'' to observe this joint session by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number is 991 759 074, and the password is @pril18athq.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Marian Norris via email at *mnorris@nasa.gov* or by fax at (202) 358–3094. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Marian Norris.

**Patricia D. Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration .*

[FR Doc. 2013–07778 Filed 4–3–13; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: 13–035]**

### NASA Advisory Council; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council (NAC).

**DATES:** Wednesday, April 24, 2013, 9:00 a.m.–5:00 p.m., and Thursday, April 25, 2013, 9:00 a.m.–5:00 p.m., Local Time

**ADDRESSES:** NASA Headquarters, 300 E Street SW., Room 9H40, Program Review Center (PRC), Washington, DC, 20456

**FOR FURTHER INFORMATION CONTACT:** Ms. Marla King, NAC Administrative Officer, National Aeronautics and Space Administration Headquarters, Washington, DC, 20546, (202) 358–1148.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may dial the toll free access number 866–753–1451 or toll access number 1–203–875–1553, and then the numeric participant passcode: 6957984 followed by the # sign. To join via WebEx, the link is *https://nasa.webex.com/,* meeting number 999 465 732, and password: AprilNAC@2013.

The agenda for the meeting includes the following topics:

—Aeronautics Committee Report
—Audit, Finance and Analysis Committee Report
—Commercial Space Committee Report
—Education and Public Outreach Committee Report
—Human Exploration and Operations Committee Report
—Information Technology Infrastructure Committee Report
—Science Committee Report
—Technology and Innovation Committee Report

It is imperative that the meeting be held on these date to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Marla King via email at *marla.k.king@nasa.gov* or by telephone at (202) 358–1148. U.S. citizens and Permanent Residents (green card holders) are requested to submit their

name and affiliation 3 working days prior to the meeting to Marla King.

**Patricia D. Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 2013–07776 Filed 4–3–13; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: 13–036]**

### NASA Advisory Council; Science Committee; Heliophysics Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Heliophysics Subcommittee (HPS) of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

**DATES:** Monday, April 15, 2013, 9:00 a.m. to 5:00 p.m., and Tuesday, April 16, 2013, 8:30 a.m. to 4:00 p.m., Local Time.

**ADDRESSES:** NASA Headquarters, 300 E Street SW., Room 3H46–A, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–3094, or *mnorris@nasa.gov.*

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically. Any interested person may call the USA toll free conference call number 800–857–7040, pass code HPS, to participate in this meeting by telephone. The agenda for the meeting includes the following topics:

—Heliophysics Division Overview and Program Status
—Flight Mission Status Report
—Heliophysics Budget
—Heliophysics Strategic Objectives and Performance Goals Science Mission Directorate Science Plan
—Heliophysics Roadmap for Science and Technology 2013–2033 Status

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Publication with less than 15 calendar day notice due to sequestration requirements. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Marian Norris via email at *mnorris@nasa.gov* or by fax at (202) 358–3094. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Marian Norris.

**Patricia D. Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 2013–07777 Filed 4–3–13; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 13–038]**

### NASA Advisory Council; Human Exploration and Operations Committee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–462, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Human Exploration and Operations Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

**DATES:** Thursday, April 18, 2013, 9:30 a.m. –12:00 p.m., and 1:15 p.m.—6:00 p.m., Local Time.

**ADDRESSES:** National Aeronautics and Space Administration, Headquarters, 300 E Street SW., Room 9H40, Program Review Center (PRC), Washington, DC 20546–0001.

**FOR FURTHER INFORMATION CONTACT:** Dr. Bette Siegel, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2245, fax (202) 358–4297, or *bette.siegel@nasa.gov.*

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically and by WebEx. Any interested person may call the USA toll free conference call number (877) 923–0445 or toll number (210) 453–5454, pass code 1310790, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number is 991 759 074, and the password is @pril18athq.

The agenda for the meeting includes the following topics:

—Joint Session with the NAC Science Committee on the Status of the Human Exploration and Operations Mission Directorate
—Center for the Advancement of Science in Space/Status of Research Subcommittee
—Status of Exploration Systems Development
—Status of the International Space Station
—Status of Commercial Spaceflight Development

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Dr. Bette Siegel via email at *bette.siegel@nasa.gov* or by fax at (202) 358–4297. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and

affiliation 3 working days prior to the meeting to Dr. Bette Siegel.

**Patricia D. Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 2013–07779 Filed 4–3–13; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: 13–039]**

### NASA Advisory Council; Technology and Innovation Committee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) announces a meeting of the Technology and Innovation Committee of the NASA Advisory Council (NAC). The meeting will be held for the purpose of reviewing status of the Space Technology Mission Directorate programs; status of activities within the Office of the Chief Technologist with an emphasis on the discussing the Agency's basic research and engineering sciences efforts; update on the Solar Sail project; status of the NASA Robotics Technologies project and NASA's work with the National Robotics Initiative; and an annual ethics briefing.

**DATES:** Thursday, April 18, 2013, 8:00 a.m. to 3:15 p.m., Local Time.

**ADDRESSES:** NASA Headquarters, 300 E Street SW., Room 6Z43, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Green, Office of the Chief Technologist, NASA Headquarters, Washington, DC 20546, (202) 358–4710, fax (202) 358–4078, or *g.m.green@nasa.gov.*

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 877–951–7311, passcode 6800761, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number is 394 467 816, and the password is TICmte@0418.

The agenda for the meeting includes the following topics:

—Office of the Chief Technologist Update

—Discussion of the Agency's efforts in basic research and engineering sciences

—Space Technology Mission Directorate Update

—Briefing and overview of NASA's Solar Sail project

—Update on NASA's Robotic Technologies and the National Robotics Initiative

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Anyah Dembling via email at *anyah.b.dembling@nasa.gov* or by telephone at (202) 358–5195. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Anyah Dembling.

**Patricia D. Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 2013–07780 Filed 4–3–13; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meetings; National Science Board

The National Science Board's Executive Committee, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n-5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of a teleconference for the transaction of National Science Board business and other matters specified, as follows:

**DATE & TIME:** Tuesday, April 9, 2013, from 10:30–11:30 a.m. EDT.

**SUBJECT MATTER:** (1) Chairman's opening remarks; and (2) Discussion of agenda for May 2013 meeting.

**STATUS:** Open.

**LOCATION:** This meeting will be held by teleconference at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. A public listening room will be available for this teleconference meeting. All visitors must contact the Board Office (call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the teleconference for the public room number and to arrange for a visitor's badge. All visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Streets entrance on the day of the teleconference to receive a visitor's badge.

**UPDATES & POINT OF CONTACT:** Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information. Meeting information and updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/.* Point of contact for this meeting is: Dedric Carter, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8002.

**Ann Bushmiller,**

*Senior Counsel to the National Science Board.*

[FR Doc. 2013–07914 Filed 4–2–13; 11:15 am]

**BILLING CODE 7555–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Federal Prevailing Rate Advisory Committee; Cancellation of Upcoming Meeting

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** The Federal Prevailing Rate Advisory Committee is issuing this notice to cancel the April 18, 2013, public meeting scheduled to be held in Room 5A06A, U.S. Office of Personnel Management Building, 1900 E Street NW., Washington, DC. The original **Federal Register** notice announcing this meeting was published Thursday, December 27, 2012, at 77 FR 76304.

**FOR FURTHER INFORMATION CONTACT:** Madeline Gonzalez, 202–606–2838, or email *pay-leave-policy@opm.gov.*

U.S. Office of Personnel Management.

**Jerome D. Mikowicz,**

*Designated Federal Officer, Federal Prevailing Rate Advisory Committee.*

[FR Doc. 2013–07875 Filed 4–3–13; 8:45 am]

**BILLING CODE 6325–49–P**

## POSTAL REGULATORY COMMISSION

**[Docket No. CP2011–33; Order No. 1685]**

### Negotiated Service Agreement

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning an amendment to Priority Mail Contract 46. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* April 8, 2013.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

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II. Notice of Filings
III. Supplemental Information
IV. Ordering Paragraphs

### I. Introduction

On March 28, 2013, the Postal Service filed notice that it has agreed to an amendment to the existing Parcel Return Service Contract 2 (Amendment), which was added to the competitive product list in this docket.[1] In its Notice, the Postal Service includes Attachment A, a redacted copy of the Amendment. It also filed the unredacted Amendment under seal.

The Postal Service asserts that ''[g]iven the current robust cost coverage of Parcel Return Service Contract 2, this amendment will not have a significant impact on the contract's cost coverage.'' *Id.* at 1. It states that ''the supporting financial documentation and financial certification initially provided in this docket remain applicable.'' *Id.* It also seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of customer-identifying information that it has filed under seal. *Id.* The Amendment changes the price calculation section of the contract for the remainder of its term. *Id.* Attachment A at 1. The Postal Service intends for the Amendment to become effective on the first business day after the date that the Commission completes its review of the Notice. *Id.*

### II. Notice of Filings

Interested persons may submit comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than April 8, 2013. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Pamela A. Thompson to serve as Public Representative in this docket.

### III. Supplemental Information

The Postal Service states that ''[g]iven the current robust cost coverage of Parcel Return Service Contract 2, this amendment will not have a significant impact on the contract's cost coverage.'' It believes that ''the supporting financial documentation and financial certification initially provided in this docket remain applicable.'' Notice at 1.

The supporting financial documentation submitted in support of the original contract was filed on November 17, 2010.[2] The contract's costs, revenues, and prices have changed since that time. To allow the Commission to complete its regulatory review under applicable law and regulations, please provide updated financial documentation and financial certification regarding the amended contract's compliance with applicable law and regulations, including 39 U.S.C. 3632, 3633 and 39 CFR 3015.5. and 3015.7. This supplemental information is due no later than April 5, 2013.

### IV. Ordering Paragraphs

*It is ordered:*

1. The Commission shall reopen Docket No. CP2011–33 to consider the amendment to Parcel Return Service Contract 2.

2. Pursuant to 39 U.S.C. 505, Pamela A. Thompson is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than April 8, 2013.

4. The supplemental information requested shall be filed no later than April 5, 2013.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2013–07787 Filed 4–3–13; 8:45 am]

**BILLING CODE 7710–FW–P**

[1] Notice of United States Postal Service of Amendment to Parcel Return Service Contract 2, With Portions Filed Under Seal, March 28, 2013 (Notice).

[2] Request of the United States Postal Service to Add Parcel Return Service Contract 2 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, November 17, 2010.

## POSTAL REGULATORY COMMISSION

**[Docket No. MC2013–42 and CP2013–55; Order No. 1687]**

### New Competitive Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 56 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* April 8, 2013.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

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### I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 56 to the competitive product list.[1] The Postal Service asserts that Priority Mail Contract 56 is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3).

[1] Request of the United States Postal Service to Add Priority Mail Contract 56 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 28, 2013 (Request).

Request at 1. The Request has been assigned Docket No. MC2013–42.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2013–55.

*Request.* To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors' Decision No. 11–6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

*Related contract.* The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective 1 business day following the day on which the Commission issues all necessary regulatory approval. *Id.* at 2. The contract will expire 3 years from the effective date unless, among other things, either party terminates the agreement upon 30 days' written notice to the other party. *Id.* at 3. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.* Attachment E.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information, should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

**II. Notice of Filings**

The Commission establishes Docket Nos. MC2013–42 and CP2013–55 to consider the Request pertaining to the proposed Priority Mail Contract 56 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than April 8, 2013. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

**III. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket Nos. MC2013–42 and CP2013–55 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than April 8, 2013.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2013–07883 Filed 4–3–13; 8:45 am]

**BILLING CODE 7710–FW–P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Effective date:* April 4, 2013.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 28, 2013, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 57 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2013–43, CP2013–56.

**Stanley F. Mires,**

*Attorney, Legal Policy & Legislative Advice.*

[FR Doc. 2013–07790 Filed 4–3–13; 8:45 am]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Effective date:* April 4, 2013.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on March 28, 2013, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 56 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2013–42, CP2013–55.

**Stanley F. Mires,**

*Attorney, Legal Policy & Legislative Advice.*

[FR Doc. 2013–07789 Filed 4–3–13; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–69258; File No. SR–CBOE–2013–038]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

March 29, 2013.

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 March 18, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site *(http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx),* at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange recently amended CBOE rules to enable the listing and trading of option contracts overlying 10 shares of a security (''Mini options'', or ''Minis'').[3] Because the regular per-contract unit of trading for the five options classes (SPY, AAPL, GLD, GOOG, and AMZN) on which the Exchange has proposed listing Minis is 100 shares, a Mini effectively functions as 1/10 of a regular options contract (generally speaking). The Exchange hereby proposes to adopt fees for the trading of Minis (all fees referenced herein are per-contract unless otherwise stated).

Minis have a smaller exercise and assignment value due to the reduced number of shares they deliver as compared to standard option contracts. As such, the Exchange is proposing generally lower per contract fees as compared to standard option contracts, with some exceptions to be fully described below. Despite the smaller exercise and assignment value of a Mini, the cost to the Exchange to process quotes and orders in Minis, perform regulatory surveillance and retain quotes and orders for archival purposes is the same as a for a standard contract. This leaves the Exchange in a position of trying to strike the right balance of fees applicable to Minis—too low and the costs of processing Mini quotes and orders will necessarily cause the Exchange to either raise fees for everyone or only for participants trading Minis; too high and participants may be deterred from trading Minis, leaving the Exchange less able to recoup costs associated with development of the product, which is designed to offer investors a way to take less risk in high-dollar securities. The Exchange, therefore, believes that adopting fees for Minis that are in some cases lower than fees for standard contracts, and in other cases the same as for standard contracts, is appropriate, not unreasonable, not unfairly discriminatory and not burdensome on competition between participants, or between the Exchange and other exchanges in the listed options marketplace.

Under the proposed fees structure for Minis, Customers will be assessed no fees for Mini transactions, just as no Customer fees are assessed for transactions in the standard-sized Mini Classes. Mini volume will be excluded from counting towards the Exchange's Volume Incentive Program (''VIP''). As noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. This, coupled with the lower per-contract transaction fees charged to other market participants, makes it impractical to offer Trading Permit Holders (''TPHs'') a credit for Customer electronic Mini volume they transact. As there is no fee assessed to Customer Mini transactions, such transactions will not qualify towards the Exchange's Customer Large Trade Discount.

CBOE Market-Makers, DPMs, E–DPMs and LMMs (together, ''CBOE Market-Makers'') will be assessed a $0.02 fee for manual and electronic Mini transactions (including CFLEX AIM transactions). It is difficult to compare the proposed $0.02 amount to the amount assessed to CBOE Market-Makers for standard options transactions, as that amount can differ depending on which tier each CBOE Market-Maker reaches in the Liquidity Provider Sliding Scale (though it is less than 1/10 the fee assessed at the lowest tier of the Liquidity Provider Sliding Scale for standard options transactions).[4] The Exchange wishes to assess such a fee of $0.02 to CBOE Market-Makers in order to encourage them to quote often and aggressively.

In addition, a Marketing Fee collection of $0.02 for Penny Pilot Classes and $0.06 for all other classes (these amounts are slightly less than 1/10 of the charges incurred by CBOE Market-Makers for standard options contract transactions) will also apply under the same conditions under which a Marketing Fee collection applies to standard options contract transactions. Unlike for standard options contract transactions, no Hybrid Agency Liaison (''HAL'') Step-Up Rebate will be given to Market-Makers for Mini transactions. As noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. This, coupled with the lower per-contract transaction fees charged, makes it impractical to offer CBOE Market-Makers the HAL Step-Up Rebate. As such, Minis shall be excluded from the HAL Step-Up Rebate. Mini transactions will also be excluded from counting towards the Liquidity Provider Sliding Scale (as the fee levels at all tiers in the Liquidity Provider Sliding Scale are all higher than the $0.02 fee for Market-Maker Mini transactions).

Clearing Trading Permit Holder Proprietary orders will be assessed a $0.03 fee for manual and electronic

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68656 (January 15, 2013), 78 FR 4526 (January 22, 2013) (SR–CBOE–2013–001), in which the Exchange proposed to list Mini Options on SPDR S&P 500 (''SPY''), Apple, Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG'') and Amazon.com Inc. (''AMZN'') (together, the ''Mini Classes''). SPY and GLD are Exchange-Traded Funds (''ETFs'') and AAPL, AMZN and GOOG are equity options.

[4] *See* CBOE Fees Schedule, ''Liquidity Provider Sliding Scale'' table.

Mini transactions (including CFLEX AIM transactions). This fee amount is slightly more than 1/10 the amount assessed for standard options transactions for Clearing Trading Permit Holder Proprietary executions. As noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options, and therefore, in some situations (including for Clearing Trading Permit Holder Proprietary orders), the Exchange must assess a Minis fee of more than 1/10 the amount assessed for standard options transactions. Mini volume will not count towards the CBOE Proprietary Products Sliding Scale for Clearing Trading Permit Holder Proprietary Orders (the ''Proprietary Products Sliding Scale''). As noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. Further, as the measuring stick to determine whether a Clearing Trading Permit Holder reaches new tiers on the Proprietary Products Sliding Scale is the number of contracts traded, it would be difficult for the Exchange to count Mini contracts, since they effectively function as 1/10 of a regular standard options contract. Therefore, the Exchange does not wish to count Clearing Trading Permit Holder Proprietary orders towards the Proprietary Products Sliding Scale, and therefore Minis will be excluded from counting towards the Proprietary Products Sliding Scale.

The Exchange proposes to count Mini fees towards the Clearing Trading Permit Holder Fee Cap in all products except SPX, SPXpm, SRO, VIX or other volatility indexes, OEX or XEO (the ''Fee Cap'') in the same manner that the Fee Cap applies to standard options transactions.[5] This will help Clearing Trading Permit Holders to reach this cap on their fees. Further, since the Fee Cap is calculated based on fees, it makes sense to count Minis fees towards the Fee Cap. Further, the Exchange does recognize that Clearing Trading Permit Holders can be an important source of liquidity when they facilitate their own customers' trading activity and, as such, the waiver of Clearing Trading Permit Holder Proprietary transaction fees, as described in Footnote 11 to the CBOE Fees Schedule, for facilitation orders[6] executed in AIM, open outcry, or as a QCC or FLEX transaction, will continue to apply to facilitation orders in Minis.

The Exchange also has caps on transaction fees that apply to merger strategies and short stock interest strategies as well as to reversals, conversions and jelly roll strategies (the ''Strategy Caps'').[7] The Exchange proposes to count Mini fees towards the Strategy Caps in the same manner that the Strategy Caps apply to standard options transactions. This will help market participants reach these caps on their fees. Further, since the Strategy Caps are calculated based on fees, it makes sense to count Minis fees towards the Strategy Caps.

Broker-Dealers and Non-Trading Permit Holder Market-Makers (''Away Market-Makers'') will be assessed a $0.04 fee for manual and electronic Mini transactions (including CFLEX AIM transactions). This fee amount is less than 1/10 the amount assessed for standard options transactions for electronic Broker-Dealer and Non-Trading Permit Holder Market-Maker executions, though more than 1/10 the amount assessed for standard options transactions for manual Broker-Dealer and Non-Trading Permit Holder Market-Maker executions. The Exchange determined to establish a simple, flat fee for manual and electronic Broker-Dealer and Non-Trading Permit Holder Market-Maker Mini transactions, and the extent to which the Mini fee amount is more than 1/10 the amount assessed for standard options transactions for manual Broker-Dealer and Non-Trading Permit Holder Market-Maker executions is necessary to make up for the extent to which the Mini fee amount is less than 1/10 the amount assessed for standard options transactions for electronic Broker-Dealer and Non-Trading Permit Holder Market-Maker executions.

Professional, Voluntary Professional, and Joint Back-Office orders will be subject to a $0.03 fee for manual and electronic Mini transactions (including CFLEX AIM transactions). This amount is 1/10 the amount assessed for standard options transactions for electronic Professional, Voluntary Professional, and Joint Back-Office executions, though slightly more than 1/10 the amount assessed for standard options transactions for manual Professional, Voluntary Professional, and Joint Back-Office executions (which is $0.25). As noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. As such, the Exchange determined to base the Mini transaction fee amount for Professional, Voluntary Professional, and Joint Back-Office orders on the amount assessed for standard options transactions for electronic Professional, Voluntary Professional, and Joint Back-Office executions (also, the Exchange does not at this time wish to assess Mini transaction fees in sub-penny increments unless such fee amounts are also assessed in sub-penny increments for standard options transactions or the fee amounts for standard options are less than $0.05).

The Exchange proposes to assess a $0.02 fee for all Mini Qualified Contingent Cross (''QCC'') transactions (except for Customer Mini QCC transactions, which, like other Customer Mini transactions, will be assessed a $0.00 fee). This fee amount is 1/10 of the $0.20 amount assessed for standard options QCC transactions (except for CBOE Market-Maker QCC transactions, which are subject to the Liquidity Provider Sliding Scale; $0.20 falls within the range of fees assessed under the Liquidity Provider Sliding Scale, and the Exchange desires to make determining Mini fees simple by merely assessing a flat, non-moving amount for Mini QCC fees).

The Exchange proposes to assess a $0.02 fee for all Mini AIM Agency/Primary orders (except Customer AIM Agency/Primary orders, which, like other Customer Mini transactions will be assessed a $0.00 fee).). This fee amount is 1/10 of the $0.20 amount assessed for standard options AIM Agency/Primary orders (except for CBOE Market-Maker AIM Agency/Primary transactions, which are subject to the Liquidity Provider Sliding Scale; $0.20 falls within the range of fees assessed under the Liquidity Provider Sliding Scale, and the Exchange desires to make determining Mini fees simple by merely assessing a flat, non-moving amount for Mini AIM Agency/Primary fees).

The Exchange proposes to assess a $0.01 fee for Clearing Trading Permit Holder Proprietary, Broker-Dealer, Away Market-Maker, and Professional/Voluntary Professional/Joint Back-Office Mini AIM Contra executions. Standard options AIM Contra execution fees for these market participants are $0.05. While the $0.01 amount is more than 1/10 of the $0.05 amount assessed for standard options AIM Contra executions, the Exchange notes again that the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. Further, as the Exchange desires not to list and assess sub-penny fee increments on its

[5] *See* CBOE Fees Schedule, Footnote 11, for more details on the Fee Cap.

[6] ''Facilitation orders'' are defined for this purpose in Footnote 11 as ''any paired order in which a Clearing Trading Permit Holder (F) origin code is contra to any other origin code, provided the same executing broker and clearing firm are on both sides of the order''.

[7] *See* CBOE Fees Schedule, Footnote 13, for more details on the Strategy Caps.

main rate tables (in order to keep such tables simple), and as the nearest whole penny increment to 1/10 of $0.05 is $0.01, it makes sense to assess that amount. The Exchange proposes to assess a $0.02 fee for CBOE Market-Maker Mini AIM Contra executions. The Liquidity Provider Sliding Scale that applies fees to CBOE Market-Maker transactions (including AIM Contra executions), has a first fee tier of $0.25. A fee amount of $0.02 for Mini AIM Contra executions is less than 1/10 the amount that can be assessed to CBOE Market-Makers for standard options AIM Contra executions. The Exchange proposes to assess a fee of $0.00 for Customer Mini AIM Contra executions, as this is the amount assessed to all other Customer Mini executions. The statement in Footnote 18 that the AIM Contra Execution Fee will apply to AIM Contra executions ''instead of the applicable standard transaction fee except if the applicable standard transaction fee is lower than $.05 per contract, in which case the applicable standard transaction fee will apply'' will not apply to Minis, as the applicable standard transaction fees for Minis will be lower than $0.05 per contract.

Currently, the Exchange assesses a $0.0085 per contract Options Regulatory Fee (''ORF'').[8] The Exchange is proposing to charge the same rate for transactions in Mini options, $0.0085 per contract, since, as noted, the costs to the Exchange to process quotes, orders, trades and the necessary regulatory surveillance programs and procedures in Minis are the same as for standard option contracts. As such, the Exchange feels that it is appropriate to charge the ORF at the same rate as the standard option contract. The Exchange also assesses a DPM and Firm Designated Examining Authority Fee (the ''DEA Fee'') of $0.60 per $1,000 of gross revenue.[9] Any revenue that comes from Mini trading would count towards the DEA Fee (as does other revenue).

Similarly, because, as noted, the costs to the Exchange to process quotes, orders, trades and the necessary regulatory surveillance programs and procedures in Minis are the same as for standard option contracts, the Exchange will assess to Mini transactions the same PULSe Workstation Away-Market Routing, Away-Market Routing Intermediary, and CBOE/CBSX Routing fees (the ''PULSe Workstation Fees''),[10] Trade Processing Services fees,[11] and PAR Official Fees [12] as are assessed to standard options transactions.

In order to comply with the Options Order Protection and Locked/Crossed Market Plan (the ''Linkage Plan''), the Exchange uses various means of accessing better priced interest located on other exchanges and assesses fees associated with the execution of orders routed to other exchanges.[13] For Customers, these fees involve, to some extent, the passing-through of the actual transaction fee assessed by the exchange(s) to which the order was routed, while for non-Customers, a set amount is assessed. These fees are designed to help recover the Exchange's costs in routing orders to other exchanges. The Exchange believes that the Options Clearing Corporation (''OCC'') and broker-dealers will be assessing the same charges for Minis as are assessed to standard options. Further, the Exchange's costs for routing Minis through to other exchanges will be the same as the Exchange's costs for routing standard options to other exchanges. As such, the Exchange intends apply to Mini options the same Linkage Fees structure as applies to standard options. The Exchange notes that participants can avoid the Linkage Fees in several ways. First, they can simply route to the exchange with the best priced interest. The Exchange, in recognition of the fact that markets can move while orders are in flight, also offers participants the ability to utilize order types that do not route to other exchanges. Specifically, the Immediate-or-Cancel Order (''IOC Order'') is one such order that would never route to another exchange. For all these reasons, the Exchange believes it is reasonable to apply to Mini options the same Linkage Fees structure as applies to standard options.

The Exchange has Order Router Subsidy (''ORS'') Programs that state that CBOE may enter into subsidy arrangements with Trading Permit Holders (''TPHs'') or broker-dealers that are not CBOE Trading Permit Holders (''Non-CBOE TPHs'') that provide certain routing functionalities to other CBOE TPHs, Non-CBOE TPHs and/or use such functionalities themselves. Under the ORS, participating TPHs or participating Non-CBOE TPHs (''participants'') will receive a payment from CBOE for every executed contract for orders routed to CBOE through that participant's system to subsidize their costs associated with providing order routing functionalities.[14] The Exchange offers a subsidy of $0.04 for the simple and complex ORS Programs ($0.03 for participants that elect for the Exchange to perform certain additional marketing services on the participant's behalf (the ''Marketing Service Election'')). The Exchange proposes to offer subsidies for Minis under the ORS Programs that are 1/10 the amounts offered for standard options ($0.004 for simple and complex Minis, with $0.003 for Minis under the Marketing Service Election). Under the simple ORS Program, a participant may elect to have CBOE perform the service of billing other CBOE TPHs with respect to the use of the participant's router (the ''Billing Election''). A participant that elects to have CBOE perform this service would pay CBOE a service fee of one percent of the fees collected by CBOE for that TPH. The Exchange proposes to apply the Billing Election to Minis in the same way it applies to standard options. For billing purposes, Minis fees will be rounded to the nearest $0.01 using standard rounding rules.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[15] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange noted earlier that, while Minis have a smaller exercise and assignment value due to the reduced number of shares to be delivered as compared to standard option contracts, and despite the smaller exercise and assignment value of a Mini, the cost to the Exchange to process quotes and orders in Minis, perform regulatory surveillance and retain quotes and orders for archival purposes is the same as for a standard contract. This leaves the Exchange in a position of trying to strike the right balance of fees applicable to Minis—too low and the costs of processing Mini quotes and orders will necessarily cause the Exchange to either raise fees for

[8] *See* CBOE Fees Schedule, ''Regulatory Fees'' table.

[9] *See* CBOE Fees Schedule, ''Regulatory Fees'' table for more details on the DEA Fee.

[10] *See* CBOE Fees Schedule, ''PULSe Workstation'' section of the ''Facility Fees'' table.

[11] *See* CBOE Fees Schedule, ''Trade Processing Services'' Table.

[12] *See* CBOE Fees Schedule, ''PAR Official Fees in All Other Classes'' section of the ''Floor Brokerage and PAR Official Fees'' table.

[13] *See* CBOE Fees Schedule, ''Linkage Fees'' table.

[14] *See* CBOE Fees Schedule, ''Order Router Subsidy Programs'' table for more details on the ORS Programs.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4).

everyone or only for participants trading Minis; too high and participants may be deterred from trading Minis, leaving the Exchange less able to recoup costs associated with development of the product, which is designed to offer investors a way to take less risk in high dollar securities. Given these realities, the Exchange believes that adopting fees for Minis that are in some cases lower than standard contracts, and in other cases the same as for standard contracts, is appropriate, not unreasonable, not unfairly discriminatory and not burdensome on competition between participants, or between the Exchange and other exchanges in the listed options market place. In the case of most trade related charges, the Exchange has decided to offer lower per-contract fees to participants as part of trying to strike the right balance between recovering costs associated with trading Minis and encouraging use of the new Mini option contracts, which are designed to allow investors to reduce risk in high dollar underlying securities.

The Exchange proposal to charge Customers $0.00 per contract is reasonable, as Customers have long traded for free all options on the Exchange. This $0.00 fee for Customer Mini executions attracts Customer order flow to the Exchange, which is beneficial to all other participants on the Exchange who generally seek to trade with Customer order flow and who benefit from the increased volume and trading opportunities. The proposed fee of $.00 per contract is the same fee charged to Customer orders in standard option contracts, which is an effective fee on the Exchange and has not been determined to be inequitable or unfairly discriminatory. Further, the options marketplace has a history of offering preferential pricing to Customers. Finally, NYSE Arca, Inc. (''Arca'') proposes to charge Customers $0.00 for some Customer Mini transactions.[17] Therefore, the Exchange believes that the proposed Customer pricing for Minis is equitable and not unfairly discriminatory.

The Exchange believes that excluding Customer Mini transactions from counting towards the VIP is reasonable, equitable and not unfairly discriminatory for the following reasons. First, as noted above, the Exchange's cost to process quotes, orders and trades in Minis is the same as for standard options. Given the overall lower expected revenues from Mini options, it is reasonable to exempt Mini option volumes from qualifying for the VIP credits paid on standard option contracts. It is also equitable, since paying the rebate on Mini option volumes would likely necessitate either reducing the VIP credits paid under the VIP, or raising other participant fees. It is not unfairly discriminatory, as it will apply equally to all Customer executions in Mini options.

The Exchange believes that the proposal to assess to CBOE Market-Makers a $0.02 fee for manual and electronic Mini transactions (including CFLEX AIM transactions) is reasonable. It is difficult to compare the proposed $0.02 amount to the amount assessed to CBOE Market-Makers for standard options transactions, as that amount can differ depending on which tier each CBOE Market-Maker reaches in the Liquidity Provider Sliding Scale. However, $0.02 is less than 1/10 the fee assessed at the lowest tier of the Liquidity Provider Sliding Scale for standard options transactions. The Exchange believes that these CBOE Market-Maker Mini fees are equitable and not unfairly discriminatory for a number of reasons. First, they will apply equally to all CBOE Market-Makers. Second, the Exchange believes that it is equitable and not unfairly discriminatory to assess lower fee amounts to CBOE Market-Makers than to some other market participants because CBOE Market-Makers have obligations, such as quoting obligations, that other market participants do not possess. Further, these lower fees are intended to encourage Market-Makers to quote aggressively and more often, which provides more trading opportunities for all market participants. Finally, the proposed $0.02 CBOE Market-Maker fee for Minis is equivalent to Arca's proposed NYSE Arca Market Maker Mini fee for manual executions, and significantly lower than Arca's proposed Market Maker Mini fees for Taker electronic executions ($0.07 in Penny Pilot classes and $0.10 in non-Penny Pilot classes).[18]

The Exchange also believes that the proposal to assess to CBOE Market-Makers a Marketing Fee collection of $0.02 for Penny Pilot Classes and $0.06 for all other classes is reasonable, equitable and not unfairly discriminatory because these amounts are slightly less than 1/10 the amount assessed for standard options. The Exchange also believes that this proposed fee is equitable and not unfairly discriminatory because it will apply to all CBOE Market-Makers. The Exchange believes that not providing the HAL Step-Up Rebate is reasonable because it merely prevents CBOE Market-Makers trading Minis from receiving a rebate; it does not impose another fee. The Exchange believes that it is equitable and not unfairly discriminatory to not provide the HAL Step-Up Rebate to CBOE Market-Makers trading Minis when the HAL Step-Up Rebate is provided to CBOE Market-Makers trading standard options products because, as stated previously, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. This, coupled with the lower per-contract transaction fees charged, makes it impractical to offer CBOE Market-Makers the HAL Step-Up Rebate. Further, no CBOE Market-Maker will receive the HAL Step-Up Rebate for Minis transactions. The Exchange believes that it is reasonable to not count Minis transactions towards the Liquidity Provider Sliding Scale because this merely prevents Market-Makers from being able to receive reduced fees; this does not impose a greater fee. The Exchange believes that this is equitable and not unfairly discriminatory because the amounts in the tiers of the Liquidity Provider Sliding Scale are all higher than the $0.02 fee for Market-Maker Mini transactions. Further, no Market-Maker Mini transactions will count towards or qualify for the Liquidity Provider Sliding Scale.

The Exchange believes that assessing a $0.03 fee for manual and electronic Clearing Trading Permit Holder Proprietary Mini executions is reasonable because, while this amount is slightly more than 1/10 the amount assessed for standard options Clearing Trading Permit Holder Proprietary executions, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options, and therefore, in some situations (including for Clearing Trading Permit Holder Proprietary orders), the Exchange must assess a Minis fee of more than 1/10 the amount assessed for standard options transactions. This amount is still significantly less than the amount assessed for standard options Clearing Trading Permit Holder Proprietary executions, despite the fact that the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. The Exchange believes that this fee is equitable and not unfairly discriminatory because it will be assessed to all qualifying manual

[17] *See* SR–NYSEArca–2013–25, available at *http://www.nyse.com/nysenotices/nysearca/rule-filings/pdf?file_no=SR-NYSEArca-2013-25&seqnum=1* (the ''Arca filing''), page 5, which proposes to assess a fee of $0.00 for manual Customer executions in Minis.

[18] *See* Arca filing, page 5.

and electronic Clearing Trading Permit Holder Proprietary executions in Minis. Further, the Exchange believes it is equitable and not unfairly discriminatory to assess lower fees to Clearing Trading Permit Holder Proprietary executions than to those of other market participants (such as Broker-Dealers and Away Market-Makers) because Clearing Trading Permit Holders have a number of obligations (such as membership with the Options Clearing Corporation), significant regulatory burdens, and financial obligations, that other market participants do not need to take on. Finally, the amount of the proposed fees for Clearing Trading Permit Holder Proprietary executions in Minis is significantly lower than the $0.09 fee that is proposed to be assessed by Arca for Mini Firm manual executions and electronic Penny Pilot Taker executions (as well as significantly lower than Arca's proposed $0.12 Taker fee for Firm Mini electronic non-Penny Pilot Taker executions).[19]

The Exchange believes that the proposal to not count Mini volume towards the Proprietary Products Sliding Scale is reasonable in light of the Exchange's desire to fund the costs associated with Minis with revenues only from those participants who trade them. As noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. Including Mini volume towards the Proprietary Products Sliding Scale might necessitate raising costs for other market participants; therefore, the Exchange believes that the exclusion of Minis from the Proprietary Products Sliding Scale is both reasonable and equitable. Because this exclusion will apply to all Clearing Trading Permit Holder Proprietary Mini orders, the Exchange believes that it is equitable and not unfairly discriminatory. Further, as the measuring stick to determine whether a Clearing Trading Permit Holder reaches new tiers on the Proprietary Products Sliding Scale is the number of contracts traded, it would be difficult for the Exchange to count Mini contracts, since they effectively function as 1/10 of a regular standard options contract.

The Exchange believes that the proposal to count Minis fees towards the Fee Cap is reasonable because it will help Clearing Trading Permit Holders to reach this cap on their fees. Further, since the Fee Cap is calculated based on fees, it makes sense to count Minis fees towards the Fee Cap. The Exchange believes this is equitable and not unfairly discriminatory because Minis fees will count towards the Fee Cap in the same manner that standard options transaction fees count towards the Fee Cap. Further, Arca proposes to exclude Minis fees from its $75,000 per month cap on Firm Proprietary fees,[20] making the Exchange's proposal to count Minis fees towards the Fee Cap competitively advantageous and more attractive to market participants.

The Exchange believes that the proposal to count Minis fees towards the Strategy Caps is reasonable because it will help market participants to reach these caps on their fees. Further, since the Strategy Caps are calculated based on fees, it makes sense to count Minis fees towards the Strategy Caps. The Exchange believes this is equitable and not unfairly discriminatory because Minis fees will count towards the Strategy Caps in the same manner that standard options transaction fees count towards the Strategy Caps. Further, Arca proposes to exclude Minis fees from its Limit of Fees on Options Strategy Executions, which is a similar program to the Exchange's Strategy Caps,[21] making the Exchange's proposal to count Minis fees towards the Strategy Caps competitively advantageous and more attractive to market participants.

The Exchange believes that the proposal to waive Clearing Trading Permit Holder Proprietary transaction fees for Mini facilitation orders executed in AIM, open outcry, or as a QCC or FLEX transaction is reasonable because it will exempt such orders from being assessed fees. The Exchange believes that this is equitable and not unfairly discriminatory because such orders are exempt from fees for standard options transactions. Further, the Exchange recognizes that Clearing Trading Permit Holders can be an important source of liquidity when they facilitate their own customers' trading activity. Such trades add transparency and promote price discovery to the benefit of all market participants. Moreover, the exemption from fees for Mini facilitation orders executed in AIM, open outcry, or as a QCC or FLEX transaction will apply to all such orders.

The Exchange believes that the proposed $0.04 fee for Broker-Dealers and Away Market-Makers for manual and electronic Mini transactions (including CFLEX AIM transactions) is reasonable. This fee amount is significantly less than the fee assessed for standard options contracts, and indeed is less than 1/10 the amount assessed for standard options transactions for electronic Broker-Dealer and Non-Trading Permit Holder Market-Maker executions, though more than 1/10 the amount assessed for standard options transactions for manual Broker-Dealer and Non-Trading Permit Holder Market-Maker executions. The Exchange determined to establish a simple, flat fee for manual and electronic Broker-Dealer and Non-Trading Permit Holder Market-Maker Mini transactions, and the extent to which the Mini fee amount is more than 1/10 the amount assessed for standard options transactions for manual Broker-Dealer and Non-Trading Permit Holder Market-Maker executions is necessary to make up for the extent to which the Mini fee amount is less than 1/10 the amount assessed for standard options transactions for electronic Broker-Dealer and Non-Trading Permit Holder Market-Maker executions, as well as to account for the fact that, as noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. In this regard, the proposed fee amount is reasonable and also equitable in that it allows the Exchange to offer this innovative product to investors without raising fees for other investors who may have no interest in trading Minis. Further, the Exchange believes this fee is equitable and not unfairly discriminatory because it will apply to all Broker-Dealers and Away Market-Makers. Also, the Exchange believes that it is equitable and not unfairly discriminatory to assess higher fees to Broker-Dealers and Away Market-Makers because they do not have some of the obligations that other market participants, such as CBOE Market-Makers and Clearing Trading Permit Holders, may have. Finally, the proposed $0.04 fee amount is significantly lower than the $0.09 fee proposed by Arca for Mini Broker Dealer manual executions and electronic Penny Pilot Taker executions (as well as significantly lower than Arca's proposed $0.12 Broker Dealer Taker fee for Mini electronic non-Penny Pilot Taker executions).[22]

The Exchange believes that the proposal to assess Professional, Voluntary Professional, and Joint Back-Office orders a $0.03 fee for manual and electronic Mini transactions (including CFLEX AIM transactions) is reasonable. This amount is 1/10 the amount assessed for standard options transactions for electronic Professional, Voluntary Professional, and Joint Back-Office executions, though slightly more than 1/10 the amount assessed for standard options transactions for manual

[19] *See* Arca filing, page 5.

[20] *See* Arca filing, page 8.

[21] *See* Arca filing, page 9.

[22] *See* Arca filing, page 5.

Professional, Voluntary Professional, and Joint Back-Office executions (which is $0.25). As noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. As such, the Exchange determined to base the Mini transaction fee amount for Professional, Voluntary Professional, and Joint Back-Office orders on the amount assessed for standard options transactions for electronic Professional, Voluntary Professional, and Joint Back-Office executions. Further, this amount is significantly less than the amount assessed for Professional, Voluntary Professional, and Joint Back-Office executions for standard options. In this regard, the proposed fee amount is reasonable and also equitable in that it allows the Exchange to offer this innovative product to investors without raising fees for other investors who may have no interest in trading Minis. The Exchange believes that this proposed fee is equitable and not unfairly discriminatory because it will be assessed to all Professional, Voluntary Professional, and Joint Back-Office Mini transactions.

The Exchange believes that the proposal to assess a $0.02 fee for all Mini QCC transactions (except for Customer Mini QCC transactions, which, like other Customer Mini transactions, will be assessed a $0.00 fee) is reasonable, equitable and not unfairly discriminatory because this fee amount is 1/10 of the $0.20 amount assessed for standard options QCC transactions (except for CBOE Market-Maker QCC transactions, which are subject to the Liquidity Provider Sliding Scale; $0.20 falls within the range of fees assessed under the Liquidity Provider Sliding Scale, and the Exchange desires to make determining Mini fees simple by merely assessing a flat, non-moving amount for Mini QCC fees). The Exchange further believes that it is equitable and not unfairly discriminatory to assess a $0.02 fee for all Mini QCC transactions (except Customer Mini QCC transactions) because all market participants will be paying this same amount (except for Customers) for Mini QCC transactions. The Exchange believes that it is equitable and not unfairly discriminatory to assess a $0.00 fee for Customer Mini QCC transactions because this is the same amount being assessed to other Customer Mini transactions, and because this $0.00 fee for Customer Mini executions attracts Customer order flow to the Exchange, which is beneficial to all other participants on the Exchange who generally seek to trade with Customer order flow and who benefit from the increased volume and trading opportunities. Further, the proposed fee of $.00 per contract is the same fee charged to Customer QCC orders in standard option contracts, which is an effective fee on the Exchange and has not been determined to be inequitable or unfairly discriminatory. Also, the options marketplace has a history of offering preferential pricing to Customers. Finally, the proposed Mini QCC fee amounts are significantly lower than the $0.05 fee (per side) for Mini QCCs proposed by Arca.[23]

The Exchange believes that the proposal to assess a $0.02 fee for all Mini AIM Agency/Primary transactions (except for Customer Mini AIM Agency/Primary transactions, which, like other Customer Mini transactions will be assessed a $0.00 fee) is reasonable, equitable and not unfairly discriminatory because this fee amount is 1/10 of the $0.20 amount assessed for standard options AIM Agency/Primary transactions (except for CBOE Market-Maker AIM Agency/Primary transactions, which are subject to the Liquidity Provider Sliding Scale; $0.20 falls within the range of fees assessed under the Liquidity Provider Sliding Scale, and the Exchange desires to make determining Mini fees simple by merely assessing a flat, non-moving amount for Mini AIM Agency/Primary fees). The Exchange further believes that it is equitable and not unfairly discriminatory to assess a $0.02 fee for all Mini AIM Agency/Primary transactions (except Customer Mini AIM Agency/Primary transactions) because all market participants will be paying this same amount (except for Customers) for Mini AIM Agency/Primary transactions. The Exchange believes that it is equitable and not unfairly discriminatory to assess a $0.00 fee for Customer Mini AIM Agency/Primary transactions because this is the same amount being assessed to other Customer Mini transactions, and because this $0.00 fee for Customer Mini executions attracts Customer order flow to the Exchange, which is beneficial to all other participants on the Exchange who generally seek to trade with Customer order flow and who benefit from the increased volume and trading opportunities. Further, the proposed fee of $.00 per contract is the same fee charged to Customer AIM Agency/Primary orders in standard option contracts, which is an effective fee on the Exchange and has not been determined to be inequitable or unfairly discriminatory. Finally, the options marketplace has a history of offering preferential pricing to Customers.

The Exchange believes the proposal to assess a $0.01 fee for Clearing Trading Permit Holder Proprietary, Broker-Dealer, Away Market-Maker, and Professional/Voluntary Professional/Joint Back-Office Mini AIM Contra executions is reasonable, equitable and not unfairly discriminatory because, while the $0.01 amount is more than 1/10 of the $0.05 amount assessed for standard options AIM Contra executions, the Exchange notes again that the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options. Further, as the Exchange desires not to list and assess sub-penny fee increments on its main rate tables (in order to keep such tables simple), and as the nearest whole penny increment to 1/10 of $0.05 is $0.01, it makes sense to assess that amount. The Exchange believes that the proposal to assess a $0.02 fee for CBOE Market-Maker Mini AIM Contra executions is reasonable, equitable and not unfairly discriminatory because the Liquidity Provider Sliding Scale that applies fees to CBOE Market-Maker transactions (including AIM Contra executions), has a first fee tier of $0.25. A fee amount of $0.02 for Mini AIM Contra executions is less than 1/10 the amount that can be assessed to CBOE Market-Makers for standard options AIM Contra executions. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess a $0.00 fee for Customer Mini AIM Contra transactions because this is the same amount being assessed to other Customer Mini transactions, and because this $0.00 fee for Customer Mini executions attracts Customer order flow to the Exchange, which is beneficial to all other participants on the Exchange who generally seek to trade with Customer order flow and who benefit from the increased volume and trading opportunities. Further, the proposed fee of $.00 per contract is the same fee charged to Customer AIM Contra orders in standard option contracts, which is an effective fee on the Exchange and has not been determined to be inequitable or unfairly discriminatory. Finally, the options marketplace has a history of offering preferential pricing to Customers. The Exchange believes that it is equitable and not unfairly discriminatory to apply different Mini AIM Contra fees to different market participants for the reasons described above. Finally, the Exchange believes that the proposed Mini AIM Contra fees are equitable and

[23] *See* Arca filing, page 6.

not unfairly discriminatory because all market participants within the same market participant category will be assessed the same fee amounts (meaning that all for Clearing Trading Permit Holder Proprietary orders, Broker-Dealers, Away Market-Makers, and Professional/Voluntary Professional/Joint Back-Office orders will be assessed a $0.01 fee, all CBOE Market-Makers will be assessed a $0.02 fee, and all Customers will be assessed a $0.00 fee).

The Exchange believes that the proposal to assess the same ORF amount to Minis as are assessed to standard options is reasonable because, as noted, the costs to the Exchange to process quotes, orders, trades and the necessary regulatory surveillance programs and procedures in Minis are the same as for standard option contracts. As such, the Exchange feels that it is appropriate to charge the ORF at the same rate as the standard option contract. Further, the Exchange notes that the cost to perform surveillance to ensure compliance with various Exchange and industry-wide rules is no different for a Mini option than it is for a standard option contract. Reducing the ORF for Mini options could result in a higher ORF for standard options. As such, the Exchange currently believes that the appropriate approach is to treat both Minis and standard options the same with respect to the amount of the ORF that is being charged. The proposed ORF for Minis is equitable and not unfairly discriminatory because the same ORF amount is currently assessed to standard options. Further, all Minis will be assessed the ORF. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to count revenue from Mini trading towards a DPM or Firm's DEA Fee because revenue from Mini trading is revenue, and other revenue counts towards the DEA Fee. The Exchange also believes that this is equitable and not unfairly discriminatory because it will apply to all market participants to whom the DEA Fee apply.

The Exchange believes that subjecting Minis to the same amounts as standard options for purposes of PULSe Workstation Fees, Trade Processing Services fees and PAR Official fees is reasonable because the costs of operating and maintaining the PULSe Workstations, Trade Processing Services and PAR workstations for Mini transactions are the same as for standard options transactions. This is equitable and not unfairly discriminatory because the same fee amounts will be assessed for Minis as for standard options, and because such fees will apply to all Mini transactions.

The Exchange believes that its proposal to treat Mini options the same as standard options for purposes of the Linkage Fees is reasonable, equitable and not unfairly discriminatory for the following reasons. The Linkage Fees are designed to help recover the Exchange's costs in routing orders to other exchanges. The Exchange believes that the OCC and broker-dealers will be assessing the same charges for Minis as are assessed to standard options. Further, the Exchange's costs for routing Minis through to other exchanges will be the same as the Exchange's costs for routing standard options to other exchanges. As such, the Exchange believes that it makes sense apply to Mini options the same Linkage Fees structure as applies to standard options. The Exchange notes that participants can avoid the Linkage Fees in several ways. First, they can simply route to the exchange with the best priced interest. The Exchange, in recognition of the fact that markets can move while orders are in flight, also offers participants the ability to utilize order types that do not route to other exchanges. Specifically, the IOC Order is one such order that would never route to another exchange. For all these reasons, the Exchange believes it is reasonable and equitable to apply to Mini options the same Linkage Fees structure as applies to standard options. Further, the Exchange believes that it is equitable and not unfairly discriminatory to treat Mini options the same as standard options for purposes of the Linkage Fees for that tautological reason; Mini options will be treated the same as standard options for the purposes of Linkage Fees. Finally, since the Linkage Fees will apply to all participants in Minis as they apply for standard options, and because such Linkage Fees have not previously been found to be unreasonable, inequitable or unfairly discriminatory, the Exchange believes this to be the case for Minis as well.

The Exchange believes that the Mini ORS Program subsidy amounts proposed are reasonable, equitable and not unfairly discriminatory because they are 1/10 the amounts that apply to standard options. The Exchange believes that applying the Billing Election to Minis in the same manner that it applies to standard options is reasonable, equitable and not unfairly discriminatory for that tautological reason; it will apply to Minis in the same manner that it applies to standard options. The Exchange also believes that the proposed adaptations to the ORS Programs for Minis is equitable and not unfairly discriminatory because such adaptations will apply to all participants.

*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. The proposed changes are designed to provide greater specificity and precision within the Fee Schedule with respect to the fees applicable to Minis.

The Exchange believes that adopting fees for Minis that are in some cases lower than for standard contracts, but in other cases the same as for standard contracts, strikes the appropriate balance between fees applicable to standard contracts versus fees applicable to Minis, and will not impose a burden on competition among various market participants on the Exchange not necessary or appropriate in furtherance of the purposes of the Act. To the extent that the Exchange proposes assessing different fee amounts to different Exchange market participants, the Exchange believes that such differing assessments will not impose an unnecessary burden on intramarket competition due to the different natures of such market participants and different obligations imposed on such market participants (as described above). Further, in the cases in which some market participants are assessed lower fee amounts than others, the Exchange often does so with the intention of attracting greater trading from those market participants, and the increased volume and trading opportunities benefits all market participants.

The Exchange believes that the proposed fees structure for Mini options will not impose an unnecessary burden on intermarket competition. The Exchange has shown in a number of places in this proposed rule change that the Exchange's fees are at least competitive with, if not preferable to, comparable fees at other exchanges. As such, the Exchange believes that the proposed fees structure for Minis will increase intermarket competition, which benefits all market participants. To the extent that market participants on other exchanges may be attracted to trade on CBOE by the proposed fees structure for Mini options, they are always welcome to become market participants on CBOE.

As Minis are a new product being introduced into the listed options marketplace, the Exchange is unable at this time to absolutely determine the impact that the fees and rebates proposed herein will have on trading in

Minis. That said, however, the Exchange believes that the rates proposed for Minis would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on 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 [24] and paragraph (f) of Rule 19b–4 [25] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2013–038 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–CBOE–2013–038. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–038, and should be submitted on or before April 25, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–07884 Filed 4–3–13; 8:45 am]

**BILLING CODE 8011–01–P**

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 C.F.R. [sic] 240.19b–4(f).

[26] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #13523 and #13524]**

### South Carolina Disaster #SC–00021

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of South Carolina dated 03/29/2013.

*Incident:* Windsor Green Condo Complex Fire.

*Incident Period:* 03/16/2013.

*Effective Date:* 03/29/2013.

*Physical Loan Application Deadline Date:* 05/28/2013.

*Economic Injury (Eidl) Loan Application Deadline Date:* 12/30/2013.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Horry.

*Contiguous Counties:*

South Carolina: Dillon, Georgetown, Marion.

North Carolina: Brunswick, Columbus, Robeson.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Homeowners With Credit Available Elsewhere Homeowners Without | 3.375 |
| Credit Available Elsewhere Businesses With Credit Available | 1.688 |
| Elsewhere Businesses Without Credit Available Elsewhere | 6.000 |
| Non-Profit Organizations With Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.875 |
| *For Economic Injury:* | |
| Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere Non-Profit Organizations Without | 4.000 |
| Credit Available Elsewhere | 2.875 |

The number assigned to this disaster for physical damage is 13523 5 and for economic injury is 13524 0.

The States which received an EIDL Declaration # are South Carolina, North Carolina.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: March 29, 2013.

**Karen G. Mills,**

*Administrator.*

[FR Doc. 2013–07852 Filed 4–3–13; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #13525 and #13526]**

### Maine Disaster # ME–00035

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Maine (FEMA–4108–DR), dated 03/25/2013.

*Incident:* Severe Winter Storm, Snowstorm, and Flooding.

*Incident Period:* 02/08/2013 through 02/09/2013.

*Effective Date:* 03/25/2013.

*Physical Loan Application Deadline Date:* 05/24/2013.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/26/2013.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration Processing, And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 03/25/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

**Primary Counties:**

Androscoggin, Cumberland, Knox, York.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Non-Profit Organizations With Credit Available Elsewhere ... | 2.875 |
| Non-Profit Organizations Without Credit Available Elsewhere ... | 2.875 |
| *For Economic Injury:* | |
| Non-Profit Organizations Without Credit Available Elsewhere ... | 2.875 |

The number assigned to this disaster for physical damage is 13525B and for economic injury is 13526B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Joseph P Loddo,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2013–07857 Filed 4–3–13; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #13365 and #13366]**

### New York Disaster Number NY–00130

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 7.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of New York (FEMA–4085–DR), dated 10/30/2012.

*Incident:* Hurricane Sandy.

*Incident Period:* 10/27/2012 through 11/08/2012.

*Effective Date:* 03/28/2013.

*Physical Loan Application Deadline Date:* 04/13/2013.

*EIDL Loan Application Deadline Date:* 07/31/2013.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The Notice Of The President's Major Disaster Declaration For The State Of New York, dated 10/30/2012 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 04/13/2013.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2013–07862 Filed 4–3–13; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #13521 and #13522]**

### Connecticut Disaster # CT–00031

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Connecticut (FEMA–4106–DR), dated 03/21/2013.

*Incident:* Severe Winter Storm and Snowstorm.

*Incident Period:* 02/08/2013 through 02/11/2013.

*Effective Date:* 03/21/2013.

*Physical Loan Application Deadline Date:* 05/20/2013.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/23/2013.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 03/21/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, Windham, and the Mashantucket Pequot and Mohegan Tribal Nations located within New London County.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Non-profit Organizations with Credit Available Elsewhere ... | 2.875 |
| Non-profit Organizations without Credit Available Elsewhere ... | 2.875 |
| *For Economic Injury:* | |
| Non-profit Organizations without Credit Available Elsewhere ... | 2.875 |

The number assigned to this disaster for physical damage is 13521B and for economic injury is 13522B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2013–07855 Filed 4–3–13; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #13367 and #13368]**

### New Jersey Disaster Number NJ–00033

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 7.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of New Jersey (FEMA–4086–DR), dated 10/30/2012.

*Incident:* Hurricane Sandy.

*Incident Period:* 10/26/2012 through 11/08/2012.

*Effective Date:* 03/28/2013

*Physical Loan Application Deadline Date:* 05/01/2013.

*EIDL Loan Application Deadline Date:* 07/31/2013.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration Processing, And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW, Suite 6050, Washington, DC 20416

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of New Jersey, dated 10/30/2012 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 05/01/2013.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2013–07860 Filed 4–3–13; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards; Waiver of the Nonmanufacturer Rule

**AGENCY:** U.S. Small Business Administration.

**ACTION:** On April 16, 2001, SBA granted a Class Waiver of the Nonmanufacturer Rule (NMR) for Aerospace Ball and Roller Bearings, North American Industry Classification System (NAICS) code 332991, Product Service Code (PSC) 3110. SBA is reopening for Public Comment the above Class Waiver from the Nonmanufacturer Rule for Aerospace Ball and Roller Bearings, consisting of, but not limited to, Annular Ball Bearings, Cylindrical Ball Bearings, Linear Ball Bearings, Linear Roller Bearings, Needle Roller Bearings, Ball or Roller Bearing Races, Roller Bearings, Tapered Roller Bearings and Thrust Roller Bearings, due to information submitted by several small business manufacturers of aerospace ball and roller bearings that have done business with the Federal government within the previous two years.

**SUMMARY:** The U.S. Small Business Administration is proposing to rescind a class waiver from the Nonmanufacturer Rule for NAICS code 332991, Aerospace Ball and Roller Bearings, PSC 3110.

**DATES:** Comments and source information must be submitted (NLT 30 days after date of publication).

**ADDRESSES:** You may submit comments, identified by docket number [SBA–2013–XXXX] by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Dean Koppel, Associate Director for Government Contracting, U.S. Small Business Administration, 409 3rd Street SW., 8th Floor, Washington, DC 20416.
- *Hand Delivery/Courier:* Dean Koppel, Associate Director for Government Contracting, U.S. Small Business Administration, 409 3rd Street SW., 8th floor, Washington, DC 20416.

All comments will be posted on *www.Regulations.gov.* If you wish to include within your comment, confidential business information (CBI) as defined in the Privacy and Use Notice/User Notice at *www.Regulations.gov* and you do not want that information disclosed, you must submit the comment by either Mail or Hand Delivery and you must address the comment to the attention of Dean Koppel, Associate Director for Government Contracting, U.S. Small Business Administration, 409 3rd Street SW., 8th Floor, Washington, DC 20416.

In the submission, you must highlight the information that you consider is CBI and explain why you believe this information should be held confidential. SBA will make a final determination, in its sole discretion, of whether the information is CBI and, therefore, will be published or not.

**FOR FURTHER INFORMATION CONTACT:** Edward Halstead, (202) 205–9885, *Edward.halstead@sba.gov.*

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act (the Act) (15 U.S.C. 637(a)(17)), and SBA's implementing regulations (13 CFR 121.406(b) and 13 CFR 125.6) generally require that recipients of Federal supply contracts that are set aside for small businesses, Small Disabled Veteran Owned small businesses, women-owned small businesses, or Participants in the SBA's 8(a) BD Program provide the product of a domestic small business manufacturer or processor if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. See 13 CFR 121.406, 13 CFR 125.15(c), and 13 CFR 127.505. The Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market. In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract or received a contract from the Federal government within the last 24 months. See (13 CFR 121.1202(c)). The SBA defines ''class of products'' based on the Office of Management and Budget's NAICS code classifications. In addition, SBA uses Product Service Codes (PSCs) to further identify particular products within the NAICS code to which a waiver would apply. The SBA may then identify a specific item within a PSC and NAICS code to which a class waiver would apply. The SBA is considering a rescission of the class waiver from the Non-Manufacturer Rule for PSC 3110, Aerospace Ball and Roller Bearings, NAICS code 332991, based on information submitted by several small business manufacturers of aerospace ball and roller bearings that have done business with the Federal government within the previous two years.

**Kenneth W. Dodds,**

*Director, Office of Government Contracting.*

[FR Doc. 2013–07851 Filed 4–3–13; 8:45 am]

**BILLING CODE 8025–01–P**

## DEPARTMENT OF STATE

**[Public Notice 8267]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Hall of Ancient Egypt''

**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 ''Hall of Ancient Egypt,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Houston Museum of Natural Science, Houston, Texas, from on or about May 20, 2013, until on or about March 31, 2016, 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 Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: March 20, 2013.

**J. Adam Ereli,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2013–07764 Filed 4–3–13; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Delegation of Authority No. 351]**

### Delegation of the Functions and Authorities of the Assistant Secretary for Near Eastern Affairs to A. Elizabeth Jones

By virtue of the authority vested in the Secretary of State by the laws of the United States, including the State Department Basic Authorities Act of 1956, as amended, I hereby delegate to A. Elizabeth Jones, to the extent authorized by law, all authorities vested in the Assistant Secretary of State for Near Eastern Affairs, including all authorities vested in the Secretary of State that have been or may be delegated or re-delegated to that Assistant Secretary. Any authorities covered by this delegation may also be exercised by the Secretary of State, the Deputy Secretary, the Deputy Secretary for Management and Resources, and the Under Secretary for Political Affairs.

This delegation of authority shall expire upon the entry upon duty of a subsequently-appointed Assistant Secretary for Near Eastern Affairs.

This delegation of authority shall be published in the **Federal Register**.

Dated: March 13, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2013–07848 Filed 4–3–13; 8:45 am]

**BILLING CODE 4710–31–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending March 23, 2013

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions To Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* DOT–OST–2013–0056.

*Date Filed:* March 19, 2013.

*Due Date for Answers, Conforming Applications, or Motion To Modify Scope:* April 9, 2013.

*Description:* Application of GainJet Aviation S.A. (''GainJet'') requesting an exemption and a foreign air carrier permit authorizing it to engage in: (a) Foreign charter air transportation of persons, property and mail from any point or points behind any Member State of the European Union, via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (b) foreign charter air transportation of persons, property and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (c) foreign charter air transportation of cargo between any point or points in the United States and any other point or points; (d) other charters pursuant to the prior approval requirements; and (e) charter transportation authorized by any additional route rights or made available to European Union carriers in the future.

*Docket Number:* DOT–OST–2013–0057.

*Date Filed:* March 20, 2013.

*Due Date for Answers, Conforming Applications, or Motion To Modify Scope:* April 10, 2013.

*Description:* Application of Alaska Seaplane Service, LLC requesting reissuance of its certificate of public convenience and necessity in the name of Kalinin Aviation LLC, d/b/a Alaska Seaplanes.

*Docket Number:* DOT–OST–2013–0061.

*Date Filed:* March 22, 2013.

*Due Date for Answers, Conforming Applications, or Motion To Modify Scope:* April 12, 2013.

*Description:* Application of Corporate Flight Management, Inc. requesting authority to operate scheduled passenger service as a commuter air carrier.

**Barbara J. Hairston,**

*Acting Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. 2013–07835 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Notice of Funding Availability for the Small Business Transportation Resource Center Program

**AGENCY:** United States Department of Transportation (USDOT), Office of the Secretary of Transportation (OST), Office of Small and Disadvantaged Business Utilization (OSDBU).

**ACTION:** Notice of Funding Availability for the Mid-South Atlantic Region; Extension of closing and award dates.

**SUMMARY:** This action extends the closing and award dates for the Notice of Funding Availability for the Small

Business Transportation Resource Center for the Mid-South Atlantic Region published on February 26, 2013, 78 FR 13143. USDOT OSDBU is extending the Notice of Funding Availability to allow eligible entities time to adequately submit a proposal.

**DATES:** The submission period for the Notice of Funding Availability for the Mid-South Atlantic Region published on February 26, 2013 closing on March 25, 2013 is extended until May 15, 2013, 5:00 pm Eastern Standard Time. The announcement for the notice of award for the competed region is extended from April 11, 2013 until May 30, 2013.

**ADDRESSES:** Proposals must be electronically submitted to OSDBU via email at *SBTRC@dot.gov.*

*For Further Information Concerning This Notice Contact:* Ms. Patricia Martin, Program Analyst, U.S. Department of Transportation, Office of Small and Disadvantaged Business Utilization, 1200 New Jersey Avenue SE. W56–463, Washington, DC 20590. Telephone: 1–800–532–1169. Email: *patricia.martin@dot.gov.*

**SUPPLEMENTARY INFORMATION:** In the February 26, 2013 document (Notice Number USDOT–OST–OSDBU–SBTRC2013–3; Docket Number: DOT–OST–2009–0092), the Department of Transportation (DOT), Office of the Secretary (OST), Office of Small and Disadvantaged Business Utilization (OSDBU) announces the opportunity for; (1) Business centered community-based organizations; (2) transportation-related trade associations; (3) colleges and universities; (4) community colleges or; (5) chambers of commerce, registered with the Internal Revenue Service as 501 C (6) or 501 C (3) tax-exempt organizations, to compete for participation in OSDBU's Small Business Transportation Resource Center (SBTRC) program in the Mid-South Atlantic Region.

Issued in Washington, DC on March 29, 2013.

**Brandon Neal,**

*Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary, U.S. Department of Transportation.*

[FR Doc. 2013–07834 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2011–0097]**

### Pilot Program on NAFTA Trucking Provisions

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

**ACTION:** Notice.

**SUMMARY:** FMCSA announces information concerning the Pre-Authorization Safety Audit (PASA) for Transportes Mor SA de CV (USDOT# 555687) and Adriana De Leon Amaro (USDOT# 2117609), which applied to participate in the Agency's long-haul pilot program to test and demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the municipalities in the United States on the United States-Mexico international border or the commercial zones of such municipalities. These motor carriers did not successfully complete the PASA.

**FOR FURTHER INFORMATION CONTACT:** Marcelo Perez, FMCSA, North American Borders Division, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Telephone (512) 916–5440 Ext. 228; email *marcelo.perez@dot.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

On May 25, 2007, the President signed into law the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (the Act), (Pub. L. 110–28, 121 Stat. 112, 183, May 25, 2007). Section 6901 of the Act requires that certain actions be taken by the United States (U.S.) Department of Transportation (DOT) as a condition of obligating or expending appropriated funds to grant authority to Mexico-domiciled motor carriers to operate beyond the municipalities in the United States on the United States-Mexico international border or the commercial zones of such municipalities (border commercial zones).

On July 8, 2011, FMCSA announced in the **Federal Register** [76 FR 40420] its intent to proceed with the initiation of a United States-Mexico cross-border long-haul trucking pilot program to test and demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the border commercial zones as detailed in the Agency's April 13, 2011, **Federal Register** proposal [76 FR 20807]. The pilot program is a part of FMCSA's implementation of the North American Free Trade Agreement (NAFTA) cross-border long-haul trucking provisions in compliance with section 6901(b)(2)(B) of the Act. FMCSA reviewed, assessed, and evaluated the required safety measures as noted in the July 8, 2011, notice and considered all comments received on or before May 13, 2011, in response to the April 13, 2011, notice. Additionally, to the extent practicable, FMCSA considered comments received after May 13, 2011.

In accordance with section 6901(b)(2)(B)(i) of the Act, FMCSA is required to publish comprehensive data and information on the PASAs conducted of motor carriers domiciled in Mexico that are granted authority to operate beyond the border commercial zones in the **Federal Register** to provide sufficient opportunity for public notice and comment. There is no requirement to provide information to the public on the motor carriers that failed the PASA, and, therefore, will not be granted authority to operate in the pilot program. However, FMCSA committed in previous notices to provide information on the motor carriers that did not pass the PASA.

The Mexico-domiciled motor carriers in Table 1 did not successfully complete the PASA.

Tables 2, 3 and 4 all titled (''Failed Pre-Authorization Safety Audit (PASA) Information'') set out additional information on the carriers noted in Table 1. A narrative description of each column in the tables is provided as follows:

A. *Row Number in the Appendix for the Specific Carrier:* The row number for each line in the tables.

B. *Name of Carrier:* The legal name of the Mexico-domiciled motor carrier that applied for authority to operate in the United States beyond the border commercial zones and was considered for participation in the long-haul pilot program.

C. *U.S. DOT Number:* The identification number assigned to the Mexico-domiciled motor carrier and required to be displayed on each side of the motor carrier's power units. If granted provisional operating authority, the Mexico-domiciled motor carrier will be required to add the suffix ''X'' to the ending of its assigned U.S. DOT Number for those vehicles approved to participate in the pilot program.

D. *FMCSA Register Number:* The number assigned to the Mexico-domiciled motor carrier's operating authority as found in the FMCSA Register.

E. *PASA Initiated:* The date the PASA was initiated.

F. *PASA Completed:* The date the PASA was completed.

G. *PASA Results:* The results upon completion of the PASA. The PASA receives a quality assurance review before approval. The quality assurance process involves a dual review by the FMCSA Division Office supervisor of the auditor assigned to conduct the PASA and by the FMCSA Service Center New Entrant Specialist designated for the specific FMCSA Division Office. This dual review ensures the successfully completed PASA was conducted in accordance with FMCSA policy, procedures and guidance. Upon approval, the PASA results are uploaded into the FMCSA's Motor Carrier Management Information System (MCMIS). The PASA information and results are then recorded in the Mexico-domiciled motor carrier's safety performance record in MCMIS.

H. *FMCSA Register:* The date FMCSA published notice of a successfully completed PASA in the FMCSA Register. The FMCSA Register notice advises interested parties that the application has been preliminarily granted and that protests to the application must be filed within 10 days of the publication date. Protests are filed with FMCSA Headquarters in Washington, DC. The notice in the FMCSA Register lists the following information:

a. Current registration number (e.g., MX–123456);

b. Date the notice was published in the FMCSA Register;

c. The applicant's name and address; and

d. Representative or contact information for the applicant.

The FMCSA Register may be accessed through FMCSA's Licensing and Insurance public Web site at *http://li-public.fmcsa.dot.gov/,* and selecting FMCSA Register in the drop down menu.

I. *U.S. Drivers:* The total number of the motor carrier's drivers approved for long-haul transportation in the United States beyond the border commercial zones.

J. *U.S. Vehicles:* The total number of the motor carrier's power units approved for long-haul transportation in the United States beyond the border commercial zones.

K. *Passed Verification of 5 Elements (Yes/No):* A Mexico-domiciled motor carrier will not be granted provisional operating authority if FMCSA cannot verify all of the following five mandatory elements. FMCSA must:

a. Verify a controlled substances and alcohol testing program consistent with 49 CFR part 40.

b. Verify a system of compliance with hours-of-service rules of 49 CFR part 395, including recordkeeping and retention;

c. Verify the ability to obtain financial responsibility as required by 49 CFR 387, including the ability to obtain insurance in the United States;

d. Verify records of periodic vehicle inspections; and

e. Verify the qualifications of each driver the carrier intends to use under such authority, as required by 49 CFR parts 383 and 391, including confirming the validity of each driver's Licencia Federal de Conductor and English language proficiency.

L. *If No, Which Element Failed:* If FMCSA cannot verify one or more of the five mandatory elements outlined in 49 CFR part 365, Appendix A, Section III, this column will specify which mandatory element(s) cannot be verified.

Please note that for items L through P below, during the PASA, after verifying the five mandatory elements discussed in item K above, FMCSA will gather information by reviewing a motor carrier's compliance with ''acute and critical'' regulations of the Federal Motor Carrier Safety Regulations (FMCSRs) and Hazardous Materials Regulations (HMRs). Acute regulations are those where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall basic safety management controls of the motor carrier. Critical regulations are those where noncompliance relates to management and/or operational controls. These regulations are indicative of breakdowns in a carrier's management controls. A list of acute and critical regulations is included in 49 CFR part 385, appendix B, Section VII.

Parts of the FMCSRs and HMRs having similar characteristics are combined together into six regulatory areas called ''factors.'' The regulatory factors are intended to evaluate the adequacy of a carrier's management controls.

M. *Passed Phase 1, Factor 1:* A ''yes'' in this column indicates the carrier has successfully met Factor 1 (listed in part 365, Subpart E, Appendix A, Section IV(f)). Factor 1 includes the General Requirements outlined in parts 387 (Minimum Levels of Financial Responsibility for Motor Carriers) and 390 (Federal Motor Carrier Safety Regulations—General).

N. *Passed Phase 1, Factor 2:* A ''yes'' in this column indicates the carrier has successfully met Factor 2, which includes the Driver Requirements outlined in parts 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standards; Requirements and Penalties) and 391 (Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors).

O. *Passed Phase 1, Factor 3:* A ''yes'' in this column indicates the carrier has successfully met Factor 3, which includes the Operational Requirements outlined in parts 392 (Driving of Commercial Motor Vehicles) and 395 (Hours of Service of Drivers).

P. *Passed Phase 1, Factor 4:* A ''yes'' in this column indicates the carrier has successfully met Factor 4, which includes the Vehicle Requirements outlined in parts 393 (Parts and Accessories Necessary for Safe Operation) and 396 (Inspection, Repair and Maintenance) and vehicle inspection and out-of-service data for the last 12 months.

Q. *Passed Phase 1, Factor 5:* A ''yes'' in this column indicates the carrier has successfully met Factor 5, which includes the hazardous material requirements outlined in parts 171 (General Information, Regulations, and Definitions), 177 (Carriage by Public Highway), 180 (Continuing Qualification and Maintenance of Packagings) and 397 (Transportation of Hazardous Materials; Driving and Parking Rules).

R. *Passed Phase 1, Factor 6:* A ''yes'' in this column indicates the carrier has successfully met Factor 6, which includes Accident History. This factor is the recordable accident rate during the past 12 months. A recordable ''accident'' is defined in 49 CFR 390.5, and means an accident involving a commercial motor vehicle operating on a public road in interstate or intrastate commerce which results in a fatality; a bodily injury to a person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

S. *Number U.S. Vehicles Inspected:* The total number of vehicles (power units) the motor carrier is approved to operate in the United States beyond the border commercial zones that received a vehicle inspection during the PASA. During a PASA, FMCSA inspected all power units to be used by the motor carrier in the pilot program and applied a current Commercial Vehicle Safety Alliance (CVSA) inspection decal, if the

inspection is passed successfully. This number reflects the vehicles that were inspected, irrespective of whether the vehicle received a CVSA inspection at the time of the PASA decal as a result of a passed inspection.

T. *Number U.S. Vehicles Issued CVSA Decal:* The total number of inspected vehicles (power units) the motor carrier is approved to operate in the United States beyond the border commercial zones that received a CVSA inspection decal as a result of an inspection during the PASA.

U. *Controlled Substances Collection:* Refers to the applicability and/or country of origin of the controlled substance and alcohol collection facility that will be used by a motor carrier that has successfully completed the PASA.

a. ''US'' means the controlled substance and alcohol collection facility is based in the United States.

b. ''MX'' means the controlled substance and alcohol collection facility is based in Mexico.

c. ''Non-CDL'' means that during the PASA, FMCSA verified that the motor carrier is not utilizing commercial motor vehicles subject to the commercial driver's license requirements as defined in 49 CFR 383.5 (Definition of Commercial Motor Vehicle). Any motor carrier that does not operate commercial motor vehicles as defined in § 383.5 is not subject to DOT controlled substance and alcohol testing requirements.

V. *Name of Controlled Substances and Alcohol Collection Facility:* Shows the name and location of the controlled substances and alcohol collection facility that will be used by a Mexico-domiciled motor carrier who has successfully completed the PASA.

TABLE 1—APPLICANTS THAT FAILED PRE-AUTHORIZATION SAFETY AUDIT (PASA)

| Row number in Tables 2, 3 and 4 of the Appendix to today's notice | Name of carrier | USDOT No. |
|---|---|---|
| 1 | Transportes Mor SA de CV | 555687 |
| 2 | Adriana De Leon Amaro | 2117609 |

TABLE 2—FAILED PASA INFORMATION (SEE ALSO TABLES 3 AND 4)

| A Row number | B Name of carrier | C US DOT number | D FMCSA register number | E PASA initiated | F PASA completed | G PASA results | H FMCSA register | I US drivers | J US vehicles |
|---|---|---|---|---|---|---|---|---|---|
| 1 | Transportes Mor SA de CV. | 555687 | MX0228295 | 05/31/2012 | 09/26/2012 | Fail | Not published | 2 | 2 |
| 2 | Adriana De Leon Amaro. | 2117609 | MX–738224 | 11/27/2012 | 11/27/2012 | Fail | Not published | 1 | 1 |

TABLE 3—FAILED PASA INFORMATION (SEE ALSO TABLES 2 AND 4)

| A Row number | B Name of carrier | C US DOT number | D FMCSA register number | K Passed verification of 5 elements (Yes/No). | L If no, which element failed | M Passed phase 1 factor 1 | N Passed phase 1 factor 2 | O Passed phase 1 factor 3 | P Passed phase 1 factor 4 |
|---|---|---|---|---|---|---|---|---|---|
| 1 | Transportes Mor SA de CV. | 555687 | MX–228295 | No | a. Verify a controlled substances and alcohol testing program consistent with 49 CFR part 40. | Not Completed | No | Not Completed | Not Completed |
| 2 | Adriana De Leon Amaro. | 2117609 | MX–738224 | No | a. Verify a controlled substances and alcohol testing program consistent with 49 CFR part 40. | Not Completed | No | Not Completed | Not Completed |

TABLE 4—FAILED PASA INFORMATION (SEE ALSO TABLES 2 AND 3)

| A Row number | B Name of carrier | C US DOT number | D FMCSA register number | Q Passed phase I factor 5 | R Passed phase I factor 6 | S Number US vehicles inspected | T Number US vehicles issued CVSA decal | U Controlled substance collection | V Name of controlled substances and alcohol collection facility |
|---|---|---|---|---|---|---|---|---|---|
| 1 ..... | Transportes Mor SA de CV. | 555687 | MX–228295 | Not Completed .... | Not Completed .... | None ..... | None ..... | Not Completed .... | Not Completed |
| 2 ..... | Adriana De Leon Amaro. | 2117609 | MX–738224 | Not Completed .... | Not Completed .... | None ..... | None ..... | Not Completed .... | Not Completed |

At the point that the Auditors determined that the applicants failed Phase 1, the PASA was discontinued. As a result, other factors were not assessed and are marked ''Not Completed.''

To date, these are the only two carriers that have failed the PASA. The Act only requires publication of data for carriers receiving operating authority, as failure to successfully complete the PASA prevents the carrier from being granted authority to participate in the long-haul pilot program. FMCSA agreed to publish this information to show motor carriers that failed to meet U.S. safety standards.

Issued on: March 28, 2013.

**Anne S. Ferro,**

*Administrator.*

[FR Doc. 2013–07867 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2013–0025]**

## Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 27 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. 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. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

**DATES:** Comments must be received on or before May 6, 2013.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0025 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:* 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 numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below for further information.

*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 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 (FDMS) published in the **Federal Register** on December 29, 2010 (75 FR 82132), or you may visit *http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.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 grant an exemption from the Federal Motor Carrier Safety Regulations 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.'' FMCSA can renew exemptions at the end of each 2-year period. The 27 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

### Qualifications of Applicants

*Glenn Blanton*

Mr. Blanton, age 64, has had amblyopia in his right eye since childhood. The visual acuity in his right

eye is 20/80, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''In my medical opinion, Mr. Blanton has sufficient vision to perform the driving tasks sufficient to operate a commercial vehicle.'' Mr. Blanton reported that he has driven straight trucks for 42 years, accumulating 1.47 million miles, and tractor-trailer combinations for 42 years, accumulating 5.46 million miles. He holds a Class A Commercial Driver's License (CDL) from Ohio. His driving record for the last 3 years shows one crash, for which he was not cited, and no convictions for a moving violation in a CMV.

*Matthew Buersken*

Mr. Buersken, 29, has had refractive amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2012, his optometrist noted, ''In my opinion, Matt has developed the adaptive visual behaviors necessary to drive a commercial vehicle safely.'' Mr. Buersken reported that he has driven tractor-trailer combinations for 2.5 years, accumulating 350,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV in which he exceeded the speed limit by 8 mph.

*Fred Fricks*

Mr. Fricks, 67, has optic atrophy in his left eye due to a traumatic incident 20 years ago. The best corrected visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2012, his optometrist noted, ''It is my impression that Mr. Fricks has been light perception vision O.S. for many years.* * * It is my impression that Fred Fricks can safely operate a commercial vehicle.'' Mr. Fricks reported that he has driven straight trucks for 45 years, accumulating 2.7 million miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes but one conviction for a moving violation in a CMV in which he exceeded the speed limit by 25 mph.

*Mark E. Haukom*

Mr. Haukom, 58, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2012, his optometrist noted, ''Also as indicated in my enclosed letter, I feel he has sufficient vision to operate a commercial vehicle.'' Mr. Haukom reported that he has driven straight trucks for 38 years, accumulating 760,000 miles, and tractor-trailer combinations for 38 years, accumulating 152,000 miles. He holds an operator's license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Wesley D. Hogue*

Mr. Hogue, 45, has had refractive amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/70, and in his left eye, 20/15. Following an examination in 2012, his optometrist noted, ''The patient has passed all necessary tests to my satisfaction. In my professional opinion, I feel like this patient is visually able to drive a commercial motor vehicle.'' Mr. Hogue reported that he has driven straight trucks for 10 years, accumulating 200,000 miles, and tractor-trailer combinations for 4.5 years, accumulating 1,350 miles. He holds a Class A CDL from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Anthony Lang*

Mr. Lang, 45, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2012, his optometrist noted, ''In my opinion, Anthony has sufficient vision to perform the driving tasks required to operate a commercial vehicle without spectacle correction.'' Mr. Lang reported that he has driven straight trucks for 27 years, accumulating 405,000 miles. He holds a Class A CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jason Laub*

Mr. Laub, 37, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/50, and in his left eye, 20/25. Following an examination in 2012, his ophthalmologist noted, ''Mr. Laub has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Laub reported that he has driven tractor-trailer combinations for 12 years, accumulating 900,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Edward Lavin*

Mr. Lavin, 49, has had a macular scar in his left eye since birth. The best corrected visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2012, his optometrist noted, ''I found scarring in the macula of the left eye. * * * It is my understanding the Mr. Lavin has been successfully driving a commercial vehicle for 15 years and I see no medical reason in my opinion to prevent him from continuing his career.'' Mr. Lavin reported that he has driven straight trucks for 14 years, accumulating 420,000 miles. He holds an operator's license from Connecticut. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Wayne Litwiller*

Mr. Litwiller, 65, has had refractive amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his ophthalmologist noted, ''It is my opinion that Mr. Litwiller has sufficient visual acuity, color vision, and visual field to safely operate a commercial vehicle.'' Mr. Litwiller reported that he has driven straight trucks for 40 years, accumulating 500,000 miles, and tractor-trailer combinations for 5, accumulating 125,000 miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Edward Matiukas*

Mr. Matiukas, 51, has had chorioretinal scarring in his right eye since childhood. The best corrected visual acuity in his right eye is 20/200, and in his left eye, hand 20/20. Following an examination in 2012, his optometrist noted, ''In my medical opinion Mr. Matiukas has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Matiukas reported that he has driven straight trucks for 30 years, accumulating 172,500 miles, and tractor-trailer combinations for 6 months, accumulating 1000 miles. He holds an operator's license from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Luther McKinney*

Mr. McKinney, 57, has had amblyopia scarring in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye,

hand 20/200. Following an examination in 2013, his ophthalmologist noted, ''Based on my evaluation here in this office, I feel that I can certify that in my medical opinion, the patient has sufficient vision to perform the driving tasks that are required to operate a commercial vehicle, especially since he has been doing so safely for over 30 years.'' Mr. McKinney reported that he has driven tractor-trailer combinations for 32 years, accumulating 3.2 million miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Steven J. McLain*

Mr. McLain, 40, has had a central macular scar in his right eye since childhood. The best corrected visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''I certify in my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. McLain reported that he has driven straight trucks for 19 years, accumulating 380,000 miles, and tractor-trailer combinations for 19, accumulating 570,000 miles. He holds Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Enes Milanovic*

Mr. Milanovic, 41, has had aphakia in his right eye since 1993. The best corrected visual acuity in his right eye is count fingers, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, ''Stable condition, no treatment necessary at this time. Estermann Visual field discussed, normal results. No contradiction to operating commercial vehicles.'' Mr. Milanovic reported that he has driven straight trucks for 9 years, accumulating 990,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James McClure*

Mr. McClure, 63, has had a retinal scar in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist noted, ''In my medical opinion, Mr. McClure has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. McClure reported that he has driven straight trucks for 15 years, accumulating 750,000 miles, and tractor-trailer combinations for 28, accumulating 2.35 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Donie Rhoads*

Mr. Rhoads, 59, has aphakia and glaucoma in his left eye due to a traumatic incident 40 years ago. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2012, his ophthalmologist noted, ''I believe Mr. Rhoads has been performing his commercial driving visual functions without incident. If that is the case, and given that he hasn't had a change in his visual function, I think he has sufficient vision to perform the tasks required to operate the commercial vehicle he has been operating.'' Mr. Rhoads reported that he has driven straight trucks for 38 years, accumulating 1.5 million miles, and tractor-trailer combinations for 38, accumulating 1.9 million miles. He holds an operator's license from Montana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Alfred J. Riesselman*

Mr. Riesselman, 70, has had open angle glaucoma and a failed cornea transplant in his left eye for 20 years. The best corrected visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2012, his optometrist noted, ''He became blind in the left eye 20 years ago and the right eye will never be affected. His right eye compensates well for the left eye and he will be safe to operate a commercial vehicle.'' Mr. Riesselman reported that he has driven tractor-trailer combinations for 49 years, accumulating 6.1 million miles. He holds an Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Leo D. Roy*

Mr. Roy, 56, has had a history of metallic intraocular foreign body with subsequent pars plana vitrectomy with foreign body extraction, endolaser photocoagulation, cryotherapy, and cataract extraction with IOL implant in the right eye since 1994. The best corrected visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''I do feel that he is visually capable of performing driving tasks required to operate a commercial vehicle.'' Mr. Roy reported that he has driven straight trucks for 10 years, accumulating 375,000 miles. He holds a Class B CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Steven Schaumberg*

Mr. Schaumberg, 55, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/300. Following an examination in 2012, his ophthalmologist noted, ''He has sufficient vision in his right eye to drive a commercial vehicle.'' Mr. Schaumberg reported that he has driven straight trucks for 25 years, accumulating 3,750 miles, and tractor-trailer combinations for 25, accumulating 3,750 miles. He holds a Class A CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Gregory C. Simmons*

Mr. Simmons, 55, has had advanced glaucoma in his left eye since 2000. The best corrected visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2012, his ophthalmologist noted, ''In my opinion Mr. Simmons has sufficient vision to continue his duties as a commercial driver.'' Mr. Simmons reported that he has driven straight trucks for 14 months, accumulating 6,500 miles, and tractor-trailer combinations for 27, accumulating 675,000 miles. He holds a Class A CDL from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Merreo A. Stewart*

Mr. Stewart, 56, has had optic neuritis in his right eye since 2006. The best corrected visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''Mr. Stewart has a history of an inflammatory event called optic neuritis in April 2006 which rendered his vision in his right eye significantly diminished.* * * In my medical opinion, I see no reason that Mr. Stewart would suffer from any significant difficulties with driving his commercial vehicle safely.'' Mr. Stewart reported that he has driven straight trucks for 3 years, accumulating 600,000 miles, and tractor-trailer combinations for 35, accumulating 4 million miles. He holds a Class A CDL from Minnesota.

His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jeffrey P. Streech*

Mr. Streech, 52, has had a corneal scar in his right eye since 1978. The best corrected visual acuity in his right eye is 20/50, and in his left eye, hand 20/20. Following an examination in 2012, his ophthalmologist noted, ''Based in the findings described herein, in my medical opinion, the patient does have sufficient vision to operate a commercial vehicle.'' Mr. Streech reported that he has driven straight trucks for 6 years, accumulating 246,000 miles. He holds a Class B CDL from Minnesota. His driving record for the last 3 years shows no crashes but one conviction for a moving violation in a CMV; he exceeded the speed limit by 10 mph.

*James B. Taflinger, Sr.*

Mr. Talfinger, 53, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2012, his optometrist noted, ''Mr. Taflinger was examined in this office on May 29, 2012, with a follow-up visual field analysis on June 14, 2012 * * * Mr. Taflinger has had a long history of operating a commercial vehicle without any significant incident reported to me in his medical history. I recommend that he be allowed to continue his same occupation of operating a commercial vehicle.'' Mr. Taflinger reported that he has driven straight trucks for 9 years, accumulating 562,500 miles, and tractor-trailer combinations for 6, accumulating 435,000 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Ronald W. Thompson*

Mr. Thompson, 59, has had loss of central vision in his left eye since 1999. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2012, his optometrist noted, ''I certify that in my opinion, Ron Thompson has sufficient vision to operate a commercial vehicle.'' Mr. Thompson reported that he has driven straight trucks for 40 years, accumulating 2 million miles, and tractor-trailer combinations for 20, accumulating 600,000 miles. He holds a Class A CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jeffrey M. Thorpe*

Mr. Thorpe, 54, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2012, his optometrist noted, ''In my opinion, Mr. Thorpe has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle.'' Mr. Thorpe reported that he has driven straight trucks for 30 years, accumulating 45,000 miles. He holds a Class B CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Walter S. Vollmer*

Mr. Vollmer, 53, has had refractive amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''Through in office testing, I believe that currently Walter possesses sufficient vision to operate a commercial vehicle.'' Mr. Vollmer reported that he has driven straight trucks for 35 years, accumulating 525,000 miles, and tractor-trailer combinations for 35, accumulating 262,500 miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Roy J. Ware*

Mr. Ware, 53, has had corneal scarring in his right eye due to a traumatic incident at age 10. The best corrected visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist noted, ''In summary Mr. Ware has hand motion only vision in his right eye from a childhood injury which is permanent and stable. His left eye is normal with 20/20 vision and in my medical opinion he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Ware reported that he has driven straight trucks for 29 years, accumulating 870,000 miles. He holds an operator's license from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Paul Williams*

Mr. Williams, 49, has had a corneal scar in his right eye since childhood. The best corrected visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''This patient has sufficient vision to perform the task at operating a commercial vehicle.'' Mr. Williams reported that he has driven straight trucks for 26 years, accumulating 1.4 million miles. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he was using a mobile phone while operating a CMV.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business May 6, 2013. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: March 26, 2013.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2013–07864 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2013–0021]**

### 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 8 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 April 4, 2013. The exemptions expire on April 4, 2015.

**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 Federal Docket Management System (FDMS) published in the **Federal Register** on December 29, 2010 (75 FR 82132), or you may visit *http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.pdf.*

**Background**

On February 13, 2013, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (78 FR 10251). That notice listed 8 applicants' case histories. The 8 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 8 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 8 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 a prosthetic eye, amblyopia, a retinal vein occlusion, optic nerve atrophy, a ruptured globe, and chronic retinal detachment. In most cases, their eye conditions were not recently developed. One of the applicants was either born with their vision impairment or has had it since childhood.

The seven individuals that sustained their vision conditions as adults have had then for a period of 4 to 28 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 States 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 8 drivers have been authorized to drive a CMV in intrastate commerce, although their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 4 to 39 years. In the past 3 years, none of the drivers was involved in crashes or convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the February 13, 2013, notice (78 FR 10251).

**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 8 applicants, none of the drivers were involved in crashes or convicted of 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 8 applicants listed in the notice of February 13, 2013 (78 FR 10251).

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 8 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 8 exemption applications, FMCSA exempts Michael L. Bergman (KS), Efrain Gonzalez (UT), Anthony Hall (LA), Shane Holum (OR), Daryl W. Morris (MO), Dan Nestel (IN), Thomas G. Normington (WY), and Thomas L. Terrell (IA) 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: March 26, 2013.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2013–07874 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2013–0015]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA).

**ACTION:** Notice of applications for exemption from the diabetes mellitus requirement; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 20 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before May 6, 2013.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management

System (FDMS) Docket No. FMCSA–2013–0015 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:* 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 numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*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 Federal Docket Management System (FDMS) published in the **Federal Register** on December 29, 2010 (75 FR 82132), or you may visit *http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.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 grant an exemption from the Federal Motor Carrier Safety Regulations 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. The 20 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

## Qualifications of Applicants

*Donald J. Barber*

Mr. Barber, 36, has had ITDM since 2009. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Barber understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Barber meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

*Gary M. Bartley*

Mr. Bartley, 55, has had ITDM since 2012. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bartley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bartley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Louisiana.

*Ryan O. Carman*

Mr. Carman, 26, has had ITDM since 2000. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Carman meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from North Carolina.

*Robert G. Costa*

Mr. Costa, 65, has had ITDM since 2012. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Costa understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Costa meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

*Robert V. Gray*

Mr. Gray, 38, has had ITDM since 2012. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gray understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Gray meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Louisiana.

*William J. Hannan III*

Mr. Hannan, 59, has had ITDM since 2009. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hannan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Hannan meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New Jersey.

*Ryan R. Hetro*

Mr. Hetro, 21, has had ITDM since 2006. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hetro understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hetro meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

*Daniel A. Johns*

Mr. Johns, 48, has had ITDM since 2007. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johns understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johns meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

*Gary D. MacFarlane*

Mr. MacFarlane, 59, has had ITDM since 2001. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. MacFarlane understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. MacFarlane meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

*Ken R. Martin*

Mr. Martin, 61, has had ITDM since 2011. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Martin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Martin meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

*David J. Mathews*

Mr. Mathews, 50, has had ITDM since 1982. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mathews understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Mathews meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Terrance M. Morrisette*

Mr. Morrisette, 52, has had ITDM since 2008. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Morrisette understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Morrisette meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Shane J. Nesheim*

Mr. Nesheim, 40, has had ITDM since 2004. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nesheim understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nesheim meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Wisconsin.

*Troy D. Ostrowski*

Mr. Ostrowski, 48, has had ITDM since 2002. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in

impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ostrowski understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ostrowski meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Daniel J. Rau*

Mr. Rau, 58, has had ITDM since 2012. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rau understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rau meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

*Robert E. Roach*

Mr. Roach, 66, has had ITDM since 2010. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Roach understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Roach meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

*Jeremy D. Schroeder*

Mr. Schroeder, 31, has had ITDM since 1993. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Schroeder understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Schroeder meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class A CDL from Ohio.

*Jerry G. Severson, Jr.*

Mr. Severson, 55, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Severson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Severson meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

*Kelly R. Troll*

Mr. Troll, 53, has had ITDM since 2012. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Troll understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Troll meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Milfred R. Unruh*

Mr. Unruh, 68, has had ITDM since 2011. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Unruh understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Unruh meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Mississippi.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441) [1]. The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: March 26, 2013.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2013–07878 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2013–0022; Notice 1]**

### Notice of Receipt of Petition for Decision That Nonconforming 2010 BMW Z4 Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2010 BMW Z4 passenger cars that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2010 BMW Z4) and they are capable of being readily altered to conform to the standards.

**DATE:** The closing date for comments on the petition is May 6, 2013.

**ADDRESSES:** Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online 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., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

*Instructions:* Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

*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 (65 FR 19477–78).

*How To Read Comments Submitted to the Docket:* You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

**FOR FURTHER INFORMATION CONTACT:** Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

**SUPPLEMENTARY INFORMATION:**

#### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC (''JK''), of Baltimore, Maryland (Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 2010 BMW Z4 passenger cars are eligible for importation into the United States. The vehicles which JK believes are substantially similar are 2010 BMW Z4 passenger cars that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared the non-U.S. certified 2010 BMW Z4 to its U.S.-certified counterpart, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

JK submitted information with its petition intended to demonstrate that the non-U.S. certified 2010 BMW Z4, as originally manufactured, conforms to many FMVSS in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards. Specifically, the petitioner claims that the non-U.S. certified 2010 BMW Z4 is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 135 *Light Vehicle Brake Systems,* 139 *New Pneumatic Radial Tires for Light Vehicles,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225

*Child Restraint Anchorage Systems,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* replacement of the instrument cluster with a U.S.-model component and reprogramming the unit to reflect the correct mileage on the vehicle.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* installation of the following U.S.-model components on vehicles not already so equipped: (a) headlamps; (b) front side marker lamps; and (c) rear stop lamps that incorporate rear side marker lamps, and reprogramming the vehicle computer to activate the required systems.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of the existing mirror.

Standard No. 114 *Theft Protection:* reprogramming the vehicle computer to activate the key warning and belt warning systems.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* reprogramming the vehicle computer to meet this standard.

Standard No. 138 *Tire Pressure Monitoring Systems:* replacement of non-U.S. model components with U.S. model components, including wheel sensors, malfunction indicators, and instrument cluster as well as reprogramming the vehicle computer to meet this standard.

Standard No. 204 *Steering Control Rearward Displacement:* installation of the U.S.-model steering column and shaft as part of the advanced airbag system.

Standard No. 207 *Seating Systems:* replacement of driver and passenger seats with U.S.-model components to meet this standard and address requirements for advanced airbag systems.

Standard No. *208 Occupant Crash Protection:* reprogramming the vehicle computer to activate the seat belt warning lamp and installation of the following U.S.-model components on vehicles not already so equipped: (a) airbags; (b) seatbelts; (c) sensors; (d) control units (ECU); (e) wiring harnesses; (f) knee bolsters; and (g) braces.

Standard No. 209 *Seat Belt Assemblies:* replacement of seatbelts with U.S. model parts.

Standard No. 301 *Fuel System Integrity:* installation of a rollover and check valve.

Standard No. 401 *Interior Trunk Release:* installation of the U.S.-model interior trunk release system.

The petitioner states that the support structure for the bumpers on these vehicles is identical to those on the U.S. model. However, the bumper shocks and brackets must be added to meet the requirements of the Bumper Standard at 49 CFR Part 581.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR Part 565 and that a certification label must be affixed to the driver's door jamb to meet the requirements of 49 CFR Part 567.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 29, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013–07847 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2013–0015; Notice 1]**

### Notice of Receipt of Petition for Decision That Nonconforming 2012 Porsche GT3RS Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of petition.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that nonconforming 2012 Porsche GT3RS passenger cars that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2012 Porsche GT3RS) and they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is May 6, 2013.

**ADDRESSES:** Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online 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., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

*Instructions:* Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

*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 (65 FR 19477–78).

*How to Read Comments submitted to the Docket:* You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document

notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

**FOR FURTHER INFORMATION CONTACT:** Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

**SUPPLEMENTARY INFORMATION:**

## Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC. of Baltimore, Maryland (Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 2012 Porsche GT3RS passenger cars are eligible for importation into the United States. The vehicles which J.K. Technologies believes are substantially similar are 2012 Porsche GT3RS passenger cars that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified 2012 Porsche GT3RS passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

J.K. Technologies submitted information with its petition intended to demonstrate that non-U.S. certified 2012 Porsche GT3RS passenger cars, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2012 Porsche GT3RS passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 126 *Electronic Stability Control Systems,* 135 *Light Vehicle Brake Systems,* 138 *Tire Pressure Monitoring Systems,* 139 *New Pneumatic Radial Tires for Light Vehicles,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 206 *Door Locks and Door Retention Components,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* replacement of the instrument cluster with a U.S.-model component and reprogramming the vehicle computer.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* replacement of the headlamps, side marker lamps, and tail lamps with U.S.-model components and reprogramming the vehicle computer to activate necessary systems.

Standard No. 110 *Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less:* installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* replacement of the passenger side rearview mirror with a U.S.-model component or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection and Rollaway Prevention:* reprogramming the vehicle computer to activate the key warning and belt warning systems.

Standard No. 118 *Power-operated Window, Partition, And Roof Panel Systems:* reprogramming the vehicle computer to conform to the standard.

Standard No. 205 *Glazing Materials:* inspecting each vehicle for compliance with the standard and replacement of nonconforming glazing with U.S.-model components as needed.

Standard No. 207 *Seating Systems:* replacement of driver's and passenger seats with U.S.-model components to accommodate an advanced airbag system.

Standard No. 208 *Occupant Crash Protection:* The petitioner states that all parts of these systems, including the belts, airbags, sensors, control units (ECU), wiring harnesses, knee bolsters, and braces, must be replaced with parts identical to the U.S.-model components. The petitioner also states: ''Due to the varying regulations around the world all parts of these systems must be inspected to verify the U.S. part numbers on all belts and control unit.''

Standard No. 209 *Seat Belt Assemblies:* replacement of seatbelts with updated components to address a safety recall campaign.

Standard No. 301 *Fuel System Integrity:* installation of a U.S.-model rollover valve in the fuel tank vent line.

Standard No. 401 *Interior Trunk Release:* installation of U.S.-model interior trunk release components.

The petitioner states that the bumpers and bumper support structure are identical to that of the U.S. certified model. However, the bumper shocks must be replaced with U.S.-model components and ''Bumper Extensions'' must also be added to comply with 49 CFR part 581.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Issued on: March 29, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013–07846 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2012–0164; Notice 1]**

### Notice of Receipt of Petition for Decision that Nonconforming 2007 Ford Escape Multi-Purpose Passenger Vehicles are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Receipt of petition.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that nonconforming 2007 Ford Escape Multi-Purpose Passenger Vehicles that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the same 2007 Ford Escape Multi-Purpose Passenger Vehicles) and they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is May 6, 2013.

**ADDRESSES:** Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online 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., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

*Instructions:* Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

*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 (65 FR 19477–78).

*How to Read Comments submitted to the Docket:* You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

**FOR FURTHER INFORMATION CONTACT:** Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

**SUPPLEMENTARY INFORMATION:**

#### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Mesa Auto Wholesalers of Chandler, Arizona (Registered Importer 94–018) has petitioned NHTSA to decide whether nonconforming 2007 Ford Escape Multi-Purpose Passenger Vehicles are eligible for importation into the United States. The vehicles which Mesa Auto Wholesalers believes are substantially similar are 2007 Ford Escape Multi-Purpose Passenger Vehicles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified 2007 Ford Escape Multi-Purpose Passenger Vehicles to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

Mesa Auto Wholesalers submitted information with its petition intended to demonstrate that non-U.S. certified 2007 Ford Escape Multi-Purpose Passenger Vehicles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards. Specifically, the petitioner claims that non-U.S. certified 2007 Ford Escape Multi-Purpose Passenger Vehicles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof Panel Systems,* 124 *Accelerator Control Systems,* 135 *Light Vehicle Brake Systems,* 138 *Tire Pressure Monitoring Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 208 *Occupant Crash Protection,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorages,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being readily

altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* replacement of the instrument cluster with the U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* replacement of the headlamps, side marker lamps, high-mounted stop lamp, and tail lamps with U.S.-model components.

Standard No. 111 *Rearview Mirrors:* replacement of the passenger side rearview mirror with a U.S.-model component or inscription of the required warning statement on the face of that mirror.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars:* installation of a placard with required tire information printed in the English language.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Issued on: March 29, 2013.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2013–07844 Filed 4–3–13; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

April 1, 2013.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

**DATES:** Comments should be received on or before May 6, 2013 to be assured of consideration.

**ADDRESSES:** Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

**FOR FURTHER INFORMATION CONTACT:** Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov*, or the entire information collection request may be found at *www.reginfo.gov.*

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–XXXX.

*Type of Review:* New Collection.

*Title:* Form 8957—Foreign Account Tax Compliance Act (FATCA) Registration.

*Form:* 8957

*Abstract:* Form 8957 is to be used by a foreign financial institution to apply for status as a foreign financial institution as defined in IRC 1471(b)(2). New Code Section 1471 provides that in the case of any withholdable payment to a foreign financial institution which does not meet the requirements of new Code section 1471(b), the withholding agent with respect to such payment shall deduct and withhold from such payment a tax equal to 30% of the amount of such payment. Form 8957 is to be used by a foreign financial institution to apply for status as a foreign financial institution as defined in IRC 1471(b)(2). The creation of this new form will result in an estimated burden increase of 260,000 responses and 2,116,400 estimated hours.

*Affected Public:* Private Sector: Businesses and other For-Profits.

*Estimated Total Burden Hours:* 2,116,400.

**Robert Dahl,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2013–07839 Filed 4–3–13; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Proposed Collection: Comment Request; Correction

**AGENCY:** Department of the Treasury.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of the Treasury published a document in the **Federal Register** of March 28, 2013, soliciting comments on revisions of Treasury International Capital (TIC) Forms SHL/SHLA and SHC/SHCA. The document contained an erroneous ''Type of U.S. Owner'' code number 7 for Form SHCA.

**FOR FURTHER INFORMATION CONTACT:** Dwight Wolkow, 202–622–7527.

**Correction**

In the **Federal Register** of March 28, 2013, in FR Doc. 2013–07172, on page 19074, in the first column, correct ''Form SHCA Changes (only),'' section c., to read:

c. ''Ownership Code'' is replaced with ''Type of U.S. Owner''. A new, more precise system of categories replaces the old categories. The new categories are: 1 = Depository Institution; 2 = Fund or Other Investment Vehicle (excluding pension and mutual funds); 3 = Pension Fund; 4 = Mutual Fund, 5 = Insurance Company; 6 = Other Financial Organization (including BHC and FHC); 7 = Nonfinancial Organization.

Dated: April 1, 2013.

**Dwight Wolkow,**

*Administrator, International Portfolio Investment Data Systems.*

[FR Doc. 2013–07858 Filed 4–3–13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 12978

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of nine individuals whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, ''Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers''.

**DATES:** The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (''SDN List'') of the nine individuals identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on March 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2490.

**SUPPLEMENTARY INFORMATION:**

**Electronic and Facsimile Availability**

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

**Background**

On October 21, 1995, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the ''Order''). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The foreign persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and the Secretary of State: (a) To play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On March 28, 2013, the Director of OFAC removed from the SDN List the nine individuals listed below, whose property and interests in property were blocked pursuant to the Order:

1. AGUILAR BERNAL, Sonia, Calle 14C No. 29B–24, Cali, Colombia; c/o CRIADERO LA LUISA E.U., Cali, Colombia; c/o GESTORA MERCANTIL S.A., Cali, Colombia; c/o COMPANIA DE FOMENTO MERCANTIL S.A., Cali, Colombia; c/o CONSTRUCCIONES PROGRESO DEL PUERTO S.A., Puerto Tejada, Colombia; Cedula No. 31988264 (Colombia); Passport 31988264 (Colombia) (individual) [SDNT].

2. MOR SAAB, Soraya, c/o DURATEX S.A., Bogota, Colombia; c/o MOR GAVIRIA Y CIA. S.C.S., Bogota, Colombia; c/o PROYECTOS Y SOLUCIONES S.A., Bogota, Colombia; c/o CONSTRUCTORA IRAKA S.A., Bogota, Colombia; c/o ACUICOLA SANTA CATALINA S.A., Bogota, Colombia; c/o PROMOCIONES E INVERSIONES LAS PALMAS S.A., Bogota, Colombia; DOB 10 May 1959; POB Girardot, Cundinamarca, Colombia; Cedula No. 35461535 (Colombia) (individual) [SDNT].

3. RESTREPO VICTORIA, Norma Constanza, c/o AGROPECUARIA PALMA DEL RIO S.A., Ibague, Colombia; Carrera 22 No. 86A–60, Apt. 202, Bogota, Colombia; DOB 05 Jan 1968; POB Pital, Huila, Colombia; Cedula No. 55060642 (Colombia); Passport AG010495 (Colombia); alt. Passport AF535472 (Colombia) (individual) [SDNT].

4. GONZALEZ BOHORQUEZ, Guillermo, c/o UNIVISA S.A., Cali, Colombia; DOB 20 Dec 1944; POB Buga, Valle, Colombia; Cedula No. 6185654 (Colombia); Passport AJ772175 (Colombia) (individual) [SDNT].

5. CALDERON COLLAZOS, Gonzalo, c/o COMPANIA DE FOMENTO MERCANTIL S.A., Cali, Colombia; c/o BANANERA AGRICOLA S.A., Santa Marta, Colombia; c/o CONSTRUCCIONES PROGRESO DEL PUERTO S.A., Puerto Tejada, Colombia; c/o GEOPLASTICOS S.A., Cali, Colombia; DOB 29 Sep 1952; POB Cali, Valle, Colombia; Cedula No. 14989778 (Colombia); Passport 14989778 (Colombia) (individual) [SDNT].

6. SALAZAR ARCILA, Yolanda, c/o PLASTEC LTDA., Colombia; Carrera 6 No. 15–30, Quimbaya, Quindio, Colombia; Cedula No. 25018274 (Colombia) (individual) [SDNT].

7. GONZALEZ BETANCOURTH, Luz Adriana, c/o CORDES CIA. LIMITADA, Cali, Colombia; Armenia, Quindio, Colombia; DOB 29 Jul 1975; POB Sevilla, Valle del Cauca, Colombia; nationality Colombia; citizen Colombia; Cedula No. 29831840 (Colombia) (individual) [SDNT].

8. PRADO CUERO, Salomon (a.k.a. CHALO), c/o COLOR 89.5 FM STEREO, Cali, Colombia; Avenida 26 No. 42B–89, Bogota, Colombia; Carrera 101B No. 11B–50, Cali, Colombia; DOB 01 Aug 1948; Cedula No. 19069493 (Colombia); Passport AE801105 (Colombia) (individual) [SDNT].

9. GARCES VARGAS, Elmo, c/o INVERSIONES BETANIA LTDA., Cali, Colombia; c/o INVERSIONES EL PENON S.A., Cali, Colombia; c/o SOCOVALLE, Cali, Colombia; DOB 20 Jul 1953; Cedula No. 16581793 (Colombia) (individual) [SDNT].

Dated: March 28, 2013.

**Barbara C. Hammerle,**

*Acting Director, Office of Foreign Assets Control.*

[FR Doc. 2013–07856 Filed 4–3–13; 8:45 am]

**BILLING CODE 4810–AL–P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to the Foreign Narcotics Kingpin Designation Act

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of one individual and one entity whose property and interests in property have been unblocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. Sections 1901–1908, 8 U.S.C. 1182).

**DATES:** The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (''SDN List'') of the one individual and one entity identified in this notice whose property and interests in property were blocked pursuant to the Kingpin Act, is effective on March 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2420.

**SUPPLEMENTARY INFORMATION:**

**Electronic and Facsimile Availability**

This document and additional information concerning OFAC are available from OFAC's Web site at *www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

**Background**

On December 3, 1999, the Kingpin Act was signed into law by the President of the United States. The Kingpin Act provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and to the benefits of trade and transactions involving U.S. persons and entities.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property or interests in property, subject to U.S. jurisdiction, of persons or entities found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; and/or (3) playing a significant role in international narcotics trafficking.

On March 28, 2013, the Director of OFAC removed from the SDN List the one individual and one entity listed below, whose property and interests in property were blocked pursuant to the Kingpin Act:

*Individual*

CASTRO, Jesus Maria, c/o NEGOCIOS INTERNACIONALES DEL ECUADOR NIDEGROUP S.A., Quito, Pichincha, Ecuador; c/o SNACK PARTY, Quito, Pichincha, Ecuador; DOB 20 Nov 1967; alt. DOB 28 Nov 1967; alt. DOB 11 Nov 1967; POB Dolores, Uruguay; Cedula No. 172101469–2 (Ecuador); Passport B716164 (Uruguay); alt. Passport C144880 (Uruguay); alt. Passport 02952296–8 (Uruguay) (individual) [SDNTK].

*Entity*

SNACK PARTY, Los Vinedos 19 y Venezuela, Quito, Pichincha, Ecuador; RUC # 1721014692001 (Ecuador) [SDNTK].

Dated: March 28, 2013.

**Barbara C. Hammerle,**

*Acting Director, Office of Foreign Assets Control.*

[FR Doc. 2013–07853 Filed 4–3–13; 8:45 am]

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# FEDERAL REGISTER

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Part II

## Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 736, 737 et al.
Cost Recovery for Permit Processing, Administration, and Enforcement; Proposed Rule; Republication

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Parts 701, 736, 737, 738, and 750**

**RIN 1029–AC65**

**[Docket ID OSM–2012–0003]**

## Cost Recovery for Permit Processing, Administration, and Enforcement

*Republication*

**Editorial Note:** FR Doc. 2013–6950 which was originally published on pages 18430–18444 in the issue of Tuesday, March 26, 2013 is being republished in its entirety in the issue of Thursday, April 4, 2013 because of editing errors.

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) proposes to revise its Federal and Indian Lands Program regulations for the purposes of adjusting the existing permit fees and assessing new fees to recover the actual costs for permit review and administration and permit enforcement activities provided to the coal industry. These fees are authorized under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the Independent Offices Appropriations Act of 1952 (IOAA). The fees would be used to offset OSM's costs for processing various permit applications and related actions, administering those permits over their lifecycle, and performing required inspections. The proposed fees would be applicable to permits for coal mining on lands under OSM's direct regulatory jurisdiction. The proposed fees would also be applicable to coal mining on Indian lands where OSM is the regulatory authority. The primary purpose of this rulemaking is to charge the surface coal mining and reclamation operations that benefit from obtaining and operating under surface coal mining and reclamation permits for OSM's costs to review, administer, and enforce those permits instead of passing those costs on to the general public.

**DATES:** *Electronic or written comments:* OSM will accept written comments on the proposed rule on or before May 28, 2013. Comments on the proposed rule's information collection should be submitted by April 25, 2013.

*Public hearing:* If you wish to testify at a public hearing, you must submit a request before 4:30 p.m., Eastern Time, on April 16, 2013. OSM will hold a public hearing only if there is sufficient interest. Hearing arrangements, dates and times, if any, will be announced in a subsequent **Federal Register** notice.

**ADDRESSES:** *Public comments:* You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. The proposed rule has been assigned Docket ID: OSM–2012–0003. Please follow the on-line instructions for submitting comments.
- *Mail/Hand-Delivery/Courier:* Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252 SIB, 1951 Constitution Avenue NW., Washington, DC 20240. Please include the Docket ID: OSM–2012–0003.

You may view the public comments submitted on this rulemaking at *http://www.regulations.gov.* When searching for comments, please use the Docket ID: OSM–2012–0003.

*Public hearing:* You may submit a request for a public hearing on the proposed rule to the person and address specified under **FOR FURTHER INFORMATION CONTACT.** If you require reasonable accommodation to attend a public hearing, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

*Information Collection:* If you are commenting on the information collection aspects of this proposed rule, please submit your comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, via email to *OIRA_submission@omb.eop.gov,* or via facsimile to 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** Michael F. Kuhns, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Room 222, Washington, DC 20240. Telephone: 202–208–2860.

**SUPPLEMENTARY INFORMATION:**

I. Background Information
II. Discussion of the Proposed Rule
A. General
B. Processing Fee
C. Annual Fixed Fee
III. Public Comment Procedures and Information
IV. Procedural Matters and Required Determinations

## I. Background Information

*Why is OSM revising the regulations?*

In an effort to promote fiscal responsibility, OSM (also referred to as ''we'' and ''our'') has undertaken a comprehensive review of the costs it takes to run its programs. As part of this assessment, we identified the need to update our regulations related to the permit application and other fees that we collect from the coal industry to reflect our costs more accurately.

We last promulgated regulations related to fee collections over 20 years ago, in 1990, 55 FR 29536 (July 19, 1990). Pursuant to those regulations, we collect only approximately 2 percent of the costs that it takes us to perform permit reviews, and we do not collect any fees, other than civil penalties, for our permit administration and enforcement costs.

This rulemaking would allow us to better implement SMCRA and other policies and requirements with regard to fees and cost recovery for services rendered to regulated industries. Since our last rulemaking, the Office of Management and Budget (OMB) has revised Circular No. A–25 relating to ''fees assessed for Government services and for sale or use of Government goods or resources.'' 58 FR 38144 (adopted 1959; revised July 15, 1993), available at *http://www.whitehouse.gov/omb/circulars_a025.* In addition, under the Department of the Interior's (Interior's) implementing policy, OSM is required to charge fees for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those which accrue to the public at large. See 330 Departmental Manual 1.3A and Department of the Interior Accounting Handbook at 6–4, available at *http://www.doi.gov/pfm/handbooks/accounting.html.*

In addition, implementation of this proposed rule would shift a significant portion of the financial costs for reviewing, administering, and enforcing permits from the general public to the identifiable beneficiary—the permit applicant or existing permittee or operator.[1] It would also reduce an indirect taxpayer-funded subsidy to applicants, permittees, and operators of surface coal mining and reclamation operations within our regulatory jurisdiction because these services are currently fully funded through annual discretionary appropriations.

*What laws authorize OSM to collect fees?*

We have specific authority to collect fees in jurisdictions where we are the regulatory authority—i.e., States and

[1] The operator of a surface coal mining and reclamation operation governed by the initial program regulations is sometimes referred to in this preamble as the ''permittee'' and the holder of a ''permit,'' despite the lack of the type of permit required under the permanent regulatory program. We would intend for these operators to be subject to the new cost recovery requirements.

Tribes that have not obtained approval to run their own regulatory program. Section 507(a) of SMCRA (30 U.S.C. 1257) states that—

> Each application for a surface coal mining and reclamation permit pursuant to an approved State program or a Federal program under the provisions of this Act shall be accompanied by a fee as determined by the regulatory authority. Such fee may be less than but shall not exceed the actual or anticipated cost of reviewing, administering, and enforcing such permit issued pursuant to a State or Federal program. The regulatory authority may develop procedures so as to enable the cost of the fee to be paid over the term of the permit.

This provision applies to all States in which we are the regulatory authority: currently Tennessee and Washington. Likewise, pursuant to section 710(d) of SMCRA (30 U.S.C. 1300(d)), which refers specifically to section 507, we have authority to collect fees on surface coal mining operations on Indian lands for which no Tribal regulatory program has been approved pursuant to section 710(j) of SMCRA: currently, surface coal mining and reclamation operations are located on lands of the Crow Tribe, the Hopi Tribe, the Ute Mountain Ute Tribe, and the Navajo Nation.

Additional authority for cost recovery is provided by the Independent Offices Appropriations Act of 1952 (IOAA), as amended, 31 U.S.C. 9701, which provides generally for cost recovery by Federal agencies. The IOAA expresses the intent that services provided by agencies should be ''self-sustaining to the extent possible,'' 31 U.S.C. 9701(a), and authorizes agency heads to ''prescribe regulations establishing the charge for a service or thing of value provided by the agency.'' 31 U.S.C. 9701(b).

*What policy documents govern cost recovery or collecting fees?*

Executive Branch policy on cost recovery is set out in OMB Circular No. A–25. It establishes Federal policy regarding user charges under the IOAA. It also ''provides guidance to agencies regarding their assessment of user charges under other statutes.'' In general, section 6 of the Circular provides: ''A user charge * * * will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public.'' This charge is designed ''to recover the full cost to the Federal Government for providing the special benefit, or the market price.'' Interior and its bureaus have adopted OMB's policy as set forth in section 6 of Circular A–25. See Department of the Interior Accounting Handbook at 6.4.2.

*How did we solicit public participation for the development of the rule?*

As part of our comprehensive review, we identified 89 specific stakeholders who might be affected by this rule or might have an interest in this rule. The stakeholders include coal mining operators, environmental groups, government agencies, and municipalities located in the States of Tennessee, Washington, and on Indian lands where OSM is the regulatory authority. On March 2, 2012, we asked for their feedback by sending them an outreach letter that summarized some concepts that we were considering regarding the restructuring of our permit fees. We received 13 responses from this effort. Nine responses came from the coal industry, one was from a Tribal government, one was from an environmental organization, and two were from private citizens. In general, the coal mining industry objected to any provisions that would increase their mining costs. The environmental organization and citizens supported the rule, and the Tribal government raised issues concerning costs and applicability. We reviewed and considered these responses as we developed this proposed rule.

In addition, OSM considered comments we received through consultation and coordination with the impacted Indian Tribal governments. This consultation is described in greater detail below in the discussion of Executive Order 13175 under IV. Procedural Matters.

*How did OSM determine which of its services should be recovered through fees?*

Section 507(a) of SMRCA provides the authority to charge fees equal to or less than the actual or anticipated costs for reviewing, administering, and enforcing surface coal mining and reclamation permits. Given this broad authority, we reviewed the specific activities and work that we perform with regard to (1) Reviewing, (2) administering, and (3) enforcing permits. Included within our permit review responsibilities are activities related to the processing of new permit applications, requests to modify or revise existing permits, the required mid-term review of the permit, permit renewals, and the transfer, assignment, or sale of rights to an existing permit. We also recognize that there could be irregular, non-routine costs associated with applications or other actions that OSM might require in 30 CFR Chapter VII now or in the future. Administration of an existing permit includes permit file maintenance, the review and analysis of various periodic monitoring and inspection reports, as well as verification that bond release requirements are met. Our inspections of mine sites are included within our permit enforcement activities.

Once we identified our review, administrative, and enforcement services and activities, we analyzed the extent to which the activity conveyed a benefit to an identifiable recipient, such as a permit applicant or existing permit holder, or to the general public. In keeping with Federal cost recovery policy, we are only proposing fees for those services and activities that we have identified as conveying a benefit to an identifiable recipient.

*How did OSM analyze its costs for the services it provides to identifiable recipients?*

In October 2009, we began a review of costs associated with administering our responsibilities for the Federal Program States (currently Washington and Tennessee) and the Indian Lands Programs. To facilitate this review and to acquire the best information available, we enhanced the level of detail captured in our accounting system by adding the name of the State or Tribe and the permit number to many of the previously established cost codes. This additional information allowed us to more accurately capture the costs for each of the activities and services we provided. The new coding structure began to be phased-in during April 2010.

After gathering this information, we then performed a cost analysis of various activities and services using the detailed cost data and associated accumulated programmatic output data. For example, we examined our costs for activities that occur infrequently in connection with a given mining operation, such as the review of a permit application, as well as for more routine and recurring activities, such as those associated with administering and enforcing existing permits (regular inspections would be one example). We then analyzed the resulting costs, associated cost drivers (i.e., factors that affect the cost of a task, such as the number of hours it takes to complete an inspection), and the differing costs for the administration of the Federal and Indian Land Programs among the regions where OSM is the regulatory authority.

After reviewing this data, we considered various approaches for recovering these costs through fees as authorized by SMCRA and the IOAA.

We considered many options, including the recovery of actual costs, average costs, and standard costs through a case-by-case or set fee rate.

*How does the existing rule operate?*

Our existing rule is located at 30 CFR 736.25(d) for Federal Program States and 30 CFR 750.25(d) for Indian lands. Under these regulations, we only charge a fee on new permit applications, and we do not collect a fee for the majority of other permit application and review services that we provide to applicants, permittees, and operators. This existing fee for permit applications is based on a fixed fee schedule, which, in sum, assesses nationwide fees at significant stages of the review process for new permit applications. Specifically, under the existing regulations, we charge a flat $250 for our administrative completeness review, $1,350 for our technical review, and $2,000 for our issuance of decisional documents. In addition, we currently assess a nationwide declining graduated permit application fee based on the acreage of the disturbed area within the proposed permit boundaries:

First 1,000 acres—$13.50/acre
Second 1,000 acres—$6.00/acre
Third 1,000 acres—$4.00/acre
Additional acres—$3.00/acre

As previously stated, the existing fee neither recovers the actual costs for our permit review nor addresses the recovery of our ongoing permit administration or enforcement services.

## III. Discussion of the Proposed Rule

A. General

*How are the proposed fees different from the existing fees?*

The proposed rule would overhaul the way we calculate fees for permitting activities. In addition to restructuring the fees we charge for new permit applications, the proposed rule would include fees for a broader range of permitting activities and services. The fee for permitting activities would not use a fee schedule but instead would be based on actual costs that we would calculate on a case-by-case basis.

The proposed rule also would establish an annual fixed fee to recover a portion of our yearly permit administration and enforcement services. The annual fixed fee for each permit would be determined by four factors—the geographic region; type of permit operation (i.e., whether a permit is for a mine site or support facility); mine site acreage; and the required frequency of inspections as determined by the permit's phase of bond release or by special situations. Special situations consist of operations with atypical inspection requirements, such as surface coal mining and reclamation operations governed by the initial program regulations or permits that are inactive as defined in 30 CFR 842.11(c)(2)(iii), which includes sites that have achieved Phase II bond release or that are in temporary cessation of mining operations. The annual fixed fee would account for the number of mandated annual inspections, including the time for review, travel, inspection and reporting, as well as indirect costs. As proposed, these fees are designed so that OSM would not exceed its actual costs for providing review and administration, and engaging in enforcement activities and services. Fees would be reviewed and adjusted on a periodic basis.

*What kind of fees would this rule establish?*

Our proposed rule would eliminate the current fixed fee schedule and replace it with (1) a *processing fee* that is determined on a case-by-case basis for the review and approval of all permit application services and (2) an *annual fixed fee,* which is designed to recover the costs of OSM's recurring permit administration and permit inspection services. These fees would cover our activities and services in Federal Program States and on Indian lands where OSM is the regulatory authority; however, these fees would also be applicable to any lands for which OSM becomes the regulatory authority pursuant to an action under Part 733 of our regulations (i.e., when OSM takes over all or part of a State program).

Our proposed processing fee rule would be located in a new Part 737. Under the rule, in Federal Program States and on Indian lands where OSM is the regulatory authority, the processing fee would be paid by (1) any applicant for a permit to conduct surface coal mining and reclamation operations, a permit renewal or revision, a transfer, assignment or sale of rights of an existing permit, or any new application or action that OSM might require to be submitted in 30 CFR Chapter VII as a result of possible future rulemaking, and (2) permittees and operators that undergo the required mid-term permit review. In addition, these fees would be paid on applications for coal exploration permits under 30 CFR 772.12. Fees would not be required for notices of intention to explore as described in 30 CFR 772.11 because these notices typically require much less processing time than coal exploration permits. For services other than notices of intention to explore, we would calculate the processing fee for services on a case-by-case basis by determining our actual costs to process the action.

Our proposed annual fixed fee would be located in a new Part 738. That fee would be paid by any permittee or operator of a surface or underground coal mining and reclamation operation. The annual fixed fee for each surface coal mining and reclamation operation would be determined by four factors—the geographic region; the type of permit operation (e.g., whether the site is a mine or a support facility); the mine site acreage; and the required frequency of inspection—whether the permit is in any phase of bond release or whether any special situations exist (as with initial program sites or permits that are inactive). The fee would account for the number of mandated inspections conducted annually, the variations in inspection hours and travel in locations east and west of the 100th meridian west longitude, and indirect costs.[2] Support facilities include preparation plants, ancillary facilities (such as haul roads), refuse and/or impoundment sites, loading facilities and/or tipples, and stockpiles. We also recognize that we still administer some surface coal mining and reclamation operations under the initial program regulations, and that these surface coal mining and reclamation operations have different inspection requirements; therefore, we are providing a separate category of annual fixed fees for those permits. OSM estimates 10 active surface coal mining and reclamation operations fall into this category.

*What happens if OSM substitutes direct federal enforcement or withdraws approval of all or part of a State program?*

Pursuant to 30 CFR 733.12, if the Director determines that (1) the State has failed to effectively implement, administer, maintain, or enforce all or part of its approved State program, and (2) the State has not demonstrated its capability and intent to administer the State program, the Director can:

a. Substitute direct federal enforcement for all or a portion of a State program pursuant to § 733.12(g); or

b. Withdraw approval of all or part of a State program and implement a replacement Federal program pursuant to § 733.12(h).

In the event that OSM does substitute direct federal enforcement or withdraws

[2] SMCRA relies on the 100th meridian west longitudinal line to represent the boundary between the moist eastern United States and the arid western United States. See, e.g., SMCRA, 30 U.S.C. 1260(b)(5) & 1277(a).

approval of all or a portion of a State program, all applicants, operators, and permittees in that State would be required to pay fees covering our expenses for processing applications and performing other actions. In other words, the applicants, operators, and permittees would be responsible for the same costs as any proposed or actual surface coal mining and reclamation operation located within any other Federal Program State or on Indian lands where OSM is the regulatory authority. The collection of this proposed fee would cover the cost of services provided by OSM associated with assuming the responsibilities of all or a portion of a State program.

Because OSM can take over part of a State program under § 733.12, OSM's new role might consist only of performing a few activities that would be subject to cost recovery under the proposed regulation. For instance, OSM might assume only the bond calculation function of a State program. In that case, we would calculate the amount of the bond at the required times in the life of your permit and recover from the applicant or operator the cost of doing so. Under such a scenario, the State regulatory authority would continue to perform all the other permitting activities. In that case, we would charge you processing fees to cover our actual costs of performing the bond calculation review. We would only charge you an annual fixed fee if we were to assume the inspection and enforcement activity for a particular regulatory authority.

*How did OSM determine the proposed fee structures?*

First, we examined SMCRA section 507(a) and other relevant statutes and guidance documents to determine the parameters of our authority to collect fees. Our overall goals are to establish fees that would be fair and equitable, would not exceed our actual costs, and would minimize the administrative burden associated with billing and collecting the fees.

Second, in order to develop the proposed fee structures, we reviewed the three permit-related components for which the applicant, permittee, or operator receives a benefit or service unique to the operation (i.e., permit review, permit administration, and permit enforcement), and classified them either as activities and services with variable costs based on the circumstances, or activities and services that are similar and routine. In particular, we determined that permit application processing and other similar review activities often occur infrequently in connection with any given operation and that the time required for reviewing these activities varies. For example, although every new surface coal mining and reclamation operation requires a permit, the review times and associated processing costs for applications for a new permit vary widely depending on factors such as the size of the mine, potential environmental impacts, complexity of the proposed action, mining method, site topography and hydrology, and the completeness and accuracy of the application itself. Other than mid-term permit reviews, these activities are usually triggered by the applicant or permit holder. Mid-term reviews and permit revisions and renewals are similarly very site specific and vary significantly in the amount of time it takes to process them. In addition, permit revision applications can be submitted during either the active mining phase or the reclamation phase, which affects our processing costs. In contrast, some activities and services, such as performing the review and analysis of various monitoring reports, file maintenance and conducting inspections of the permitted mine site, are regular, routine activities and services. Our work relative to these activities and services largely correlates to the number of required inspections we conduct each year, the geographic region, the type of operation we are inspecting, and the permitted acreage.

Based on this analysis, we are proposing an actual cost, case-by-case processing fee for the activities that occur only occasionally and that vary significantly in the amount of review required and a recurring annual fixed fee for activities that are routine and have similar costs. We believe that this approach would recover the greatest percentage of our review, administrative, and enforcement costs while minimizing our administrative burden. This approach also ensures that the fees do not exceed the actual cost of our work, which is expressly prohibited by SMCRA.

*What OSM costs would be recovered by the proposed processing fee?*

We have calculated the proposed fee rates to include the sum of our direct and indirect costs related to the activities covered in proposed § 736.25. Direct costs are comprised of the time spent by the employee or employees who process the permit and other expenses such as travel and supplies necessary for carrying out each step of an application. The hourly cost of the employees' time is based on the employees' salaries and benefits. The cost of travel includes travel associated with field work and site visits for technical and programmatic review of applications. Direct costs would vary by permit because of differences in the technical complexity and skill requirements of personnel reviewing permits.

Indirect costs include all expenses that are common to all regulation and technology activities and are assessed at the same rate in all cases. These costs include centrally paid items such as telecommunications, rent, utilities, security, as well as bureau support functions such as human resource services, finance, and management. We used the general guidance contained on OMB Circular A–25 for determining the activities to include in our indirect cost rate.

*Will there be penalties if the processing or annual fixed fee is not paid on time?*

Yes. Under proposed §§ 737.18 and 738.14, if the applicant, permittee, or operator does not pay the fees by the due date specified in parts 737 and 738, respectively, we would use our authority under the Debt Collection Act, as amended, (31 U.S.C. 3717) to charge interest, penalties, and administrative costs related to our fee collection activities.

In addition, if the annual fixed fee is not paid by the dates specified in parts 737 and 738, we might also exercise our enforcement authority under parts 843, 845, and 846, which would generally result in the issuance of a notice of violation under § 843.12. If the processing fee is not paid by the date specified in § 737.14, as discussed below, we would suspend processing the application or other action until we receive the fee unless doing so would delay corrective action at the site.

If you are delinquent in paying your annual fixed fee or processing fee, under the proposed rule, we might enter this violation into the Applicant/Violator System (AVS). As reflected in the proposed addition of paragraph (vi) to the definition of ''violation'' contained in 30 CFR 701.5, a violation in the context of permit application information or permit eligibility requirements of sections 507 and 510(c) of the Act could include the failure to pay the required processing or annual fixed fee. Such a violation in the AVS might cause the violator and associated parties to be ineligible for future permit actions, including being ineligible to receive AML reclamation contracts, under 30 CFR 773.12 and coordinating state regulatory counterparts. Section 510(c) of SMCRA precludes permitting authorities from issuing a permit to an

applicant that owns or controls a mining operation with a current violation.

*Could the proposed OSM consolidation with the Bureau of Land Management and the Office of Natural Resources Revenue affect this rule?*

The Department of the Interior is in the beginning phases of consolidating certain fee collection functions between OSM and the Office of Natural Resources Revenue (ONRR). See Secretary of the Interior Ken Salazar's Secretarial Order No. 3320, signed on April 13, 2012. We do not expect the consolidation efforts between OSM, ONRR, and the Bureau of Land Management to affect the substance of this rulemaking; however, it is possible that, at some point, certain procedural sections of the rule (i.e., the provisions governing where the fees contained in this rule would need to be sent) might be revised to reflect the ongoing consolidation efforts.

B. Processing Fee

*For what services or actions would OSM assess a processing fee?*

Under the proposed rule at § 736.25(a), OSM would charge a processing fee for the following activities in a Federal Program State or on Indian lands where OSM is the regulatory authority:

1. A new permit application to conduct surface coal mining and reclamation operations, including coal exploration permits (but excluding notices of intention to explore);
2. A revision to an existing permit, whether requested by the permittee or ordered by OSM;
3. A request to transfer, assign or sell rights to an existing permit;
4. A mid-term review;
5. A request to renew a permit; and
6. With the exception of bond release applications, any other action on which OSM may assess fees as specified in 30 CFR Chapter VII.

The processing fee would be charged for the application review costs that we incur, even if a permit application is ultimately denied.

We are not proposing to charge a processing fee for bond release applications because a substantial amount of the review time for these applications consists of inspection of the onsite mine permit conditions and many of these inspection hours overlap with the required inspections that are part of the annual fixed fee.

We foresee the possibility that future rulemaking could require the submission of other applications or actions for us to process. If we do propose such future rulemaking that requires us to process new actions, we would discuss in the preamble whether it should be subject to a processing fee.

*Would the applicant know the amount of processing fee at the time the application is submitted?*

As described in proposed § 737.11(a), we would provide the applicant with a written estimate of the proposed fee and an estimated processing time before we begin to process the application or other permitting action.

*Would the permittee or operator know the amount of processing fee at the time the mid-term permit review is started?*

Under proposed § 737.11, we would notify you, the permittee or operator, of the estimated costs of your mid-term permit review when we are required to begin that review.

*How would OSM estimate your processing fee?*

First, OSM would estimate the direct costs of processing your application or other action based on our known range of costs for reviewing various permitting activities. To produce this estimate, we would perform a cursory review of your application or other action to determine its scope and complexity when we receive your application or when your mid-term review is required. Next, we would determine the type of staff needed to review and act upon your application or other action. Using our most recent data for processing similar applications or other actions, we would estimate the number of hours that we expect it would take us to complete the review. We would break down this estimate by discipline (i.e., hydrologist, engineer, reclamation specialist, etc.) and assign corresponding hourly rate costs. We would also include any estimated travel costs that we would incur in visiting the permit application site to verify the site conditions or meet with others about the permit application or mid-term review.

The cost estimate would not include any costs associated with our attending any interagency pre-application meetings because we view these meetings as beneficial and time-saving to everybody, including the general public, who is involved in the process. Similarly, we would not include the costs of estimating the processing fee in developing our estimate of your processing fee.

As described above, a bureau-wide flat indirect cost rate was calculated based upon our total direct costs for regulatory activities. After we determine the estimated direct costs to process your application or conduct a mid-term review, we would use this figure and apply the indirect cost rate to arrive at your estimated processing fee. We would use this estimate for billing purposes. As we move forward in reviewing your application or conducting our mid-term review, we would re-calculate our costs and periodically provide you with an updated estimate.

*What indirect costs are included in the processing fee?*

We used the general guidance contained on OMB Circular A–25 for determining the indirect costs that are applied to our direct costs. Indirect costs include centrally paid items such as telecommunications, rent, utilities, security, as well as bureau support functions such as human resource services, finance, and management. OSM used a cost estimation methodology based on activities identified in its Work Breakdown Structure (WBS) System. WBS provides reasonable managerial accounts for costs. We used Fiscal Year 2011 as the baseline year for this rate. We applied the indirect costs identified above to total regulation and technology costs for the fiscal year yielding a rate of 21 percent. We intend to periodically adjust our indirect cost rate fees to reflect changes in our indirect costs. We would publish this revised rate in the **Federal Register**.

*Would the proposed processing fee change how Environmental Impact Statements (EISs) and Environmental Assessments (EAs) are handled by OSM?*

We would continue our general practice of hiring a consultant to prepare an EIS when one is required for your permit application, and the consultant would continue to bill you, the applicant, directly. However, the costs for OSM's staff time associated with this activity would be included in our new processing fee. When OSM prepares an EA for your permit activity, which might also include the preparation of a finding of no significant impact, we would bill you for our actual costs to produce these documents.

*How would processing fees be billed?*

Upon receiving the estimate, pursuant to proposed § 737.13, the applicant, permittee, or operator would have the option to submit the estimated fee in total or to submit a partial payment if the processing time is estimated to be more than six months. Applicants, permittees, and operators paying the full amount would have to do so within 30

days of the printed date of our estimate under proposed § 737.14. Proposed § 737.14 also details when payments would be due from applicants, permittees, and operators choosing the partial payment method. Generally, under this proposed provision, the first installment would be due within 30 days of the estimate and each additional installment would be billed every six months thereafter.

As detailed in proposed § 737.13(b), the amount of the partial payment would be calculated by dividing the total estimated fee amount by the number of six-month periods estimated for our processing. Under proposed § 737.16, we would generally revise the estimates every six months and incorporate any adjustments into the next six-month billing. Thus, if a payment turns out to be more or less than our processing costs for that same period, the adjustment would be reflected in a subsequent billing cycle.

Except for mid-term reviews, processing would not normally begin on your permit application or other action until we receive your first installment. Regardless of whether the fee is paid in a lump sum or installments, proposed § 737.14(c) makes clear that the entire fee would have to be paid before we would issue the final decision document unless the fee is for a permit revision that is necessary to correct a violation. According to proposed § 737.18(a), we might begin processing any permit revisions that are required to correct a violation before we receive payment. This exception was added because we do not want to delay corrective action by the permittees.

*What happens if the processing fee estimate is more or less than actual processing costs?*

We intend for your final processing fee to reflect our actual costs of performing the review and preparing a decision document regarding the permit application (or other action listed in proposed § 736.25(a)). You would not be expected to pay more than our actual costs. To make sure that you do not pay more than the costs that we actually incur to process your application or other action, we would record our actual costs in our financial system. Our financial system would allow us to capture unique cost accounts that would be established for each unique permitting action. These cost accounts would reflect our direct labor and non-labor costs (if applicable).

We would reconcile our estimated costs and actual costs pursuant to proposed § 737.16. If you are paying by installments, we would adjust a subsequent installment to make up the difference between the estimated and actual costs. Once the final amount has been paid and the decision document issued, if our estimate was greater than our actual processing costs, we propose to refund the excess amount to you, without interest. If our estimate was less than our actual processing costs, we would bill you for the difference; however, we would have to receive your payment before the issuance of the final decision document.

Instead of issuing automatic refunds of any amount in excess of our processing costs, we considered retaining the overage and applying it to future annual fixed fee or other processing fee costs. However, current guidance from the Department of the Treasury requires us to refund all excess monies to which OSM has no claim. For that reason, and in the interest of administrative efficiency, we decided to propose the automatic refund.

*Would these new regulations increase the time required to obtain or revise a permit or other action?*

We are sensitive to concerns about the creation of regulations that might extend the time required to obtain or revise a permit or review another action, and we have drafted this proposed rule to include only one new process—the cost estimate and billing process. We anticipate the amount of time required for this process would be minimal. OSM staff is already required to track the time they spend on specific categories of work; thus, we have a good basis for providing cost estimates for different activities and services. Therefore, we do not believe this regulation would materially increase the amount of time it would take us to review a permit application or other action, assuming the processing fees are paid in a timely manner. Moreover, we believe that this proposed regulation might encourage the submission of more complete and accurate applications packages, which could have the effect of decreasing the amount of time we need for review and the associated cost.

*How would the processing fee be applied to services and actions that osm is already reviewing?*

At this time OSM has not determined how best to apply the processing fee to applications pending review at the time the proposed rule is finalized. We do not want this rulemaking effort to encourage applicants to submit incomplete or hastily prepared applications before the effective date of the final rule in order to avoid the new processing fees.

Although not specifically reflected in the proposed rule text, we are considering adding language to the final rule that would waive the proposed processing fee for applications for (1) all activities other than new surface coal mining and reclamation operations, permit renewals, and significant permit revisions that are received by OSM prior to the effective date of the final rule; and (2) new surface coal mining and reclamation operations, permit renewals, and significant permit revisions that are received by OSM prior to the effective date of the final rule *and* determined by OSM to be both administratively *and* technically complete at the time of submission. Applications for all of these activities received after the effective date of this rule, those applications that do not meet the conditions above, and mid-term reviews that are required after the effective date would be subject to the new processing fee.

We are considering making this distinction because permit applications for new surface coal mining and reclamation operations typically require substantially more hours of review than all other types of permit applications, and it is important for the applications for those activities to be technically complete before we can meaningfully review the application. If we adopt this approach, applicants that satisfy the criteria for waiver of the new processing fees for these activities would still be required to pay some fees, such as an application fee based on the existing regulations, and the annual fixed fee. These applicants would also be required to pay processing fees under the new regulations for any future applications.

We would like your comments about this proposed approach or other ideas about how the revised fee structure should apply to permit applications already submitted.

C. Annual Fixed Fee

*For what services would osm assess an annual fixed fee?*

As previously noted, under § 736.27 and Part 738, we propose to recover our costs for permit administration and permit enforcement through an annual fixed fee, which would be assessed yearly. When certain services are performed repeatedly and as expected, a fixed fee is a good mechanism for recovering those costs and is administratively efficient. When we assessed our work, we noted that inspections are one type of routine service that we provide because the minimum number and types of inspections for assessing compliance of

permits are set by regulation. Based on an analysis of the records of previous inspections, we were able to ascertain that certain factors, such as the type of inspections (full or partial), the geographic area, and size of the mine site or support facility, all contribute to the length of time per inspection. In other words, we noticed that mines of similar size and similar geography require approximately the same amount of time to complete a particular type of inspection. Because of the predictable nature of inspections, we believe a fixed fee is appropriate. This approach is consistent with section 507(a) of SMCRA, which specifically authorizes us to collect fees for administrative and enforcement costs and allows these costs to be paid over the term of the permit. We anticipate the collection of this fee would help us recover a portion of our activity and service costs related to permit maintenance, permit administration, and permit inspection.

*How would I know how much my annual fixed fee would be?*

We have determined that a one-size-fits-all annual fee is impracticable because our costs to administer and enforce permits can vary due to a number of factors—primarily related to geography, the permit acreage for mining operations or permit type for nonmining operations (i.e., a support facility), the phase of bond release, if any; and special situations (such as operations governed by the initial program regulations and permits that are inactive). Thus, in § 738.11(b), we are proposing a table that sets different rates for surface coal mining and reclamation operations based on those factors. Operators should be able to identify their annual fixed fee by consulting this table.

We believe that this table fairly represents our fixed costs for administering and enforcing these permits because our recurring inspection and other maintenance activity costs are directly related to statutory and regulatory requirements that specify criteria for inspection frequency. For instance, we are required to complete no fewer than four (4) complete and eight (8) partial inspections each year on permits that have not achieved Phase II bond release. However, once a permit achieves Phase II bond release, the frequency of mandated inspections is reduced to four (4) complete inspections annually. The lower annual fixed fee rate for permits that have achieved Phase II bond release acknowledges this reduction in our administrative and enforcement costs. Likewise, for permits that are inactive or operating under the initial program regulations, and which have different inspection requirements, the table identifies a separate rate. We would not collect annual fixed fees on any permit sites that have been fully reclaimed as evidenced by Phase III bond release certification.

*How did OSM determine the annual fixed fee rates proposed in the table in § 738.11(b)?*

We collected data on the direct historical costs for permit administration and permit enforcement activities and services that are captured in our accounting system related to permit maintenance, permit administration, and permit inspection. We then assigned these costs to the appropriate inspections in Tennessee, Washington State, and on Indian lands for sites that were not in a forfeited or abandoned status. As discussed above, we also treat sites that are inactive, are governed by our initial program regulations, or have achieved Phase II bond release differently by applying lower fees to reflect a reduction in costs from a reduced number of inspections.

In setting the annual fixed fees, we excluded costs associated with conducting citizen complaint inspections because we recognize these inspections vary widely in frequency and scope and do not lend themselves to an annual fixed fee. We also excluded costs associated with taking enforcement actions, such as the issuance of a cessation order or a notice of violation, because these are not recurring actions but instead occur only in connection with specific permits where a problem is encountered.

We initially considered basing the annual fixed fee solely on the amount of bonded or disturbed acreage, but rejected that method after a thorough analysis of our costs and of some of the outreach comments we received. To ensure that we would not recover more than our actual costs on any individual permit, we are using a conservative annual fixed fee based on the geographic region, acreage, and type of permitted operation (i.e., mining operation or support facility), and stage of bond release. A permit that achieves Phase II bond release would be eligible for the reduced annual fee rate once it has been in this new phase status for an entire billing cycle. Similarly, a permit that achieves Phase III bond release would no longer have to pay an annual fee. We would notify the Division of Financial Management when a permit becomes inactive or when the appropriate bond release occurs. An adjustment to the annual fixed fee or a refund would be made as described in proposed § 738.15.

After determining the base figure for our direct costs, we then applied a 21 percent indirect rate to that base figure in order to arrive at the final annual fixed fee rates proposed in § 738.11(b). A discussion of the indirect cost rate can be found in the section above regarding the processing fee.

*What cost methodology did OSM use to determine its direct costs for the annual fixed fees?*

The proposed rates for the annual fixed fees are based upon the costs that OSM incurs annually for activities directly associated with ongoing permit administration and enforcement. We considered several methods for establishing a proposed fee to recoup our annual costs to administer and enforce permits for surface coal mining and reclamation operations. First, we considered proposing a flat annual fixed fee for all permits, regardless of the characteristics of the surface coal mining and reclamation operation (such as location, size, or phase of bond release); however, we determined that such an approach would be inappropriate given that costs vary substantially across permitted sites. So, we decided to set fees based on several criteria because we recognize that our administrative and enforcement expenses vary as we regulate permitted sites ranging from large surface mines spanning tens of thousands of acres down to small permitted units, such as an ancillary haul road facilitating nearby mining operations. We also considered proposing a simple acreage fee but determined that, given the wide array of permitted sites across geographical areas, such a fee would not be equitable. Eventually, we settled on the proposed method, which explicitly recognizes differences in surface coal mining and reclamation operations based on site attributes, size, and reclamation status of permitted sites.

We then analyzed data to link the site categories to costs. OSM maintains an agency-wide database to record, among other things, the inspection and enforcement time for conducting federal inspections in States and Tribes. Upon review of this data, we determined that a good indicator of our costs to administer and enforce the permits was the time expended by OSM inspectors to service permits annually. We were able to pull information from our database to review our inspectors' time for each activity necessary to implement the Federal and Indian lands program in non-primacy States and Tribes. We specifically looked at the time it takes

for each inspection to: (1) Review the permit; (2) travel to and from the site; (3) inspect the site; and (4) write the report. Our inspectors use standardized forms to record mining status and reclamation phases, acres of the permitted site, permit type (permanent program or interim site), type of mine (surface or underground), facility type (prep plant, haul road, refuse, loading facility, or stockpiles), and inspection type (complete or partial).

We also sorted all permits in Federal Program States and on Indian lands where OSM is the regulatory authority into six physical categories (described below) and four inspection groups (permits without Phase II bond release, permits with Phase II bond release, inactive permits, and initial program operations) based on the minimum required inspection frequency. The physical categories include support facilities and five categories based on ranges of permitted acreage—mines less than 100 acres, mines 100 acres but less than 1,000 acres, mines 1,000 acres but less than 10,000 acres, mines 10,000 acres but less than 20,000 acres, and mines 20,000 acres or greater. The range of site categories reflects the required hours per inspection which varies substantially between mine types due to the size and complexity of mines in each geographical area. For example, partial inspections require nearly twice as much time in Tennessee as similar sized mine sites west of the 100th meridian west longitude. Mine sites above 10,000 acres do not exist in areas east of the 100th meridian, while some mines exceed 60,000 acres in areas west of the 100th meridian west longitude. Another physical category is the location of the permit or operation, specifically if it is located east or west of the 100th meridian west longitude. The underground mine acreages we considered consist only of surface acreage, rather than the affected subsurface ''shadow area,'' which is often larger than the surface footprint. All of the existent active underground mines presently fall into the category of mines less than 100 acres. Inspection frequency groups include permits requiring 12 inspections, permits requiring 4 complete inspections (for permits achieving Phase II bond release and for inactive permits), and those requiring only 2 complete inspections (initial program sites).

For each physical category, we calculated inspection time for both complete and partial inspections using a statistical mean for inspection times for both complete and partial inspections. We recognize that inspection times on a site might vary for a given year due to the various circumstances of a mining operation or reclamation process, so we took a three-year average (2009–2011) of hours per inspection to better represent the time requirements for inspections performed in each category.

Averages were statistically different across the physical categories. For example, complete inspections in Tennessee for the three ascending acreage categories required 5 hours, 11 hours, and 47 hours respectively, while partial inspections for the same acreage categories required 4 hours, 6 hours, and 10 hours respectively. We considered creating subcategories within each broad physical category, but deemed such a division unnecessary because there was a lack of significant difference in the statistics. For example, the estimated time required to service permits with permitted acreages falling between 800 and 1,000 acres was not statistically higher than permits with acreages falling between 600 and 800 acres. Thus, we determined that five broad acreage categories were appropriate based on statistical differences in total hours expended for inspecting the entirety of each permitted site.

Next, using OSM's inspection and enforcement database to determine the time required to administer and enforce each of the categories, we established annual cost estimates for servicing each of these categories of permits. SMCRA requires a minimum number of annual inspections, and we used this minimum number to calculate the total hours needed to maintain a permit annually, even though OSM would sometimes perform more than the minimum number of inspections on an individual permit. As an example, our data revealed that at a minimum, for an active mine in Tennessee with 600 permitted acres (category 2), we require 92 inspection hours (11 hours for each complete inspection multiplied by 4 complete inspections annually plus 6 hours for each partial inspection multiplied by 8 partial inspections annually). When the minimum number of inspections drops once a mine has obtained Phase II bond release, the number of inspection hours required would drop to 44 hours (11 hours multiplied by 4 complete inspections annually). We decided not to include costs associated with time expended due to enforcement actions, such as follow-up inspections for assessing civil penalties and reviewing notices of violation. These costs are unanticipated and specific to an individual permit, and therefore are not appropriate for inclusion in the annual fixed fee, which is designed to cover our predictable and recurring costs.

Once we determined the number of required inspection hours, we could multiply that figure by the standard hourly rate for an inspector's salary and benefits and average annual travel costs to perform the required inspections. This sum gives us the direct costs for administration and enforcement for the various categories reflected in proposed § 738.11(b). We then applied an indirect cost of 21 percent for all geographical areas to determine the annual permit fee. We applied the same nationwide indirect fee rate as previously described in the processing fee section of the **SUPPLEMENTARY INFORMATION**, Discussion of The Proposed Rule. Thus, the table in § 738.11(b) includes both our direct and indirect costs.

*How would annual fixed fees be billed?*

The annual fixed fee would be billed in advance for our permit administration and enforcement costs. For new permits issued after the effective date of this rule, we propose to send you a prorated bill for the period beginning when the permit is issued through the end of the current fiscal year (September 30) as described in § 738.11(a). For permits already issued prior to the effective date of this rule, we propose to send you a prorated bill for the period beginning when the rule becomes effective through the end of the current fiscal year (September 30) as described in § 738.11(a). Because initial program sites, inactive permits, and permits that have achieved Phase 2 bond release require only two complete annual inspections, their prorated amount would be determined by the timing of our inspections rather than the remaining months in the billing year. We would then annually bill you each year thereafter at the start of each new fiscal year (October 1). However, we recognize that there are many options for billing that might be more or less convenient for our permittees, such as billing at the beginning of the calendar year. Alternatively, we could bill on a quarterly basis (similar to the current AML fee) or a semi-annual basis. We specifically invite comments as regarding the billing procedures for the annual fixed fee.

*What happens if my permit becomes eligible for a reduced annual fixed fee rate during the year?*

You would have to pay the annual fixed fee in advance for the next 12 months. However, if your operation achieves a phase of bond release or becomes inactive during the year, you might be eligible for a reduced annual

fixed fee. If the event that makes your permit eligible for a reduced fee occurs within the first 6 months of the billing year, we would refund a prorated portion of your annual fixed fee, without interest, as proposed in § 738.15.

*Would the annual fixed fees be updated or revised?*

Yes. Under proposed § 738.11(c), we intend to periodically adjust our annual fixed fee to reflect changes in our direct costs and/or indirect rate. We would publish all such revised fees in the **Federal Register**.

## III. Public Comment Procedures and Information

*How do I submit comments on the proposed rule?*

General Guidance

We will review and consider all comments that are timely received, but the most helpful comments and the ones most likely to influence the final rule are those that include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent Federal laws or regulations, technical literature or other relevant publications, or that involve personal experience. Your comments should reference a specific portion of the proposed rule or preamble, be confined to issues pertinent to the proposed rule, explain the reason for any recommended change or objection, and include supporting data when appropriate.

Please include the Docket ID ''OSM–2012–0003'' at the beginning of all written comments that are mailed or hand carried to OSM. We will log all comments that are received prior to the close of the comment period into the docket for this rulemaking; however, we cannot ensure that comments received after the close of the comment period (see **DATES**) or at locations other than those listed above (see **ADDRESSES**) will be included in the docket for this rulemaking or considered in the development of a final rule.

Procedures for sending comments to the Office of Management and Budget are described in the Paperwork Reduction Act section of the Procedural Matters.

*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.

*Public Hearing and Teleconferences*

We will hold a public hearing on the proposed rule only if there is sufficient interest. We will announce the time, date, and address for any hearing in the **Federal Register** at least 7 days before the hearing. If there is only limited interest in a public hearing, we may hold a teleconference instead and invite those who had expressed an interest in presenting oral comments. We will place a summary of the public hearing or teleconference, if held, in the docket for this rulemaking.

If you wish to testify at a hearing please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, either orally or in writing, by 4:30 p.m., Eastern Time, on April 16, 2013. If there is only limited interest in speaking at a hearing by that date, we will not hold a hearing and may, instead, offer to hold a teleconference.

## IV. Procedural Matters

*Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

The revisions to the existing fee schedule are intended to offset OSM's costs for processing various permit applications and related actions, administering those permits over their lifecycle as well as the costs associated with providing enforcement of the permits. The proposed fees would be applicable to permits for mining on lands where regulatory jurisdiction has not been delegated to the States. The proposed fees would also be applicable to mining on Indian lands where OSM is the regulatory authority. The primary purpose of this rulemaking is to charge the costs to review, administer, and enforce surface coal mining and reclamation permits to those who benefit from obtaining and operating under the permit, rather than the general public.

The proposed revisions would result in an increase in the costs placed on coal operators mining in Federal Program States (Tennessee and Washington) and on Indian lands where OSM is the regulatory authority. Within the Federal and Indian lands programs, we currently issue approximately 200 permitting actions per year with less than 5% currently subject to a fee. We also have inspection and permit administration responsibilities for over 300 permits that include over 120,000 bonded acres. For all of these activities, the total amount we currently collect averages $40,000 per year under the existing fee structure. The fees under the proposed rule would recover a large portion of the annual $3.1 million for permitting and inspection costs currently being incurred by OSM and paid using appropriated (discretionary) funds to finance these activities.

*Regulatory Flexibility Act*

There are approximately 1086 surface coal mining and reclamation operations in the United States. This rulemaking would only affect the surface coal mining and reclamation operations located in Tennessee, Washington and on Indian lands, which we estimate to be 41 companies—25 active surface coal mining operations and 16 reclamation operations.

The Small Business Administration uses the North American Industry Classification System Codes to establish size standards for small businesses in the coal mining industry. The size standard established for coal mining is 500 employees or less for each business concern and associated affiliates. The Mine Safety and Health Administration indicates that small coal-mining firms comprise over 96% of the 1086 coal-mining firms in the United States. For purposes of this proposed rule, we are estimating that all 41 surface coal mining and reclamation operations impacted by this rule would qualify as small business entities. The actual dollar effect upon each operator would be highly variable and depend upon the number of permitting actions that each

operator requests, the geographic region, the size and type of the mining operation, and the phase of bond release. Although this number is variable, we have included rough estimates of the minimum and maximum processing fees under the Paperwork Reduction Act section below. In addition, the annual fixed fees range from roughly $700 for an initial program site with less than 100 acres in the East to roughly $96,000 for a surface coal mining operation with more than 20,000 acres and without Phase II Bond Release in the West. See proposed 30 CFR 738.11(b).

The Department of the Interior certifies that this rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is based on the small number of surface coal mining and reclamation operators affected by the proposed rule—approximately 4 percent of small surface coal mining and reclamation operations in the United States—and the graduated fee schedule based on mine size and facilities.

*Small Business Regulatory Enforcement Fairness Act*

Based on the cost data previously discussed, this rule is not considered a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

1. Will not have an annual effect on the economy of $100 million.

2. Will not cause a major increase in costs or prices for consumers, individual industries, federal, State, or local government agencies, or geographic regions.

3. Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

*Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector.

Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*Paperwork Reduction Act*

This rule contains collections of information that require approval by OMB under 44 U.S.C. 3501 *et seq.* In accordance with 44 U.S.C. 3507(d), we have submitted the information collection and recordkeeping requirements of 30 CFR part 737 to the Office of Management and Budget (OMB) for review and approval. We are planning to establish a new collection of information for the following activity:

*Title:* 30 CFR Part 737—Processing Fees for Operations on Land Where OSM is the Regulatory Authority.

*OMB Control Number:* 1029-xxxx.

*Summary:* In an effort to promote fiscal responsibility, OSM has identified the need to update its regulations related to the permit application and related fees that we collect from the coal industry to more accurately reflect our costs. We have revised our Federal and Indian Lands Program regulations for the purpose of adjusting the existing permit fees and to assess fees to recover up to our actual costs for permit administration activities provided to the coal industry. The primary purpose of this regulation is to charge those who benefit from obtaining, and operating under, a surface coal mining and reclamation permit for our costs to review, administer, and enforce permits instead of passing those costs on to the general public. These fees are authorized under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the Independent Offices Appropriations Act of 1952. The fees relating to the processing of various categories of permit applications are considered a burden on the public under the Paperwork Reduction Act and need OMB approval accordingly.

*Bureau Form Number:* None.

*Frequency of Collection:* Once, on occasion.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Description of Respondents:* Coal mine permittees.

*Total Annual Responses:* 177 permittee responses.

*Total Annual Burden Hours:* 0 burden hours.

*Total Annual Non-Wage Burden Costs:* $1,142,069.

Non-wage burden costs are the processing fees which OSM will assess on a case-by-case basis for various types of permitting activities. The fees below are based upon a national weighted-average for hours required for each geographical area to review applications and, therefore, should not be construed to represent the cost of an individual permit activity. Costs include the labor costs for Federal salaries and benefits, and an indirect charge of 21% of direct costs.

(1) New Permits—4 applications × $45,423 in average Federal wage costs to review the application + 21% indirect costs = $219,848 (rounded) for permit applicant fees. We anticipate minimum Federal wage costs of $19,318 (including indirect costs) and a maximum of $151,602 (including indirect costs) per new permit application.

(2) Permit Renewals—9 applications × $6,585 in average Federal wage costs to review the application + 21% indirect costs = $71,712 (rounded) for permit renewals. We anticipate minimum Federal wage costs of $3,883 (including indirect costs) and a maximum of $74,673 (including indirect costs) per permit renewal application.

(3) Mid-Term Reviews—13 reviews × $7,228 in average Federal wage costs to review the application + 21% indirect costs = $113,698 (rounded) for mid-term reviews. We anticipate minimum Federal wage costs of $3,883 (including indirect costs) and a maximum of $74,673 (including indirect costs) per permit renewal application.

(4) Transfer, Sale, or Assignment of Permit Rights—6 applications × $1,216 in average Federal wage costs to review the application + 21% indirect costs = $8,826 (rounded) for applications for the transfer, sale, or assignment of permit rights. We anticipate minimum Federal wage costs of $552 (including indirect costs) and a maximum of $9,446 (including indirect costs) per transfer, sale, or assignment of permit rights application.

(5) Exploration Permits—2 applications × $2,821 in average Federal wage costs to review the application + 21% indirect costs = $6,826 (rounded) for exploration permits. We anticipate minimum Federal wage costs of $109 (including indirect costs) and a maximum of $12,824 (including indirect costs) per exploration permit application.

(6) Significant Permit Revisions—5 applications × $19,532 in average Federal wage costs to review the application + 21% indirect costs = $118,165 (rounded) for significant revisions to permits. We anticipate minimum Federal wage costs of $670 (including indirect costs) and a maximum of $74,824 (including indirect costs) per significant permit revision application.

(7) Non-significant Permit Revisions—151 applications × $3,302 in average Federal wage costs to review the application + 21% indirect costs = $602,994 (rounded) for non-significant revisions to permits. We anticipate minimum Federal wage costs of $331 (including indirect costs and a maximum of $22,263 (including indirect costs) per non-significant permit revision application.

Comments are invited on:

(a) Whether the proposed collection of information is necessary for SMCRA regulatory authorities to implement their responsibilities, including whether the information will have practical utility.

(b) The accuracy of our estimate of the burden of the proposed collections of information.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected.

(d) Ways to minimize the burden of collection on the respondents.

Under the Paperwork Reduction Act, we must obtain OMB approval of all information and recordkeeping requirements. No person is required to respond to an information collection request unless the form or regulation requesting the information has a currently valid OMB control (clearance) number. OSM is seeking a new OMB control number for the collection in proposed Part 737, which will appear in § 737.10 once assigned. To obtain a copy of our information collection clearance request, contact John A. Trelease at 202–208–2783 or by email at *jtrelease@osmre.gov.* You may also review the information collection request at *http://www.reginfo.gov/public/do/PRAMain.* Follow the Web site to the Department of the Interior's collections currently under review by OMB, where you can find the collection being created for this proposed rulemaking.

By law, OMB must respond to us within 60 days of publication of this proposed rule, but it may respond as soon as 30 days after publication. Therefore, to ensure consideration by OMB, you must send comments regarding these burden estimates or any other aspect of these information collection and recordkeeping requirements by April 25, 2013 to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, via email to *OIRA_submission@omb.eop.gov,* or via facsimile to (202) 395–5806. Also, send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203 SIB, Washington, DC 20240, electronically to *jtrelease@osmre.gov,* or by facsimile to (202) 219–3276. You may still send comments on the proposed rulemaking to us until 4:30 p.m., Eastern Time, on April 30, 2013.

*National Environmental Policy Act*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by the categorical exclusion listed in the Department of the Interior regulations at 43 CFR 46.210(i). That categorical exclusion covers policies, directives, regulations and guidelines that are of an administrative, financial, legal, technical, or procedural nature. We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

*Executive Order 12988—Civil Justice Reform*

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule is not expected to have a significant adverse effect on the supply, distribution, or use of energy. It will have limited effect in the states of Tennessee and Washington and on those mining on Indian lands. Further, the rule does not prohibit surface coal mining operations; therefore, a Statement of Energy Effects is not required.

*Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian Tribes and have determined that the proposed revisions would not have substantial direct effects 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. In November of 2011, OSM held separate meetings with representatives of the Crow Tribe, Hopi Tribe and the Navajo Nation to discuss the proposed rule and obtain their comments. Each of these Indian Tribes/Nations currently has or anticipates having coal mining activity.

One concern that was expressed was that the proposed rule would put coal mining on Indian lands at a disadvantage as compared to coal mining on lands where OSM is not the regulatory authority. We understand this concern; however, there are already differences in permitting fees, severance taxes and other taxes that are assessed in the various States and Indian lands where OSM is the regulatory authority. Another concern that was expressed was how the proposed rule would impact Indian lands once the Tribe/Nation assumes either full or partial primacy. If a Tribe/Nation assumes full primacy, it would replace OSM as the regulatory authority and the fees in this proposed rule would no longer be collected by OSM. In that case, the Tribe/Nation would have authority to set its own fees pursuant to sections 507(a) and 710(j)(1)(B). If a Tribe/Nation assumes only partial primacy, OSM would still assess fees for the work it does in lieu of the Tribe/Nation. For example, if a Tribe/Nation decided to assume responsibility for inspection and enforcement but not permit processing, OSM would assess and collect the permit processing fee.

The Crow Tribe's ''Ceded Strip'' in Montana represents a unique and special situation. The United States Department of the Interior and the State of Montana entered into a Memorandum of Understanding (MOU) on August 12, 1985, ''to provide for effective regulation of surface coal mining and reclamation operations * * * on lands on the Crow Ceded Strip in Montana in a manner that achieves the regulatory purposes of the Surface Mining Control and Reclamation Act of 1977, fosters State-Federal cooperation and eliminates unnecessary burdens, intergovernmental overlap and duplicative regulation.'' Under the terms of the MOU, the Department of the Interior and Montana agreed to coordinate the administration of applicable surface mining requirements in the Crow Ceded Strip. Under this proposed rule, permits and applications on lands within the Crow Ceded Strip would be subject to the processing fee and the annual fixed fee for all services OSM provides because these services provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those which accrue to the public at large. Because, pursuant to the MOU, OSM and Montana share responsibility for the regulation of

surface coal mining and reclamation operations on the Crow Ceded Strip, OSM would expect the processing fees it charges to an applicant, operator, or permittee located on the Crow Ceded Strip to address only the costs OSM incurs with regard to its regulatory responsibilities under SMCRA, and not the separate costs that Montana incurs as a result of its responsibilities under SMCRA and the MOU. Therefore, OSM would also expect that its processing fees would be lower than the fees that OSM would charge a comparable operation that is not within those boundaries. Because, consistent with the MOU, OSM would charge only those processing and annual fixed fees attributable to the regulatory functions that OSM actually performs, we do not view the potential assessment of two sets of fees (Montana's and OSM's) as unnecessary and duplicative.

*Executive Order 12630—Takings*

Under the criteria in Executive Order 12630, this rule does not have significant takings implications; therefore, a takings implication assessment is not required. This determination is based on the fact that the rule will not have an impact on the use or value of private property.

*Executive Order 13132—Federalism*

This proposed rule does not have Federalism implications because it only seeks to recover costs incurred by the Federal government for activities within the exclusive jurisdiction of the Federal government—e.g., in States that have not assumed primacy. Thus, it will not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

*Data Quality Act*

In developing this rule we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

*Clarity of These Regulations*

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the proposed rule clearly stated?

(2) Does the proposed rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more but shorter sections (a ''section'' appears in bold type and is preceded by the symbol ''§'' and a numbered heading; for example, ''§ 736.25 Who is required to pay fees?'')

(5) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** part of this preamble helpful in understanding the proposed rule?

(6) What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Information and Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may also email the comments to this address: *Exsec@ios.doi.gov.*

**List of Subjects**

*30 CFR Part 701*

Law Enforcement, Surface mining, Underground mining.

*30 CFR Part 736*

Intergovernmental relations, Surface mining, Underground mining.

*30 CFR Part 737*

Intergovernmental relations, Reporting and recordkeeping requirements, Surface mining, Underground mining.

*30 CFR Part 738*

Intergovernmental relations, Surface mining, Underground mining.

*30 CFR Part 750*

Indian lands, Intergovernmental relations, Reporting and recordkeeping requirements, Surface mining.

Dated: March 3, 2013.

**Tommy P. Beaudreau,**

*Principal Deputy Assistant Secretary—Land and Minerals Management.*

For the reasons set forth in the preamble, we propose to amend 30 CFR Chapter VII as follows.

## PART 701—PERMANENT REGULATORY PROGRAM

■ 1. The authority citation for part 701 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. In § 701.5, in the definition for the term ''violation,'' add paragraph (2)(vi) to read as follows:

**§ 701.5 Definitions.**

* * * * *

Violation * * *

(2) * * *

(vi) a bill or demand letter pertaining to a delinquent processing fee or annual fixed fee owed under parts 736 and 750 of this chapter.

* * * * *

## PART 736—FEDERAL PROGRAM FOR A STATE

■ 3. The authority citation for part 736 is revised to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 4. Revise § 736.25 to read as follows:

**§ 736.25 Who is required to pay fees?**

You, the applicant, permittee, or operator of a surface coal mining and reclamation operation on land where OSM is the regulatory authority or has substituted federal enforcement under Part 733 of this Chapter, must pay the fees required by this subchapter if:

(a) You are an applicant for a permit to conduct surface coal mining and reclamation operations, a permit to conduct coal exploration (but excluding a written notice of intention to explore under § 772.11), a permit renewal or revision, a transfer, assignment or sale of rights in an existing permit, or any other action on which OSM may assess fees as specified in 30 CFR Chapter VII, and we receive your application on or after [*the effective date of this rule*]; or

(b) You are a permittee or operator of a surface coal mining and reclamation operation and we begin to conduct a mid-term review of your operation after [*the effective date of this rule*]; or

(c) You are a permittee or operator of a surface coal mining and reclamation operation and we are required to inspect your operation.

■ 5. Add §§ 736.26 and 736.27 to read as follows:

**§ 736.26 What fees must I pay if I am an applicant?**

Before we (OSM) begin to process your application for one of the activities listed in § 736.25(a) or (b), you must pay a processing fee as set forth in Part 737 of this subchapter.

**§ 736.27 What fees must I pay if I am a permittee or an operator?**

Beginning on [*the effective date of this rule*], you must pay

(a) a *processing fee* as set forth in Part 737 of this subchapter when we conduct a mid-term review of your permit; and

(b) an *annual fixed fee* as set forth in Part 738 of this subchapter.

■ 6. Add part 737 to subchapter C to read as follows:

## PART 737—PROCESSING FEES FOR OPERATIONS ON LAND WHERE OSM IS THE REGULATORY AUTHORITY

Sec.

737.1 What does this part do?
737.10 Information collection.
737.11 What happens after I submit a permit application or a mid-term review is required for my surface coal mining and reclamation operation?
737.12 How much is the processing fee?
737.13 May I pay the processing fee in installments?
737.14 When must I pay the processing fee?
737.15 What method of payment may I use to pay my fees?
737.16 What if the processing fee estimate is more or less than the actual processing costs?
737.17 What happens to the processing fees I have paid if I decide to withdraw my application or other action, or if the application is denied?
737.18 What happens if I am late paying the processing fee?

**Authority:** 30 U.S.C. 1201 *et seq.*

### § 737.1 What does this part do?

(a) This part describes the *processing fee,* including how and when to pay this fee.

(b) Except for a bond release application under § 800.40, all applicants for a permit to conduct surface coal mining and reclamation operations or coal exploration operations (but excluding a written notice of intention to explore under § 772.11), a permit renewal or revision, a transfer, assignment or sale of rights in an existing permit, or any other action on which OSM may assess fees as specified in 30 CFR Chapter VII are required to pay the processing fee if we (OSM) receive your application on or after [*the effective date of this rule*] involving land where we are the regulatory authority or where we have substituted federal enforcement under Part 733 of this Chapter.

(c) All operators and permittees of surface coal mining and reclamation operations are required to pay the processing fee if we are required to conduct a mid-term review of your permit on or after [*the effective date of this rule*] involving land where we are the regulatory authority or where we have substituted federal enforcement under Part 733 of this Chapter.

### § 737.10 Information collection.

The collections of information contained in Part 737 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned control number 1029–XXXX. OSM uses the information collected in this Part to re-estimate and collect fees imposed on permit applicants for surface coal mining and reclamation operations and on operators and permittees when OSM is required to perform a mid-term review. Respondents are required to respond to obtain a benefit in accordance with SMCRA. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

### § 737.11 What happens after I submit a permit application or a mid-term review is required for my surface coal mining and reclamation operation?

After we receive a permit application or other permitting action identified in section 736.25(a) and before we begin processing that application or when a mid-term review of your permit is required, we will provide you with a written initial estimate of the fee and processing time.

### § 737.12 How much is the processing fee?

(a) We will determine the amount of the processing fee on a case-by-case basis and provide you with an initial estimate. Our initial estimate of your processing fee will be an estimate of our costs to review and process your application or conduct a mid-term review of your operation and will be based on our costs to review recent, similar applications and actions. The amount of the fee will consist of:

(1) Our actual direct costs to process the permit application or other action; and

(2) An applied indirect rate (expressed as a percentage of direct costs) to recover that portion of our indirect costs associated with performing the review.

(b) Your final cost will be the sum of the actual costs that we incurred.

### § 737.13 May I pay the processing fee in installments?

Yes. You have the option to either:

(a) Submit the estimated fee in one lump sum; or

(b) If the processing time of your application or other action is estimated to be more than six months, you may request to pay the estimated fee in installments. The amount of the partial payment will be calculated by dividing the total estimated fee amount by the number of six-month billing periods estimated for our processing.

### § 737.14 When must I pay the processing fee?

(a) You must make full payment or the first installment of your payment, if applicable, within 30 days of the date of the initial estimate.

(b) If you are paying the processing fee in installments, we will bill you for the second installment and all future installments within 10 days following the end of each six-month period while we are processing your application or other action. We must receive payment within 30 days of the billing date on your invoice.

(c) You must pay the entire fee before we will issue the final decision document. However, if you are revising your permit to remedy a violation, we may postpone the deadline for your payment of the fee as necessary to avoid causing a delay in your corrective action.

### § 737.15 What method of payment may I use to pay my fees?

All fees due must be submitted to us in the form of an electronic funds transfer (EFT) or a certified check, bank draft or money order payable to the Office of Surface Mining. A bank draft is a check, draft or other order for payment of money drawn by an authorized officer of the bank.

### § 737.16 What if the processing fee estimate is more or less than the actual processing costs?

(a) If you are paying your processing fee in installments, we will generally re-estimate the fee every 6 months once processing has begun. If our actual costs to process your application or other action are higher or lower than the amount that you paid, we will adjust the amount of a subsequent billing cycle to reflect this difference.

(b) If you paid the full amount of the fee estimate and our actual processing costs are more than the amount paid, OSM will notify you that the costs are expected to be higher and provide you with a revised estimate. If you do not pay the additional fees as required, we may stop processing your application or other action until we receive payment, unless, in our discretion, we decide it is in the public interest to continue to process your application or other action.

(c) If our actual processing costs are less than the processing fee that you have paid, we will refund any fees to you that were not used after issuance of the final decision document. No interest will be paid on refunded fees.

### § 737.17 What happens to the processing fees I have paid if I decide to withdraw my application or other action, or if the application is denied?

Except for mid-term reviews, if you decide to withdraw your application or other action, you must notify us in writing, and we will stop processing your application or other action and refund any moneys that you paid in

excess of our processing costs to date. No interest will be paid on refunded fees. If we ultimately deny your application, you will nevertheless still be responsible for the costs that we incurred in reviewing and processing your application.

**§ 737.18 What happens if I am late paying the processing fee?**

(a) Except for mid-term reviews, processing will not normally begin on your application or other action until we receive your required payment; however, if you submit a permit revision application to remedy a violation, depending on the specific circumstances, we may begin to process your permit revision application before we receive your processing fee to avoid causing a delay in your corrective action.

(b) If you are eligible and choose to pay in installments under § 737.13(b) and you are late paying your six-month processing fee, we will suspend further work on your application or other action, except mid-term reviews, until we receive payment.

(c) All late payments will be subject to interest, penalties, and administrative charges as provided in the Debt Collection Act of 1982, as amended, and 31 CFR 901.9. The failure to make a timely payment of this fee constitutes a violation that will be entered into the Applicant/Violator System.

■ 7. Add part 738 to subchapter C to read as follows:

## PART 738—ANNUAL FIXED FEES FOR OPERATIONS ON LAND WHERE OSM IS THE REGULATORY AUTHORITY

Sec.

738.1 What does this part do?
738.11 How much is the annual fixed fee?
738.12 When is the payment for the annual fixed fee due?
738.13 What method of payment may I use to pay my fees?
738.14 What happens if I am late paying the annual fixed fee?
738.15 What happens if my permit achieves a subsequent phase of bond release or becomes inactive after I have paid my annual fixed fee rate for the year?
738.16 How will my prorated bill for my existent permit be determined?

**Authority:** 30 U.S.C. 1201 *et seq.*

**§ 738.1 What does this part do?**

This part informs you, the permittee or operator of a surface coal mining and reclamation operation, of the fee schedule for the annual fixed fee and how and when to pay this fee. It applies to operations on land where we (OSM) are the regulatory authority or where we have substituted federal enforcement under Part 733 of this Chapter.

**§ 738.11 How much is the annual fixed fee?**

(a) The table in paragraph (b) of this section sets the annual fixed fee rate, which is based on the geographic region; the permit acreage and type of operation; the permit's phase of bond release, if any; and special situations (such as initial program sites and permits that are inactive). The table contains separate rates applicable to surface coal mining and reclamation operations located east and west of the 100th meridian west longitude. The table identifies two different types of permitted operations: support facilities and surface/underground mines. Support facilities include preparation plants, ancillary facilities (such as haul roads), refuse and/or impoundment sites, loading facilities and/or tipples, and stockpiles.

(b) Annual Fixed Fee Table (in dollars):

| | Surface coal mines (including underground mines) | | | | | |
|---|---|---|---|---|---|---|
| | Support facilities | <100 Permitted acres | ≥100 to <1,000 Permitted acres (dollars) | ≥1,000 to <10,000 Permitted acres | ≥10,000 to <20,000 Permitted acres | ≥20,000 Permitted acres |
| Areas East of the 100th Meridian West Longitude: | | | | | | |
| Permit Without Phase II Bond Release | 3,100 | 3,300 | 5,900 | 18,000 | na | na |
| Permit With Phase II Bond Release | 1,300 | 1,400 | 2,900 | 13,000 | na | na |
| Permit Inactive | 1,300 | 1,400 | 2,900 | 1,300 | na | na |
| Initial Program Operations | na | 700 | 1,450 | na | na | na |
| Areas West of the 100th Meridian West Longitude: | | | | | | |
| Permit Without Phase II Bond Release | 8,600 | na | 8,300 | 17,000 | 26,000 | 96,000 |
| Permit With Phase II Bond Release | 2,800 | na | 3,300 | 7,900 | 13,000 | 72,000 |
| Permit Inactive | 2,800 | na | 3,300 | 7,900 | 13,000 | 72,000 |
| Initial Program Operations | 1,400 | 2,000 | na | 3,950 | na | na |

For initial program operations, the permit fee relates to the site acreage.
Fees include 21% percent overhead.
na = no permits available in these categories.

(c) We will periodically adjust the annual fixed fees to reflect changes in our direct costs and indirect rates. The revised annual fixed fee rates will be published in the **Federal Register** and will take effect at the start of the next fiscal year when new annual bills are sent.

**§ 738.12 When is payment of the annual fixed fee due?**

We will bill you on an annual basis in advance of administering and enforcing your permit for the next fiscal year. Existing permittees must pay a prorated bill for the period beginning on the effective date of the rule through the end of the current fiscal year (September 30). Similarly, new permits awarded after the effective date of this rule must pay a prorated bill for the period beginning on the date the permit was issued through the end of the current fiscal year (September 30). Thereafter, all annual bills will be sent at the start of each new fiscal year (October 1). We must receive payment for your annual fixed fee within 30 days of the billing date on your invoice.

**§ 738.13 What method of payment may I use to pay my fees?**

All fees due must be submitted to us in the form of an electronic funds transfer (EFT) or a certified check, bank draft or money order payable to Office of Surface Mining. A bank draft is a check, draft or other order for payment of money drawn by an authorized officer of the bank.

**§ 738.14 What happens if I am late paying the annual fixed fee?**

If you are late paying the annual fixed fee, we may take any enforcement action necessary to comply with parts 843, 845, and 846 of this chapter. In addition, late payments will be subject to interest, penalties, and administrative charges as provided in the Debt Collection Act of 1982, as amended, and 31 CFR 901.9. The failure to make a timely payment of this fee constitutes a violation that will be entered into the Applicant/Violator System.

**§ 738.15 What happens if my permit achieves a subsequent phase of bond release or becomes inactive after I have paid my annual fixed fee rate for the year?**

(a) If your permit or operation achieves a subsequent phase of bond release or becomes inactive during the year after you have paid your annual fixed fee, you are eligible for a reduction of your annual fixed fee and you may be eligible for a partial refund of the annual fixed fee.

(b) You are eligible for a partial refund of your annual fixed fees, if:

(1) Your permit completes a phase of bond release within the first 6 months of the billing year; or

(2) Your permit or operation is inactive for 12 or more continuous months.

(c) We will prorate the amount of your refund based on the effective date of the event that makes your permit or operation eligible for the reduced annual fixed fee rate, whichever is later.

(d) Your partial refund will be credited to your next annual bill unless you request a refund check in writing.

**§ 738.16 How will my prorated bill for my existent permit be determined?**

Once this proposed rule becomes effective, we will send you a prorated annual fixed fee bill for the remainder of the billing year. For sites where we are required to annually conduct 4 complete inspections and 8 partial inspections, your prorated bill will be determined by the number of remaining months in the billing year. For sites that require only two complete annual inspections, their amount will be determined by the timing of our inspections rather than the remaining months in the billing year.

## PART 750—REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON INDIAN LANDS

■ 8. The authority citation for part 750 continues to read as follows:

**Authority:** 30 U.S.C. 1201 et seq.

■ 9. Revise § 750.25 to read as follows:

**§ 750.25 Who is required to pay fees?**

You, the applicant, permittee, or operator of a surface coal mining and reclamation operation on Indian lands for which OSM is the regulatory authority, must pay the fees required by parts 737 and 738 of this chapter if:

(a) You are an applicant for a permit to conduct surface coal mining and reclamation operations, coal exploration (but not a notice of intention to explore), a permit renewal or revision, a transfer, assignment or sale of rights in an existing permit, or any other action on which OSM may assess fees as specified in 30 CFR Chapter VII, and we receive your application on or after [*the effective date of this rule*]; or

(b) You are a permittee or operator of a surface coal mining and reclamation operation and we begin to conduct a mid-term review of your operation after [*the effective date of this rule*]; or

(c) You are a permittee or operator of a surface coal mining and reclamation operation and we are required to inspect your operation.

10. Add §§ 750.26 and 750.27 to read as follows:

**§ 750.26 What fees must I pay if I am an applicant?**

Before we (OSM) begin to process your application for one of the activities listed in § 750.25(a), you must pay a processing fee as set forth in Part 737 of this subchapter.

**§ 750.27 What fees must I pay if I am a permittee or an operator?**

Beginning on [*the effective date of this rule*], you must pay

(a) a *processing fee* as set forth in Part 737 of this chapter when we conduct a mid-term review of your permit; and

(b) an *annual fixed fee* as set forth in Part 738 of this chapter.

[FR Doc. 2013–06950 Filed 3–25–13; 8:45 am]

**Editorial Note:** FR Doc. 2013–6950 which was originally published on pages 18430–18444 in the issue of Tuesday, March 26, 2013 is being republished in its entirety in the issue of Thursday, April 4, 2013 because of editing errors.

[FR Doc. R1–2013–06950 Filed 4–3–13; 8:45 am]

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**H.R. 933/P.L. 113–6**
Consolidated and Further Continuing Appropriations Act, 2013 (Mar. 26, 2013; 127 Stat. 198)
**Last List March 15, 2013**

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