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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 AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1437

RIN 0560–AI06

Noninsured Crop Disaster Assistance Program

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Interim Rule.

SUMMARY: The Commodity Credit Corporation (CCC) is amending the regulations for the Noninsured Crop Disaster Assistance Program (NAP) to conform with policies implemented under the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). The amendments concern requirements for coverage of native sod, increases in service fees, the multiple benefits limitation of the program, payment and income limitations, and eligibility for aquaculture losses caused by drought. Also, the rule makes clarifying amendments regarding the eligibility of wheat, barley, oats, or triticale acreage used for grazing and regarding the eligibility of tropical crops for benefits. The rule also clarifies the eligibility requirements for coverage in tropical regions. The amendments in this rule have already been implemented administratively.

DATES: This rule is effective on April 9, 2013.

Comments on this rule must be received on or before June 10, 2013.

ADDRESSES: We invite you to submit comments on this interim rule. In your comment, please specify RIN 0560–AI06 and include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Steve Peterson, Branch Chief; Disaster Assistance Branch; Production, Emergencies, and Compliance Division; Farm Service Agency; U.S. Department of Agriculture, Mail Stop 0517, 1400 Independence Avenue SW, Washington, DC 20250–0517.

Comments may be inspected on www.regulations.gov and at the mail address listed above, in Room 4746–S, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this interim rule is available through the Farm Service Agency (FSA) home page at *http://www.fsa.usda.gov/.*

FOR FURTHER INFORMATION CONTACT: Steve Peterson; telephone (202) 720–5172. Persons with disabilities or who require alternative means for communications should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

NAP is operated by FSA for CCC under the authority section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333). Section 196 requires that the Secretary of Agriculture operate NAP to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)). NAP coverage is limited to crops that are commercial or agricultural in nature and for which crop insurance is not available. Qualifying losses must be due to drought, flood, or other natural disaster, as determined by the Secretary.

NAP provides financial assistance to producers of ''noninsurable crops'' when low yields, loss of inventory, or prevented planting occur due to natural disasters. ''Noninsurable crops'' means, in this instance, crops not covered by the crop insurance program operated by the Risk Management Agency (RMA) of USDA.

NAP coverage is not automatic; producers must apply for NAP and pay a service fee at their FSA county office to obtain coverage. NAP covers the amount of loss greater than 50 percent of expected production.

The 2008 Farm Bill (Pub. L. No. 110–246) made a number of NAP changes that were then implemented by FSA administratively. These amendments are required by sections 1206, 12020, 12027, 12028, 12033, and 15101 of the 2008 Farm Bill. This rule amends the regulations to be consistent with the 2008 Farm Bill and also makes other clarifying changes.

Payment and Income Limitation Changes

The general payment limit of $100,000 per participant per year is unchanged by the 2008 Farm Bill, but certain definitions are amended. Specifically, prior to the 2008 Farm Bill, a ''person'' could include some types of legal entities, while the 2008 Farm Bill defines a ''person'' as an individual, natural person and not a legal entity. Also, the adjusted gross income limit for NAP eligibility is changed by the 2008 Farm Bill for the 2009 and subsequent crop years such that a person or legal entity with an average adjusted gross nonfarm income that exceeds $500,000, or an average adjusted gross farm income that exceeds $750,000, is ineligible to receive NAP benefits. Similar changes required by the 2008 Farm Bill were already made for other FSA and CCC programs in separate rulemakings. Prior to 2009, there was also a $2 million eligibility-for-payments cap tied to adjusted gross revenue (as opposed to adjusted gross income) for NAP. That cap is removed with the 2008 Farm Bill, and is therefore removed in this rule. This rule amends the regulations to be consistent with the 2008 Farm Bill; the payment and income limitations as specified have already been implemented administratively.

Native Sod Requirements

The 2008 Farm Bill includes new native sod provisions. Under those provisions, the Governor of a State in the Prairie Pothole National Priority Area (specific counties within the States of Iowa, Minnesota, Montana, North Dakota, and South Dakota) may ''elect'' that native sod acreage that is tilled for the production of an annual crop will be ineligible for Federal crop insurance and for NAP benefits during the first 5 crop years of planting that annual crop. The NAP regulations are being amended accordingly to add those provisions, as required by the 2008 Farm Bill. So far, no Governor has made that election. This rule also adds a definition of ''native sod,'' consistent with the 2008 Farm Bill.

Eligible Aquaculture Drought Losses

This rule amends the regulations to reflect that, as specified 2008 Farm Bill, drought losses will be covered for aquaculture. Before the 2008 Farm Bill, that coverage was not available and those losses were therefore ineligible for payment.

Service Fee Increase

The 2008 Farm Bill also provides for increased NAP service fees. Those increased fees have been implemented administratively. The rule amends the regulations to reflect the increased fees.

Multiple Benefits Exclusion

FSA programs generally have a provision prohibiting producers from receiving payments from multiple programs for the same loss. However, most of the FSA disaster assistance programs authorized by the 2008 Farm Bill have an eligibility requirement that the applicant must have obtained crop insurance for all crops for which coverage was available, or NAP coverage if crop insurance was not available. If such coverage was not obtained, then the applicant may not be eligible for those disaster assistance programs. FSA has determined, therefore, that such programs were not intended to be covered by the general exclusion on multiple benefits as specified in the 2008 Farm Bill. Those provisions specify that NAP payments cannot be received for losses covered by other programs. However, applying the multiple benefits exclusion in the case of NAP coverage and disaster benefits would be meaningless or produce results that were not intended. The program has been operated accordingly and this rule amends the regulations to specifically exclude the permanent disaster assistance program benefits from the limitation on multiple benefits. Also, the amended regulations specify, consistent with actual practice, that certain FSA emergency loans are not considered multiple benefits and thus are not subject to the multiple benefit exclusion in the 2008 Farm Bill provisions that apply to NAP.

Grazed Acreage Ineligible for NAP—Conforming Change

This rule amends the regulations to reflect the 2008 Farm Bill provision that specifies that grazed-out wheat, barley, oats, or triticale crop acreage is ineligible for NAP payments. The ineligibility is for land where the producer has applied for grazing payments in lieu of a Loan Deficiency Payment (LDP) under other provisions of the 2008 Farm Bill. This limit is also addressed in the current LDP regulations.

Miscellaneous Clarifying Changes

This rule also makes certain clarifying changes. This rule amends § 1437.9, ''Causes of Loss,'' to specify that inadequacy of irrigation as a condition for crops other than tree crops and perennials will be measured at the time of planting, not the beginning of the crop year. This amendment is made to more precisely test the cause of loss and reflects current policy since the lack of irrigation could not have been the source of the loss if there was water available at the time of planting (irrespective of whether there was or was not water available earlier in the crop year).

This rule amends § 1437.301 ''Value Loss,'' and § 1437.305, ''Ornamental Nursery,'' to reflect changes in the definition of the period of time that constitutes a particular crop year for ornamental nursery. The change conforms with RMA crop insurance policy, consistent with the general purpose of NAP to supplement RMA coverage. That goal is facilitated by adopting similar policies for issues that appear in both programs. This is a technical change since a loss will be covered irrespective of when the loss occurs and this involves pinpointing the loss to a particular crop year.

This rule amends § 1437.302, ''Determining Payments,'' to correct cross-references within that section. This rule amends § 1437.105, ''Determining Payments for Low Yield,'' to correct an error. The correction, which does not reduce payments for producers, corrects how salvage value is used in the calculation of payment.

References to specific tropical regions and former territories are amended throughout subpart F ''Determining Coverage in the Tropical Region.'' The purpose of the amendments is to clarify eligibility requirements in tropical regions, while continuing to provide flexibility for the Deputy Administrator to determine where specific requirements apply. This rule amends § 1437.501, ''Applicability; Definition of 'Tropical Region' and Additional Definitions,'' to remove references to specific former U.S. territories in the definition of ''tropical region'' and to add a more general reference to other regions as determined by the Deputy Administrator. A parallel amendment is made to § 1437.504 ''Notice of Loss for Covered Tropical Crops'' to remove a reference to specific former territories. These amendments clarify that the requirements to document specific losses in former territories only apply if the Deputy Administrator has determined that those regions are eligible tropical areas.

Section 1437.503, ''Covered Losses and Recordkeeping Requirements for Covered Tropical Crops,'' is amended to add unspecified other tropical areas to the list of tropical regions for which the causes of loss (including value loss, prevented planting, and low yield) are the same as those as specified for non-tropical crops in § 1437.9. The previous regulation covers only hurricanes, typhoons, and named tropical storms for these tropical regions, except as otherwise approved by the Deputy Administrator. This change reflects that the Deputy Administrator has routinely approved prevented planting, low yield, and other common losses in current U.S. territories and possessions, including Guam, American Samoa, and the Northern Mariana Islands, that are not specified in § 1437.503.

This rule amends § 1437.505, ''Application for Payment for the Tropical Region,'' to add Guam, American Samoa, and the Northern Mariana Islands to the list of tropical regions for which producers are required to file an application for payment by the later of the date on which the notice of loss is filed or the date of the completion of harvest for the specific crop acreage that existed at the time of loss for which the notice of loss was filed. Previously, the current regulation, absent a waiver, required producers in Guam, American Samoa, and the Northern Mariana Islands to file an application for payment at the same time as the filing of the notice of loss because it was anticipated that the eligible causes of loss (hurricanes, typhoons, and named tropical storms in those areas) would reflect a 100 percent loss. Therefore, it made sense, and was cost efficient, to have the application for payments and verification made at the same time that the loss occurred. That is not necessarily the case for the common loss causes added with this rule. Losses may increase in the period after the actual disaster. This change will allow producers of tropical crops in those regions to file an application for payment upon completion of harvest in the case of low yield due to common loss causes as amended in § 1437.503.

Of a more general nature, the previous regulations provided that, except as may be further limited by the Deputy Administrator, the tropical areas that would be covered would include certain former territories of the United States. The ''except as may be further limited'' language was provided to leave open the actual eligibility of losses in those areas. This rule provides greater clarity by not

listing these specific areas as eligible ''except as limited,'' but instead referring generally to other areas that may be eligible. This makes it clearer that tropical areas not specifically listed are eligible only if determined by the Deputy Administrator.

NAP eligibility in the former territories requires a flexible approach by FSA, in consultation with RMA. Generally NAP is authorized to provide coverage in those places in which RMA crop insurance is not available. Under the RMA statutory authority, crop insurance could theoretically be made available in the territories and possessions of the United States and in certain former territories. However, RMA crop insurance is generally made available for crops that have a certain history and market presence. Because of those requirements, crop insurance is generally unavailable outside the 50 States and Puerto Rico on that ground (lack of history and market presence) rather than necessarily on a determination not to extend coverage to a geographical region. Should there be a request for NAP coverage outside those areas covered by RMA, FSA would have to consider whether RMA coverage would, if the conditions were otherwise appropriate, be made available in those areas. The regulations, as clarified, leave out specific references to the former territories and generally leave the scope of coverage in the former territories to the Deputy Administrator to determine or reconsider in light of the considerations noted above and in consultation with RMA as appropriate. That is, the regulations are designed to provide the Deputy Administrator with flexibility on that issue.

Notice and Comment

In general, the Administrative Procedures Act (APA, 5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. Such notice is not required when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

This rule implements provisions of the 2008 Farm Bill for which FSA has no discretion, and makes minor clarifications that are consistent with existing policy and implementation. Therefore, FSA finds that it would be impractical and contrary to the public interest to delay the effective date of this rule. All of the provisions in this rule have already been implemented administratively and all of the substantive changes are required by law. The points of clarification, which are not required by the 2008 Farm Bill, should not have an adverse impact on producers and are merely a restatement of current policy or of current rules. By issuing these regulations as an interim rule, FSA provides an opportunity for the public to comment. FSA will consider those comments to determine if further change or clarification is needed or to the extent that a commenter disagrees with the assessment of what statutory law requires with respect to the operation of the program.

Executive Orders 12866 and 13563

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, ''Regulatory Planning and Review,'' and therefore has not reviewed this rule.

Clarity of the Regulations

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this interim rule, we invite your comments on how to make it easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other law, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. FSA has determined that this rule will not have a significant impact on a substantial number of small entities. Provisions in this rule would not impact a substantial number of small entities to a greater extent than large entities. Limited resource farmers and ranchers will continue to be exempt from the service fees specified in this rule. Consequently, FSA has not prepared a regulatory flexibility analysis.

Environmental Review

FSA has determined that the provisions identified in this interim rule are administrative in nature, intended to improve the effectiveness and efficiency of the program without changing the basic scope of goals and does not constitute a major Federal action that would significantly affect the quality of the human environment. Therefore, consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799), no environmental assessment or environmental impact statement will be prepared.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires

intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' The provisions of this rule will have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with such provision or which otherwise impede their full implementation. However, it is not expected that with respect any current laws that there will be any such conflict. The rule will not have retroactive effect. Before any judicial action may be brought regarding this rule, all administrative remedies must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed for compliance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 imposes requirements on the development of regulatory policies that have Tribal implications or preempt Tribal laws. The policies contained in this rule do not, to our knowledge, preempt Tribal law. This rule was included in the October through December, 2010, Joint Regional Consultation Strategy facilitated by USDA that consolidated consultation efforts of 70 rules from the 2008 Farm Bill. USDA sent senior level agency staff to seven regional locations and consulted with Tribal leadership in each region on the rules. No issues about this rule were raised during that consultation. FSA will continue to respond in a timely and meaningful manner to all Tribal government requests for Tribal consultation about this rule and its implementation and will provide additional avenues, such as webinars and teleconferences, as requested, for collaborative conversations with Tribal leaders and their representatives about ways to improve this program and rule in Indian Country.

Unfunded Mandates Reform Act of 1995 (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates under the regulatory provisions of Title II of the UMRA for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Federal Assistance Programs

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, is: Noninsured Assistance 10.451.

Paperwork Reduction Act of 1995

The amendments to 7 CFR part 1437 in this interim rule require no new information collection or changes to the currently approved information collection under OMB control number 0560–0175.

E-Government Act Compliance

CCC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 CFR part 1437

Agricultural commodities, Crop insurance, Disaster assistance, Fraud, Penalties, Reporting and recordkeeping requirements.

For the reasons discussed above, 7 CFR part 1437 is amended as follows:

PART 1437—NONINSURED CROP DISASTER ASSISTANCE PROGRAM

■ 1. The authority citation for part 1437 is revised to read as follows:

Authority: 7 U.S.C. 1501–1508 and 7333; 15 U.S.C. 714–714m; 19 U.S.C. 2497, and 48 U.S.C. 1469a.

Subpart A—General Provisions

■ 2. Amend § 1437.3 by adding, in alphabetical order, a definition for ''native sod'' to read as follows:

§ 1437.3 Definitions.

* * * * *

Native sod means land on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and that has not been tilled for the production of an annual crop as of June 18, 2008.

* * * * *

■ 3. Amend § 1437.4 by adding paragraphs (c), (d), and (e) to read as follows:

§ 1437.4 Eligibility.

* * * * *

(c) Except as specified in paragraph (d) of this section, the Governor of a State in the Prairie Pothole National Priority Area (Iowa, Minnesota, Montana, North Dakota, and South Dakota) may specify that native sod acreage that is tilled for the production of an annual crop will be ineligible for NAP benefits during the first 5 crop years of planting.

(d) If the producer's total native sod acreage is 5 acres or less, the eligibility restrictions for native sod specified in paragraph (c) of this section will not apply.

(e) Wheat, barley, oats, or triticale crop acreage subject to an application for grazing payments under the program specified in part 1421, subpart D of this chapter, or successor program, is ineligible for NAP payments.

§ 1437.6 [Amended]

■ 4. Amend § 1437.6(b), as follows:

■ a. Remove the amount ''$100'', and add the amount ''$250'', in its place;

■ b. Remove the amount ''$300'', and add the amount ''$750'', in its place; and

■ c. Remove the amount ''$900'', and add the amount ''$1875'', in its place.

§ 1437.9 [Amended]

■ 5. Amend § 1437.9 as follows:

■ a. In paragraph (e)(6), remove the words ''the beginning of the crop year'' and add the words ''time of planting'', in their place, and

■ b. In paragraph (e)(7), remove the words ''A loss'' and add the words ''Except as specified in § 1437.303, a loss'', in their place.

■ 6. Revise § 1437.13(b) to read as follows:

§ 1437.13 Multiple benefits.

* * * * *

(b) The limitation on multiple benefits specified in paragraph (a) of this section will not apply to:

(1) Emergency Loans made under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961–1970).

(2) Supplemental Revenue Assistance Payments Program (SURE) payments as specified in part 760 of this title,

(3) Livestock Forage Disaster Program (LFP) payments as specified in part 760 of this title,

(4) Tree Assistance Program (TAP) payments as specified in part 760 of this title, or

(5) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP) payments as specified in part 760 of this title.

* * * * *

■ 7. Amend § 1437.14 as follows:

■ a. Revise paragraphs (a) and (b) introductory text; and

■ b. Remove paragraph (d).

The revisions read as follows:

§ 1437.14 Payment and income limitations.

(a) The provisions of part 1400 of this title apply to NAP.

(b) For the 2008 and earlier crop years for which NAP was authorized, NAP payments will not be made to a person who has qualifying gross revenues in excess of $2 million for the most recent tax year preceding the year for which assistance is requested. Qualifying gross revenue means:

* * * * *

Subpart B—Determining Yield Coverage Using Actual Production History

■ 8. Revise § 1437.105(a)(6) to read as follows:

§ 1437.105 Determining payments for low yield.

(a) * * *

(6) Adding the producer's share of any salvage value and secondary use and subtracting the result from the result of paragraph (a)(5) of this section.

* * * * *

Subpart D—Determining Coverage Using Value

■ 9. Revise § 1437.301(b) to read as follows:

§ 1437.301 Value loss.

* * * * *

(b) The crop year for all value loss crops, except ornamental nursery as specified in § 1437.305, is October 1 through September 30.

* * * * *

■ 10. Amend § 1437.302 as follows:

■ a. In paragraph (b), remove the reference to ''(a)(1)'' and add a reference to ''(a)'' in its place;

■ b. In paragraph (c), remove the reference to ''(a)(2)'' and add a reference to ''(b)'' in its place;

■ c. In paragraph (d), remove the reference to ''(a)(3)'' and add a reference to ''(c)'' in its place;

■ d. Revise paragraph (e); and

■ e. Remove paragraph (f).

The revision reads as follows:

§ 1437.302 Determining payments.

* * * * *

(e) Subtracting the result from paragraph (d) of this section from the producer's share of any salvage value, if applicable.

■ 11. Amend § 1437.303 by adding paragraph (f) to read as follows:

§ 1437.303 Aquaculture, including ornamental fish.

* * * * *

(f) If all other eligibility provisions of this part are determined by FSA to be satisfied, assistance will be provided to producers for eligible NAP aquaculture crop losses that are the direct result of drought.

■ 12. Amend § 1437.305 by adding paragraph (g) to read as follows:

§ 1437.305 Ornamental nursery.

* * * * *

(g) For the 2010 and subsequent crops, the crop year for ornamental nursery is June 1 through May 31.

Subpart F—Determining Coverage in the Tropical Region

■ 13. Revise § 1437.501(b)(1) to read as follows:

§ 1437.501 Applicability; definition of ''tropical region'' and additional definitions.

* * * * *

(b) * * *

(1) *Tropical region* includes, as may be further limited by the Deputy Administrator: Hawaii, American Samoa, Guam, the U.S. Virgin Islands, Puerto Rico, and the territories and possessions of the United States. Other areas may be included as determined by the Deputy Administrator to be required by law. References to specific areas elsewhere in this subpart will not limit the ability of the Deputy Administrator to limit the geographic scope of this subpart.

* * * * *

§ 1437.502 [Amended]

■ 14. In § 1437.502(c), remove the amount ''$100.00'' and add the amount ''$250'' in its place.

§ 1437.503 [Amended]

■ 15. Amend § 1437.503, in paragraphs (a) and (b), by removing the words ''Hawaii and Puerto Rico'' both times they appear and adding, in their place, the words ''Hawaii, Puerto Rico, and other areas approved by the Deputy Administrator.''

§ 1437.504 [Amended]

■ 16. In § 1437.504(e), remove the words and punctuation '', the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau''.

■ 17. Revise § 1437.505 to read as follows:

§ 1437.505 Application for payment for the tropical region.

(a) For producers of covered tropical crops, except as specified in paragraph (b) of this section or approved in individual cases by the Deputy Administrator, an application for payment must be filed at the same time as the filing of the notice of loss required under §§ 1437.10 and 1437.504.

(b) For producers in Puerto Rico, Hawaii, Guam, American Samoa, and the Northern Marianna Islands, an application for payment for such crops must be filed by the later of:

(1) The date on which the notice of loss is filed in accordance with §§ 1437.10 and 1437.504, or

(2) The date of the completion of harvest for the specific crop acreage that existed at the time of loss for which the notice of loss was filed.

Signed on April 2, 2013.

Candace Thompson,

Acting Executive Vice President, Commodity Credit Corporation, and Acting Administrator, Farm Service Agency.

[FR Doc. 2013–08168 Filed 4–8–13; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 240

[Docket No. R–1428]

RIN 7100–AD 79

Retail Foreign Exchange Transactions (Regulation NN)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') is adopting a final rule to permit banking organizations under its supervision to engage in off-exchange transactions in

foreign currency with retail customers. The final rule also describes various requirements with which banking organizations must comply to conduct such transactions.

DATES: This rule is effective on May 13, 2013.

FOR FURTHER INFORMATION CONTACT: Scott Holz, Senior Counsel, Legal Division, (202) 452–2966.

SUPPLEMENTARY INFORMATION:

I. Background

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act).[1] As amended by section 742(c)(2) of the Dodd-Frank Act,[2] the Commodity Exchange Act (CEA) provides that a United States financial institution [3] for which there is a Federal regulatory agency [4] shall not enter into, or offer to enter into, certain types of foreign exchange transactions described in section 2(c)(2)(B)(i)(I) of the CEA with a retail customer [5] except pursuant to a rule or regulation of a Federal regulatory agency allowing the transaction under such terms and conditions as the Federal regulatory agency shall prescribe [6] (a ''retail forex rule''). Section 2(c)(2)(B)(i)(I) includes ''an agreement, contract, or transaction in foreign currency that * * * is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)).'' [7] A Federal regulatory agency's retail forex rule must treat all such futures and options and all agreements, contracts, or transactions that are functionally or economically similar to such futures and options similarly.[8]

Retail forex rules must prescribe appropriate requirements with respect to disclosure, recordkeeping, capital and margin, reporting, business conduct, and documentation requirements, and may include such other standards or requirements as the Federal regulatory agency determines to be necessary.[9] The Board's rule applies to ''banking institutions,'' a term defined in section 240.2(b) to mean state member banks, uninsured state-licensed branches of foreign banks, financial holding companies, bank holding companies, savings and loan holding companies,[10] agreement corporations, and Edge Act corporations.

On September 10, 2010, the Commodity Futures Trading Commission (CFTC) adopted a retail forex rule for persons subject to its jurisdiction.[11] After studying and considering the CFTC's retail forex rule, and consulting with the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC), the Board approved for publication a notice of proposed rulemaking (NPR) for retail forex transactions effected by banking institutions on July 28, 2011. The NPR was published in the **Federal Register** on August 3, 2011,[12] and the comment period closed on October 11, 2011. In response to the NPR, the Board received six comments: three from individuals, one from a bank, and two from trade associations. One of the individual commenters did not address the rule, while another individual commenter expressed general support for the rule. The third individual (hereinafter ''the individual commenter'') and the bank (hereinafter ''the bank commenter'') generally supported the rule while requesting certain clarifications and changes. One trade association requested changes to reduce the burden on certain entities that would qualify as ''retail forex customers'' under the proposed regulation. The other trade association letter requested changes to address retail customers who use foreign exchange in connection with the purchase or sale of a security denominated in a foreign currency. These comments are addressed in the Section-by-Section Analysis below. The Board is adopting a final rule that is substantially the same as the proposed rule, with certain clarifications as discussed below.

II. Section-by-Section Analysis

Section 240.1—Authority, Purpose, and Scope

This section authorizes a banking institution to conduct retail forex transactions.

The scope of the regulation covers branches and offices of banking institutions, although foreign branches and offices of these institutions are not subject to sections 240.3 and 240.5 through 240.16 unless the branch or office is dealing with a United States customer. Since sections 240.1 and 240.2 cover the authority, purpose and scope of the regulation and the definitions used in the regulation, if a banking institution's only retail forex transactions are conducted by a foreign branch or office and limited to non-U.S. customers, the only operative section of the regulation that would apply would be section 240.4. As described below, this section requires a banking institution that wishes to engage in retail forex transactions to notify the Board before commencing a retail forex business.

The regulation also covers subsidiaries of banking institutions that are organized under the laws of the United States or a U.S. state, unless the subsidiary is subject to the jurisdiction of another federal regulatory agency that is authorized to prescribe retail forex rules under section 2(c)(2)(E) of the Commodity Exchange Act.[13] Subsidiaries of a banking institution that are organized under foreign law are not covered regardless of the nationality of the customer.

The rule is applicable to retail forex transactions engaged in by banking institutions on or after the effective date.

Section 240.2—Definitions

This section defines terms specific to retail forex transactions and to the regulatory requirements that apply to retail forex transactions.

The definition of ''retail forex transaction'' generally includes the following transactions in foreign currency between a banking institution and a person that is not an eligible

[1] Public Law 111–203, 124 Stat. 1376.

[2] Dodd-Frank Act § 742(c)(2) (codified at 7 U.S.C. 2(c)(2)(E) (2011).

[3] The CEA defines ''financial institution'' to include an agreement corporation, an Edge Act corporation, a depository institution (as defined in section 3 of the Federal Deposit Insurance Act), a financial holding company (as defined in section 2 of the Bank Holding Company Act of 1956), a trust company, or ''a similarly regulated subsidiary or affiliate of an entity'' described above. 7 U.S.C. 1a(21).

[4] For purposes of the retail forex rules, ''Federal regulatory agency'' includes ''an appropriate Federal banking agency.'' 7 U.S.C. 2(c)(2)(E)(i)(III). The Board is an ''appropriate Federal banking agency'' under the CEA. 7 U.S.C. 1a(2).

[5] A retail customer is a person who is not an ''eligible contract participant'' under the CEA. *See,* 7 U.S.C. 1a(18).

[6] 7 U.S.C. 2(c)(2)(E)(ii)(I).

[7] 7 U.S.C. 2(c)(2)(B)(i)(I).

[8] 7 U.S.C. 2(c)(2)(E)(iii)(II).

[9] 7 U.S.C. 2(c)(2)(E)(iii)(I).

[10] The Board's proposed rule did not explicitly cover savings and loan holding companies (SLHCs). They have been added to the regulation to reflect the transfer to the Board of regulatory responsibility for SLHCs on July 21, 2011.

[11] *Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries,* 75 FR 55409 (Sept. 10, 2010) (Final CFTC Retail Forex Rule). The CFTC proposed these rules prior to the enactment of the Dodd-Frank Act. *Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries,* 75 FR 3281 (Jan. 20, 2010) (Proposed CFTC Retail Forex Rule).

[12] 76 FR 46652 (August 3, 2011).

[13] 7 U.S.C. 2(c)(2)(E). The federal regulatory authorities other than the Board are the CFTC, OCC, FDIC, the Securities and Exchange Commission, the National Credit Union Association, and the Farm Credit Administration.

contract participant:[14] (i) A future or option on such a future;[15] (ii) options not traded on a registered national securities exchange;[16] and (iii) certain leveraged or margined transactions. This definition has several important features.

First, certain transactions in foreign currency are not ''retail forex transactions,'' and therefore are not subject to the prohibition in section 742(c)(2) of the Dodd-Frank Act. For example, a ''spot'' forex transaction where one currency is bought for another and the two currencies are exchanged within two days is not a ''future'' and would not meet the definition of a ''retail forex transaction,'' since actual delivery occurs as soon as practicable.[17] Similarly, a ''retail forex transaction'' does not include a forward contract with a commercial entity that creates an enforceable obligation to make or take delivery, provided the commercial counterparty has the ability to make delivery and accept delivery in connection with its line of business.[18] In addition, ''retail forex transaction'' does not include an ''identified banking product'' or a part of an ''identified banking product,'' as defined in section 401(b) of the Legal Certainty for Bank Product Act of 2000.[19] Finally, the definition does not include transactions executed on a securities exchange and banking institutions are ineligible to effect retail forex transactions on a designated contract market.

Second, the definition of ''retail forex transaction'' covers rolling spot forex transactions offered or entered into on a leveraged or margin basis (so-called *Zelener*[20] contracts), including without limitation such transactions traded on the Internet, through a mobile phone, or on an electronic platform. A rolling spot forex transaction normally requires delivery of currency within two days, like spot transactions. However, in practice, these contracts are indefinitely renewed every other day and no currency is actually delivered until one party affirmatively closes out the position.[21] Therefore, the contracts are economically more like futures than spot contracts, although some courts have held them to be spot contracts in form.[22]

One of the trade association comment letters was submitted by the American Bankers Association and the Global Financial Markets Association's Global Foreign Exchange Division (hereinafter ''the ABA/GFMA letter''). The comment letter sought clarification or relief that would result in the exemption of certain forex transactions by retail customers initiated solely for the purpose of completing a transaction in foreign securities. This comment letter was addressed to all of the federal regulatory agencies that have promulgated or proposed retail forex rules: the Board, CFTC, FDIC, OCC, and Securities and Exchange Commission. On July 18, 2012, the CFTC issued a final rule that included an interpretation regarding foreign exchange spot transactions that responded to the ABA/GFMA letter. Specifically, the CFTC defined a bona fide spot forex transaction to include the purchase or sale of an amount of foreign currency equal to the price of a foreign security where (i) the security and related foreign currency transactions are executed contemporaneously in order to effect delivery by the relevant securities settlement deadline, and (ii) actual delivery of the foreign currency occurs by such deadline. By interpreting the CEA to exclude these types of retail forex transactions effected in connection with securities purchases and sales, the CFTC has confirmed that the transactions are not subject to the provisions of the CEA that are referenced by section 742 of the Dodd-Frank Act. The Board believes that no amendment to the final rule is required to address this issue. The Board has also added a section to the final rule to clarify that the Board may modify the provisions of this rule for a specific retail forex transaction or a class of retail forex transactions if the Board determines that the modification is consistent with safety and soundness and protection of retail forex customers.

Section 240.2 defines several terms by reference to the CEA, including ''eligible contract participant'' (ECP). Foreign currency transactions with eligible contract participants are not considered retail forex transactions and are therefore not subject to this rule. The definition covers a variety of financial entities, governmental entities, certain businesses, and individuals that meet certain investment thresholds.[23]

The comment letter filed by the Global Financial Markets Association's Global FX Division (hereinafter ''the GFMA letter'') and the bank commenter stated their belief that the definition of ''eligible contract participant'' is too narrow and unnecessarily requires banking institutions to provide retail protections to sophisticated customers who fail to qualify as ECPs because they do not meet the $10 million asset threshold in the statutory definition. The trade association commenter and the bank commenter recommended that the definition of ''retail forex customer'' in section 240.2(n) carve out institutional non-ECPs represented by registered investment advisers. The trade association commenter also sought reduced burden for a commodity pool that is unable to prove that all of its participants are themselves ECPs. The GFMA letter also suggested that, if the Board does not exempt these entities from all aspects of the regulation, the Board at a minimum should allow what it calls ''professional non-ECPs'' to (1) Opt out of disclosure requirements, including the profitable accounts ratio described in section 240.6(e), (2) post reduced margin compared to retail customers, and (3) accommodate transaction execution flexibility not

[14] The definition of ''eligible contract participant'' is found in section 1a(18) of the CEA and is discussed below.

[15] 7 U.S.C. 2(c)(2)(B)(i)(I).

[16] 7 U.S.C. 2(c)(2)(B)(i)(I).

[17] *See generally, CFTC* v. *Int'l Fin. Servs. (New York), Inc.,* 323 F. Supp. 2d 482, 495 (S.D.N.Y. 2004) (distinguishing between foreign exchange futures contracts and spot contracts in foreign exchange, and noting that foreign currency trades settled within two days are ordinarily spot transactions rather than futures contracts); *see also Bank Brussels Lambert* v. *Intermetals Corp.,* 779 F. Supp. 741, 748 (S.D.N.Y. 1991).

[18] *See generally, CFTC* v. *Int'l Fin. Servs. (New York), Inc.,* 323 F. Supp. 2d 482, 495 (S.D.N.Y. 2004) (distinguishing between forward contracts in foreign exchange and foreign exchange futures contracts); *see also* William L. Stein, *The Exchange-Trading Requirement of the Commodity Exchange Act,* 41 Vand. L.Rev. 473, 491 (1988). In contrast to forward contracts, futures contracts generally include several or all of the following characteristics: (i) Standardized nonnegotiable terms (other than price and quantity); (ii) parties are required to deposit initial margin to secure their obligations under the contract; (iii) parties are obligated and entitled to pay or receive variation margin in the amount of gain or loss on the position periodically over the period the contract is outstanding; (iv) purchasers and sellers are permitted to close out their positions by selling or purchasing offsetting contracts; and (v) settlement may be provided for by either (a) cash payment through a clearing entity that acts as the counterparty to both sides of the contract without delivery of the underlying commodity; or (b) physical delivery of the underlying commodity. *See,* Edward F. Greene et al., *U.S. Regulation of International Securities and Derivatives Markets* § 14.08[2] (8th ed. 2006).

[19] 7 U.S.C. 27(b).

[20] *CFTC* v. *Zelener,* 373 F.3d 861 (7th Cir. 2004); *see also CFTC* v. *Erskine,* 512 F.3rd 309 (6th Cir. 2008).

[21] For example, in *Zelener,* the retail forex dealer retained the right, at the date of delivery of the currency to deliver the currency, roll the transaction over, or offset all or a portion of the transaction with another open position held by the customer. *See CFTC* v. *Zelener,* 373 F.3d 861, 869 (7th Cir. 2004).

[22] *See, e.g., CFTC* v. *Erskine,* 512 F.3d 309, 326 (6th Cir. 2008); *CFTC* v. *Zelener,* 373 F.3d 861, 869 (7th Cir. 2004).

[23] The term ''eligible contract participant'' is defined at 7 U.S.C. 1a(18) and generally requires a corporation, partnership, proprietorship, organization, trust or other entity to have total assets exceeding $10 million and an individual to have more than $10 million in assets invested on a discretionary basis.

permissible under the proposed regulation.

The Board is not adopting the suggestion that a non-ECP be treated as an ECP based on its use of an investment adviser as it believes that CEA section 2(c)(2)(E) requires the application of retail forex rules to transactions with non-ECPs. Although large investment advisers may choose to avoid dealing with unsophisticated investors, the Board does not believe that the involvement of a large investment adviser is a substitute for the retail protections sought by Congress in enacting section 2(C)(2)(E) of the CEA.

The issue regarding the ECP status of commodity pools engaging in foreign exchange transactions was included in the CFTC's notice of proposed rulemaking regarding further definition of certain Dodd-Frank Act terms, including ''eligible contract participant,'' [24] and addressed in their final rule adopted April 6, 2012.[25] The CFTC's definition of ECP reduces the burden on commodity pools seeking to establish that all of their members are themselves ECPs. The Board is amending the definition of ECP in section 240.2 of the regulation to incorporate the CFTC's revised definition of ECP. This will allow banking institutions to use the same standard for ECP status as retail forex dealers subject to CFTC jurisdiction when dealing with commodity pools. Consistent with the provisions of the CEA and the CFTC's final rule, the Board is not adopting the commenters' suggestion that commodity pools be exempt from the statutory requirement of establishing that its members are themselves ECPs. The GFMA letter also sought clarification that a banking institution with a retail forex customer who later becomes an ECP may continue to treat the customer as a retail forex customer (i.e., as a non-ECP). The Board believes a banking institution may continue to comply with the regulation for such a customer. Indeed, a banking institution may apply the provisions of Regulation NN to transactions with any customer, although it is only required to apply the regulation to retail forex transactions with retail forex customers.

The Board received no comments on the proposed definitions other than ''eligible contract participant.'' In addition to modifying the definition of ECP, the Board is adding a definition of ''savings and loan holding company.'' In all other respects, this section is being adopted substantially as proposed.

Section 240.3—Prohibited Transactions

This section prohibits a banking institution and its related persons from engaging in fraudulent conduct in connection with retail forex transactions. This section also addresses potential conflicts of interest by prohibiting a banking institution from acting as counterparty to a retail forex transaction if the banking institution or its affiliate exercises discretion over the customer's retail forex account.

The Board's proposal used wording somewhat different from that used by the CFTC, OCC and FDIC. While the retail forex rules of other federal regulatory authorities state that a retail forex counterparty may not ''cheat or defraud or attempt to cheat or defraud'' any person, the Board's proposal used the phrase ''defraud or attempt to defraud.'' The individual commenter recommended using ''cheat or defraud'' instead of ''defraud,'' which he believes would promote regulatory consistency across regulators. The Board notes that the phrase ''cheat or defraud'' is used in section 6b of the CEA (''Contracts designed to defraud or mislead'') [26] and is amending its proposal to use the same language as the CEA and other regulators.

In addition, the Board's proposal would prohibit a banking institution from ''knowingly'' making a false report or deceiving a person, while the other regulators prohibit their retail forex dealers from ''willfully'' engaging in these activities. The Board stated its belief that ''knowingly'' sets a more appropriate standard of proof. The individual commenter preferred the language used by other regulators, in part to improve regulatory consistency.

The Department of Justice's (DOJ's) US Attorneys' Manual discusses the difference between ''knowingly'' and ''willfully'' with respect to 18 U.S.C. 1001, the federal criminal code's general anti-fraud provision.[27] This discussion is consistent with a Supreme Court case concerning another provision of the criminal code.[28] Both the DOJ and the Court indicate that a ''willful'' violation requires proof that the defendant acted with knowledge that his or her conduct was unlawful, while a ''knowing'' violation requires knowledge of the facts constituting the offence, as distinguished from knowledge of the law. The Board believes that ''knowingly'' sets the more appropriate standard, as it will cover making a false report or deceptive behavior without requiring proof that the banking institution knew it was violating Regulation NN.

Section 240.4—Notification

This section requires a banking institution to notify the Board prior to engaging in a retail forex business. This notice includes information on customer due diligence (including credit evaluations, customer appropriateness, and ''know your customer'' documentation); new product approvals; haircuts for noncash margin; and conflicts of interest. In addition, the banking institution must certify that it has adequate written policies, procedures, and risk measurement and management systems and controls to engage in a retail forex business in a safe and sound manner and in compliance with the requirements of the Board's retail forex rule. Once a banking institution has notified the Board pursuant to this provision, the Board will have sixty days to seek additional information or object to the notification in writing, or the notification will be deemed effective. If the Board asks for additional information, the notice will become effective sixty days after all the information requested is received by the Board, unless the Board objects in writing.

Although the statutory requirements with respect to futures and options contracts are currently in effect, some banking institutions may currently engage in retail forex transactions that would be covered by this rule, such as the so-called ''Zelener contracts.'' Banking institutions engaged in retail forex transactions as of the effective date of this rule who promptly notify the Board will have six months, or a longer period provided by the Board, to bring their operations into conformance with the rule. Under this rule, a banking institution that notifies the Board within 30 days of the effective date of the final retail forex rule, subject to an extension by the Board, and submits the information requested by the Board thereafter will be deemed to be operating its retail forex business pursuant to a rule or regulation of a Federal regulatory agency, as required under the Commodity Exchange Act, for such period.[29]

A banking institution need not join a futures self-regulatory organization as a condition of conducting a retail forex business.

[24] *Further Definition of ''Swap Dealer,'' ''Security-Based Swap Dealer,'' ''Major Swap Participant'' 'and ''Eligible Contract Participant,''* 75 FR 80174 (December 21, 2010)(joint proposed rule with the SEC).

[25] 77 FR 30596 (May 23, 2012).

[26] 7 U.S.C. 6b

[27] United States Attorneys' Manual, Chapter 9.

[28] *Bryan* v. *United States,* 524 U.S. 184 (1998).

[29] 7 U.S.C. 2(c)(2)(E)(ii)(I).

The Board received no comments to this section and adopts it as proposed.

Section 240.5—Application and Closing Out of Offsetting Long and Short Positions

This section requires a banking institution to close out offsetting long and short positions in the same currency in a retail forex account. Nevertheless, a banking institution may offset retail forex transactions by the retail forex customer or the customer's agent (other than the banking institution itself) pursuant to a customer's specific instructions. Blanket instructions are not sufficient for this purpose, as they could obviate the general rule. However, offset instructions need not be given separately for each pair of orders in order to be ''specific.'' Instructions that apply to sufficiently defined sets of transactions could be specific enough. Offset instructions may be provided in writing or orally. The banking institution must create and maintain a record of each offset instruction.

The Board received no comments to this section and adopts it as proposed.

Section 240.6—Disclosure

This section requires a banking institution to provide retail forex customers with a risk disclosure statement similar to the one required by the CFTC's retail forex rule, but tailored to address certain unique characteristics of retail forex in banking institutions. The prescribed risk disclosure statement describes the risks associated with retail forex transactions. The disclosure statement makes clear that a banking institution that wishes to use the right of set-off to collect margin for or cover losses arising out of retail forex transactions must include this right in the risk disclosure statement and obtain separate written acknowledgement (see discussion of set-off below in section 240.9).

The final rules of the CFTC, OCC, and FDIC require retail forex dealers to disclose to retail customers the percentage of retail forex accounts that earned a profit, and the percentage of such accounts that experienced a loss, during each of the most recent four calendar quarters.[30] The individual commenter suggested that this ''profitable accounts ratio'' could be manipulated, although he did not describe how this could be done, and recommended adoption of an objective and uniform calculation methodology for the ratio. The commenter also recommended that the calculation should be weighted by the amount of profit or loss to show the amount of profitability or loss, rather than just whether any account made any profit. The Board believes a calculation of the amount of profitability would be more likely to cause retail customers to believe that past performance is an indication of future results and is retaining the profitable accounts ratio and statement of profitable trades as proposed. In addition, the Board believes a uniform calculation of profitable accounts and statement of profitable trades for all retail forex dealers affords greater retail consumer protection by allowing comparison across different types of dealers. Finally, the Board notes that section 240.7(b) provides a calculation methodology for the profitable accounts ratio that is uniform across the bank regulatory agencies.[31]

As proposed, the risk disclosure must be provided as a separate document. The Board requested comment on whether banking institutions should be allowed to combine the retail forex risk disclosure with other disclosures that banking institutions make to their customers. The individual commenter supported the Board's proposal, which is consistent with the final rules adopted by the other bank regulatory agencies.

The individual commenter sought clarification as to whether the requirement in section 240.6(f) that the banking institution disclose ''any fee, charge, or commission'' imposed on the customer for retail forex transactions includes spreads. The final rules adopted by the OCC and FDIC both require disclosure of ''any fee, charge, spread, or commission'' and the individual commenter recommended that the Board add the word ''spread'' to its rules. The Board believes that spreads are covered by the proposed language, but is adding the word ''spreads'' to this section to make such coverage explicit.

The individual commenter also asked for confirmation that the disclosure of ''any fee, charge, or commission'' includes interest income on the retail forex account or retail forex transaction. The rate of interest income paid on cash margin is not a fee, charge, spread, or commission, and so is not required to be disclosed under section 240.6.

Section 240.7—Recordkeeping

This section specifies which documents and records a banking institution engaged in retail forex transactions must retain for examination by the Board. Banking institutions are required to maintain retail forex account records, financial ledgers, transactions records, daily records, order tickets, and records showing allocations and noncash margin, as well as records relating to possible violations of law. This section also prescribes document maintenance standards, including the manner and length of maintenance. Finally, this section requires banking institutions to record and maintain transaction records and make them available to customers.

The individual commenter suggested that records required under this section be retained by the retail forex dealer forever, rather than the minimum five year period specified in section 240.7(h). The Board does not believe it is appropriate to require records be maintained indefinitely and notes that the five year period is consistent with retention requirements for many supervision and regulation records required by the Board.

This section is being adopted as proposed.

Section 240.8—Capital Requirements

The Board's retail forex rule does not change the Board's regulations regarding capital. This section generally requires that a banking institution that offers or enters into retail forex transactions must be ''well capitalized'' as defined in the Board's Regulations H, Y and LL[32] or the banking institution must obtain an exemption from the Board. An uninsured state-licensed U.S. branch or agency of a foreign bank must apply the capital rules that are made applicable to it pursuant to section 225.2(r)(3) of the Board's Regulation Y.[33] An Edge corporation or agreement corporation must comply with the capital adequacy guidelines that are made applicable to an Edge corporation engaged in banking pursuant to section 211.12(c)(2) of the Board's Regulation K.[34]

In addition, a banking institution must continue to hold capital against retail forex transactions as provided in the Board's regulations.

The Board received no comments to this section and adopts it as proposed.

Section 240.9—Margin Requirements

Paragraph (a) requires a banking institution that engages in retail forex transactions, in advance of any such transaction, to collect from the retail forex customer margin equal to at least two percent of the notional value of the

[30] 17 CFR 5.5(e)(1), 12 CFR 48.6(e)(1), and 12 CFR 349.6(e)(1).

[31] *See,* 12 CFR 48.7(b) and 12 CFR 349.7(b).

[32] 12 CFR 208.43, 12 CFR 225.2(r), and 12 CFR 238.2(s).

[33] 12 CFR 225.2(r)(3).

[34] 12 CFR 211.12(c)(2).

retail forex transaction if the transaction is in a major currency pair, and at least five percent of the notional value of the retail forex transaction otherwise. These margin requirements are identical to the requirements imposed by the retail forex rules of the CFTC, OCC, and FDIC. A major currency pair is a currency pair with two major currencies. The major currencies specified in the regulation are the U.S. Dollar (USD), Canadian Dollar (CAD), Euro (EUR), United Kingdom Pound (GBP), Japanese Yen (JPY), Swiss franc (CHF), New Zealand Dollar (NZD), Australian Dollar (AUD), Swedish Kronor (SEK), Danish Kroner (DKK), and Norwegian Krone (NOK),[35] as well as any other currency as determined by the Board.

Prior to implementation of the CFTC's rule, non-bank dealers routinely permitted customers to trade with 1 percent margin (leverage of 100:1) and sometimes with as little as 0.25 percent margin (leverage of 400:1). When the CFTC proposed its retail forex rule in January 2010, it proposed a margin requirement of 10 percent (leverage of 10:1). In response to comments, the CFTC reduced the required margin in the final rule to 2 percent (leverage of 50:1) for trades involving major currencies and 5 percent (leverage of 20:1) for trades involving non-major currencies. These margin requirements were also adopted by the OCC and FDIC. The Board received no comments regarding the appropriate level of margin and is adopting the same requirements as the CFTC and other bank regulatory agencies.

Paragraph (b) specifies the acceptable forms of margin that customers may post, including margin pledged in excess of the requirements of paragraph (a). Banking institutions must establish policies and procedures providing for haircuts for noncash margin collected from customers and must review these haircuts annually. It may be prudent for banking institutions to review and modify the size of the haircuts more frequently.

Paragraph (c) requires a banking institution to collect additional margin from the customer or to liquidate the customer's position if the amount of margin held by the banking institution fails to meet the requirements of paragraph (a). The proposed rule requires the banking institution to mark the customer's open retail forex positions and the value of the customer's margin to the market daily to ensure that a retail forex customer does not accumulate substantial losses not covered by margin.

The retail forex regulations adopted by the OCC and FDIC both prohibit set-off, *i.e.*, the bank forex dealer is prohibited from applying a retail forex customer's losses against any asset or liability of the retail forex customer other than money or property given as margin. Banks generally have broad rights to set off mutual debts to cover customer obligations. It is not clear that limiting a bank's right of set-off in these particular transactions would provide appropriate incentives for retail forex customers. The Board's proposed rule did not include this prohibition and no comments were received opposing this proposal. The Board is adopting these provisions as proposed.

In order to effectuate the prohibition against a bank retail forex dealer exercising a right of set-off, the OCC and FDIC require that each customer's retail forex transaction margin be held in a separate account that holds only that customer's retail forex transaction margin. As proposed, the Board is not requiring the use of a separate margin account, as it is not prohibiting a banking institution from exercising a right of set-off.

Section 240.10—Required reporting to customers

This section requires a banking institution engaging in retail forex transactions to provide each retail forex customer confirmations and monthly statements, and describes the information to be included.

The Board received no comments to this section and adopts it as proposed.

Section 240.11—Unlawful Representations

This section prohibits a banking institution and its related persons from representing that the Federal government, the Board, or any other Federal agency has sponsored, recommended, or approved retail forex transactions or products in any way. This section also prohibits a banking institution from implying or representing that it will guarantee against or limit retail forex customer losses or not collect margin as required by section 240.9. This section does not prohibit a banking institution from sharing in a loss resulting from error or mishandling of an order, and guaranties entered into prior to the effectiveness of the prohibition would only be affected if an attempt is made to extend, modify, or renew them. This section also does not prohibit a banking institution from hedging or otherwise mitigating its own exposure to retail forex transactions or any other foreign exchange risk.

The Board received no comments to this section and adopts it as proposed.

Section 240.12—Authorization to Trade

This section requires a banking institution to have specific authorization from a retail forex customer before effecting a retail forex transaction for that customer.

The Board received no comments to this section and adopts it as proposed.

Section 240.13—Trading and Operational Standards

This section largely follows the trading standards of the retail forex rules adopted by the CFTC, OCC and FDIC, which were developed to prevent some of the deceptive or unfair practices identified by the CFTC and the National Futures Association.

Under paragraph (a), a banking institution engaging in retail forex transactions is required to establish and enforce internal rules, procedures and controls to prevent front running, in which transactions in accounts of the banking institution or its related persons are executed before a similar customer order, and to establish settlement prices fairly and objectively.

Paragraph (b) prohibits a banking institution engaging in retail forex transactions from disclosing that it holds another person's order unless disclosure is necessary for execution or is made at the Board's request.

Paragraph (c) ensures that related persons of another retail forex counterparty do not open accounts with a banking institution without the knowledge and authorization of the account surveillance personnel of the other retail forex counterparty to which they are affiliated. Similarly, paragraph (d) ensures that related persons of a banking institution do not open accounts with other retail forex counterparties without the knowledge and authorization of the account surveillance personnel of the banking institution to which they are affiliated.

Paragraph (e) prohibits a banking institution engaging in retail forex transactions from (1) Entering a retail forex transaction to be executed at a price that is not at or near prices at which other retail forex customers have executed materially similar transactions with the banking institution during the same time period, (2) changing prices after confirmation, (3) providing a retail forex customer with a new bid price that is higher (or lower) than previously provided without providing a new ask

[35] *See* National Futures Association, *Forex Transaction: A Regulatory Guide* 17 (Feb. 2011); New York Federal Reserve Bank, *Survey of North American Foreign Exchange Volume* tbl. 3e (Jan. 2011); Bank for International Settlements, *Report on Global Foreign Exchange Market Activity in 2010* at 15 tbl. B.6 (Dec. 2010).

price that is similarly higher (or lower) as well, and (4) establishing a new position for a retail forex customer (except to offset an existing position) if the banking institution holds one or more outstanding orders of other retail forex customers for the same currency pair at a comparable price.

Paragraphs (e)(3) and (e)(4) do not prevent a banking institution from changing the bid or ask prices of a retail forex transaction to respond to market events. The Board understands that market practice among CFTC-registrants is not to offer requotes, but to simply reject orders and advise customers they may submit a new order (which the dealer may or may not accept). Similarly, a banking institution may reject an order and advise customers they may submit a new order.

Paragraph (e)(5) requires a banking institution to use consistent market prices for customers executing retail forex transactions during the same time. It also prevents a banking institution from offering preferred execution to some of its retail forex customers but not others.

The Board received no comments to this section and adopts it as proposed.

Section 240.14—Supervision

This section imposes on a banking institution and its agents, officers, and employees a duty to supervise subordinates with responsibility for retail forex transactions to ensure compliance with the Board's retail forex rule.

The Board received no comments to this section and adopts it as proposed.

Section 240.15—Notice of Transfers

This section describes the requirements for transferring a retail forex account. Generally, a banking institution must provide retail forex customers 30 days' prior notice before transferring or assigning their account. Affected customers may then instruct the banking institution to transfer the account to an institution of their choosing or liquidate the account. There are three exceptions to the above notice requirement: a transfer in connection with the receivership or conservatorship under the Federal Deposit Insurance Act; a transfer pursuant to a retail forex customer's specific request; and a transfer otherwise allowed by applicable law. A banking institution that is the transferee of retail forex accounts must generally provide the transferred customers with the risk disclosure statement of section 240.6 and obtain each affected customer's written acknowledgement within 60 days.

The Board received no comments to this section and adopts it as proposed.

Section 240.16—Customer Dispute Resolution

This section prohibits a banking institution from entering into any agreement or understanding with a retail forex customer in which the customer agrees, prior to the time a claim or grievance arises, to submit the claim or grievance to any settlement procedure.

This provision differs from the applicable CFTC and OCC dispute settlement procedures, which permit mandatory pre-dispute settlement agreements under certain conditions.[36] The Board proposed to prohibit a banking institution from entering into a pre-dispute settlement agreement with a retail forex customer, similar to the final rule adopted by the FDIC.

The Department of State has advised that transactions between the foreign branch or office of a banking institution and a U.S. customer could be cross-border transactions subject to the New York [37] and Panama Conventions.[38] These Conventions, implemented in the United States by chapters 2 and 3 of the Federal Arbitration Act (FAA),[39] create treaty obligations to enforce international commercial arbitration agreements and to recognize and enforce international commercial arbitral awards. The Board is amending section 240.16 to provide that it will not apply to transactions covered by chapters 2 or 3 of the FAA.

Section 240.17—Reservation of Authority.

This section allows the Board to modify certain requirements of this rule consistent with safety and soundness and the protection of retail forex customers. The Board understands the need for flexibility as foreign exchange trading procedures develop and to ensure that such products or trading procedures are subject to appropriate customer protection and safety and soundness standards.

Interagency Statement on Retail Sales of Nondeposit Investment Products

For banking institutions, the requirements in the Board's retail forex regulation overlap with applicable expectations contained in the Interagency Statement on Retail Sales of Nondeposit Investment Products (NDIP Policy Statement).[40] The NDIP Policy Statement sets out guidance regarding the Board's expectations when a banking institution engages in the sale of nondeposit investment products to retail customers. The NDIP Policy Statement addresses issues such as disclosure, suitability, sales practices, compensation, and compliance. The Board views retail forex transactions as nondeposit investment products, but the terms ''retail forex customer'' in this rule and ''retail customer'' in the NDIP Policy Statement are not necessarily co-extensive. The Board requested comment on whether the proposed regulation created issues concerning application of the NDIP policy statement to retail forex transactions that the Board should address. The Board received no comments on this issue. As the Board noted in its proposal, after the effective date of the final rule, the Board will expect banking institutions engaging in or offering retail forex transactions to also comply with the NDIP Policy Statement to the extent such compliance does not conflict with the requirements of the Board's final retail forex rule.

III. Regulatory Analysis

A. Regulatory Flexibility Act

In accordance with Section 4(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq, (RFA), the Board must publish a final regulatory flexibility analysis with this rulemaking. The RFA requires an agency either to provide a final regulatory flexibility analysis with a final rule for which a general notice of proposed rulemaking is required or to certify that the final rule will not have a significant economic impact on a substantial number of small entities. Based on this analysis and for the reasons stated below, the Board believes that the final rule would not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing a final regulatory flexibility analysis.

1. A succinct statement of the need for, and objectives of, the rule.

Section 2(c)(2)(E) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(E))

[36] See 17 CFR 166.5. The CFTC's regulation permits predispute dispute settlement agreements with a customer with certain restrictions such as that signing the agreement must not be made a condition for the customer to utilize the services offered by the CFTC registrant.

[37] Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1970).

[38] Inter-American Convention on International Commercial Arbitration (1990).

[39] 9 U.S.C. 1 et seq. Chapter 2 of the FAA (secs. 201–208) contains provisions implementing the New York Convention, while Chapter 3 of the FAA (secs. 301—307) contains provisions implementing the Panama Convention.

[40] *See* SR Letter 94–11 (Feb. 17, 1994); *see also* SR Letter 95–46 (Sept. 14, 1995).

prohibits a U.S. financial institution from conducting certain retail foreign exchange transactions unless done pursuant a rule or regulation of a Federal regulatory agency allowing such transactions. The Board is adopting a new regulation to allow banking institutions under its supervision to engage in retail foreign exchange transactions.

2. A Summary of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

The Board requested comment on required reporting, disclosure, and recordkeeping requirements for all banking institutions engaging in retail foreign exchange transactions and has solicited comment on any approaches that would reduce the burden on all counterparties, including small entities. In response to the notice of proposed rulemaking, the Board received no comments with respect to RFA.

3. A Description of and an Estimate of the Number of Small Entities To Which the Rule Will Apply or an Explanation of Why No Such Estimate Is Available

Under regulations issued by the Small Business Administration, a banking institution is considered a ''small entity'' if it has assets of $175 million or less.[41] As of June 30, 2012, there were approximately 368 small state member banks, 6 small Edge Act and agreement corporations, 48 small uninsured branches of foreign banks, 3,736 small bank holding companies, 213 small financial holding companies, and 229 small saving and loan holding companies. The Board is not aware of any small institutions engaged in retail forex transactions.

4. A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities Which Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

A description of the projected recordkeeping and other compliance requirements can be found below in section B, ''Paperwork Reduction Act,'' under the following headings: Reporting Requirements, Disclosure Requirements, and Recordkeeping Requirements. The Board believes that there are no other compliance requirements for this rule.

5. A 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, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

The Board believes that no Federal rules duplicate, overlap, or conflict with the rule. The Board has solicited comments on the proposed rule and received relatively few comments. The Board did not receive any comments from small entities and is unaware of any small entities that will be affected by the rule. The Board's rule is consistent with other banking regulators that also solicited comment on their rules. As noted in the supplementary information above, retail forex transactions are also subject to the Interagency Statement on Retail Sales of Nondeposit Investment Products, but this rule would govern to the extent of a conflict.

B. Paperwork Reduction Act

In accordance with section 3512 of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the final rule under the authority delegated to the Board by OMB. The OMB control number for these information collections will be assigned. The Board received no comments regarding the Paperwork Reduction Act implications of its retail forex regulation.

Title of Information Collection: Reporting, recordkeeping, and disclosure requirements associated with Regulation NN.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit.

Respondents: Agreement corporations, Edge Act corporations, state member banks, uninsured branches of foreign banks, financial holding companies, and bank holding companies (collectively, ''banking institutions'').

Abstract: The information collection requirements of the final rule are found in §§ 240.4–240.7, 240.9–240.10, 240.13, 240.15–240.16.

Reporting Requirements

The reporting requirements in § 240.4 require that, prior to initiating a retail forex business, a banking institution provide the Board with prior notice. The notice must certify that the banking institution has written policies and procedures, and risk measurement and management systems in controls in place to ensure that retail forex transactions are conducted in a safe and sound manner. The banking institution must also provide other information required by the Board, such as documentation of customer due diligence, new product approvals, and haircuts applied to noncash margins. A banking institution already engaging in a retail forex business may continue to do so, provided it requests an extension of time.

Disclosure Requirements

Section 240.5, regarding the application and closing out of offsetting long and short positions, requires a banking institution to promptly provide the customer with a statement reflecting the financial result of the transactions and the name of the introducing broker to the account. The customer may provide specific written instructions on how the offsetting transaction should be applied.

Section 240.6 requires that a banking institution furnish a retail forex customer with a written disclosure before opening an account that will engage in retail forex transactions for a retail forex customer and receive an acknowledgment from the customer that it was received and understood. It also requires the disclosure by a banking institution of its fees and other charges and its profitable accounts ratio.

Section 240.10 requires a banking institution to issue monthly statements to each retail forex customer and to send confirmation statements following transactions.

Section 240.13(b) allows disclosure by a banking institution that an order of another person is being held by them only when necessary to the effective execution of the order or when the disclosure is requested by the Board. Section 240.13(c) prohibits a banking institution engaging in retail forex transactions from knowingly handling the account of any related person of another retail forex counterparty unless it receives proper written authorization, promptly prepares a written record of the order, and transmits to the counterparty copies all statements and written records. Section 240.13(d)

[41] U.S. Small Business Administration, Table of Small Business Size Matched to North American Industry Classification System Codes, 13 CFR 121.201.

prohibits a related person of a banking institution engaging in forex transactions from having an account with another retail forex counterparty unless it receives proper written authorization and copies of all statements and written records for such accounts are transmitted to the counterparty.

Section 240.15 requires a banking institution to provide a retail forex customer with 30 days' prior notice of any assignment of any position or transfer of any account of the retail forex customer. It also requires a banking institution to which retail forex accounts or positions are assigned or transferred to provide the affected customers with risk disclosure statements and forms of acknowledgment and receive the signed acknowledgments within 60 days.

The customer dispute resolution provisions in § 240.16 requires certain endorsements, acknowledgments, and signature language. It also requires that within 10 days after receipt of notice from the retail forex customer that they intend to submit a claim to arbitration, the banking institution will provide them with a list of persons qualified in the dispute resolution and that the customer must notify the banking institution of the person selected within 45 days of receipt of such list.

Recordkeeping Requirements

Sections 240.7 and 240.13(a) require that a banking institution engaging in retail forex transactions keep full, complete, and systematic records and establish and implement internal rules, procedures, and controls. Section 240.7 also requires that a banking institution keep account, financial ledger, transaction and daily records, as well as memorandum orders, post-execution allocation of bunched orders, records regarding its ratio of profitable accounts, possible violations of law, records for noncash margin, and monthly statements and confirmations.

Section 240.9 requires policies and procedures for haircuts for noncash margin collected under the rule's margin requirements, and annual evaluations and modifications of the haircuts.

Estimated PRA Burden

Number of Respondents: 5 banking institutions; 2 service providers.

Estimated Average Hours per Response: 16 hours reporting burden; 787 hours disclosure burden; and 183 hours recordkeeping burden

Total Estimated Annual Burden: 6,870 hours (80 hours reporting burden; 5,509 hours disclosure burden; and 1,281 hours recordkeeping burden).

The Board has a continuing interest in the public's opinions of collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Board to use plain language in all proposed and final rules published after January 1, 2000. No commenters suggested that the proposed rule was materially unclear, and the Board believes that the Final Rule is substantively similar to the proposed rule.

List of Subjects in 12 CFR Part 240

Banks, banking, Consumer protection, Foreign currencies, Foreign exchange, Holding companies, Investments, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Board amends 12 CFR Chapter II by adding new part 240 to read as follows:

PART 240—RETAIL FOREIGN EXCHANGE TRANSACTIONS (REGULATION NN)

Sec.

240.1 Authority, purpose, and scope.
240.2 Definitions.
240.3 Prohibited transactions.
240.4 Notification.
240.5 Application and closing out of offsetting long and short positions.
240.6 Disclosure.
240.7 Recordkeeping.
240.8 Capital requirements.
240.9 Margin requirements.
240.10 Required reporting to customers.
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240.17 Reservation of authority.

Authority: 7 U.S.C. 2(c)(2)(E), 12 U.S.C. 248, 321–338, 1813(q), 1818, 1844(b), 3106a, 3108.

§ 240.1 Authority, purpose and scope.

(a) *Authority.* This part is issued by the Board of Governors of the Federal Reserve System (the Board) under the authority of section 2(c)(2)(E) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(E)), sections 9 and 11 of the Federal Reserve Act (12 U.S.C. 321–338 and 248), section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)), sections 9 and 13a of the International Banking Act of 1978 (12 U.S.C. 3106a and 3108), and sections 3(q) and 8 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q) and 1818).

(b) *Purpose.* This part establishes rules applicable to retail foreign exchange transactions engaged in by banking institutions on or after May 13, 2013.

(c) *Scope.* Except as provided in paragraph (d) of this section, this part applies to banking institutions, as defined in section 240.2(b) of this part, and any branches or offices of those institutions wherever located. This part applies to subsidiaries of banking institutions organized under the laws of the United States or any U.S. state that are not subject to the jurisdiction of another federal regulatory agency authorized to prescribe rules or regulations under section 2(c)(2)(E) of the Commodity Exchange Act (7 U.S.C. (2)(c)(2)(E)).

(d) *International applicability.* Sections 240.3 and 240.5 through 240.16 do not apply to retail foreign exchange transactions between a foreign branch or office of a banking institution and a non-U.S. customer. With respect to those transactions, the foreign branch or office remains subject to any disclosure, recordkeeping, capital, margin, reporting, business conduct, documentation, and other requirements of applicable foreign law.

§ 240.2 Definitions.

For purposes of this part, the following terms have the same meaning as in the Commodity Exchange Act (7 U.S.C. 1 et seq.): ''affiliated person of a futures commission merchant''; ''associated person''; ''contract of sale''; ''commodity''; ''futures commission merchant''; ''future delivery''; ''option''; ''security''; and ''security futures product.''

(a) *Affiliate* has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).

(b) *Banking institution* means:

(1) A state member bank (as defined in 12 CFR 208.2);

(2) An uninsured state-licensed U.S. branch or agency of a foreign bank;

(3) A financial holding company (as defined in section 2 of the Bank Holding Company Act of 1956; 12 U.S.C. 1841);

(4) A bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956; 12 U.S.C. 1841);

(5) A savings and loan holding company (as defined in section 10 of the Home Owners Loan Act; 12 U.S.C. 1467a)

(6) A corporation operating under the fifth undesignated paragraph of section 25 of the Federal Reserve Act (12 U.S.C. 603), commonly known as ''an agreement corporation;'' and

(7) A corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.), commonly known as an ''Edge Act corporation.''

(c) *Commodity Exchange Act* means the Commodity Exchange Act (7 U.S.C. 1 *et seq.*).

(d) *Eligible contract participant* has the same meaning as in the Commodity Exchange Act (7 U.S.C. 1 *et seq.,* as implemented in 17 CFR 1.3(m).

(e) *Forex* means foreign exchange.

(f) *Identified banking product* has the same meaning as in section 401(b) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27(b)).

(g) *Institution-affiliated party* or *IAP* has the same meaning as in 12 U.S.C. 1813(u)(1), (2), or (3).

(h) *Introducing broker* means any person who solicits or accepts orders from a retail forex customer in connection with retail forex transactions.

(i) *Related person,* when used in reference to a retail forex counterparty, means:

(1) Any general partner, officer, director, or owner of ten percent or more of the capital stock of the retail forex counterparty;

(2) An associated person or employee of the retail forex counterparty, if the retail forex counterparty is not an insured depository institution;

(3) An IAP, if the retail forex counterparty is an insured depository institution; and

(4) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who shares the same home as any of the foregoing persons.

(j) *Retail foreign exchange dealer* means any person other than a retail forex customer that is, or that offers to be, the counterparty to a retail forex transaction, except for a person described in item (aa), (bb), (cc)(AA), (dd), or (ff) of section 2(c)(2)(B)(i)(II) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)).

(k) *Retail forex account* means the account of a retail forex customer, established with a banking institution, in which retail forex transactions with the banking institution as counterparty are undertaken, or the account of a retail forex customer that is established in order to enter into such transactions.

(l) *Retail forex account agreement* means the contractual agreement between a banking institution and a retail forex customer that contains the terms governing the customer's retail forex account with the banking institution.

(m) *Retail forex business* means engaging in one or more retail forex transactions with the intent to derive income from those transactions, either directly or indirectly.

(n) *Retail forex counterparty* includes, as appropriate:

(1) A banking institution;

(2) A retail foreign exchange dealer;

(3) A futures commission merchant;

(4) An affiliated person of a futures commission merchant; and

(5) A broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5) or a U.S. financial institution other than a banking institution, provided the counterparty is subject to a rule or regulation of a Federal regulatory agency covering retail forex transactions.

(o) *Retail forex customer* means a customer that is not an eligible contract participant, acting on his, her, or its own behalf and engaging in retail forex transactions.

(p) *Retail forex proprietary account* means a retail forex account carried on the books of a banking institution for one of the following persons; a retail forex account of which 10 percent or more is owned by one of the following persons; or a retail forex account of which an aggregate of 10 percent or more of which is owned by more than one of the following persons:

(1) The banking institution;

(2) An officer, director or owner of ten percent or more of the capital stock of the banking institution; or

(3) An employee of the banking institution, whose duties include:

(i) The management of the banking institution's business;

(ii) The handling of the banking institution's retail forex transactions;

(iii) The keeping of records, including without limitation the software used to make or maintain those records, pertaining to the banking institution's retail forex transactions; or

(iv) The signing or co-signing of checks or drafts on behalf of the banking institution;

(4) A spouse or minor dependent living in the same household as of any of the foregoing persons; or

(5) An affiliate of the banking institution;

(q) *Retail forex transaction* means an agreement, contract, or transaction in foreign currency, other than an identified banking product or a part of an identified banking product, that is offered or entered into by a banking institution with a person that is not an eligible contract participant and that is:

(1) A contract of sale of a commodity for future delivery or an option on such a contract; or

(2) An option, other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

(3) Offered or entered into on a leveraged or margined basis, or financed by a banking institution, its affiliate, or any person acting in concert with the banking institution or its affiliate on a similar basis, other than:

(i) A security that is not a security futures product as defined in section 1a(47) of the Commodity Exchange Act (7 U.S.C. 1a(47)); or

(ii) A contract of sale that—

(A) Results in actual delivery within two days; or

(B) Creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business; or

(iii) An agreement, contract, or transaction that the Board determines is not functionally or economically similar to an agreement, contract, or transaction described in paragraph (p)(1) or (p)(2) of this section.

§ 240.3 Prohibited transactions.

(a) *Fraudulent conduct prohibited.* No banking institution or its related persons may, directly or indirectly, in or in connection with any retail forex transaction:

(1) Cheat or defraud or attempt to cheat or defraud any person;

(2) Knowingly make or cause to be made to any person any false report or statement or cause to be entered for any person any false record; or

(3) Knowingly deceive or attempt to deceive any person by any means whatsoever.

(b) *Acting as counterparty and exercising discretion prohibited.* A banking institution that has authority to cause retail forex transactions to be effected for a retail forex customer without the retail forex customer's specific authorization may not (and an affiliate of such an institution may not) act as the counterparty for any retail forex transaction with that retail forex customer.

§ 240.4 Notification.

(a) *Notification required.* Before commencing a retail forex business, a

banking institution shall provide the Board with prior written notice in compliance with this section. The notice will become effective 60 days after a complete notice is received by the Board, provided the Board does not request additional information or object in writing. In the event the Board requests additional information, the notice will become effective 60 days after all information requested by the Board is received by the Board unless the Board objects in writing.

(b) *Notification requirements.* A banking institution shall provide the following in its written notification:

(1) Information concerning customer due diligence, including without limitation credit evaluations, customer appropriateness, and ''know your customer'' documentation;

(2) The haircuts to be applied to noncash margin as provided in 240.9(b)(2);

(3) Information concerning new product approvals;

(4) Information on addressing conflicts of interest; and

(5) A resolution by the banking institution's Board of Directors that the banking institution has established and implemented written policies, procedures, and risk measurement and management systems and controls for the purpose of ensuring that it conducts retail forex transactions in a safe and sound manner and in compliance with this part.

(c) *Treatment of existing retail forex businesses.* A banking institution that is engaged in a retail forex business on the effective date of this part may continue to do so, until and unless the Board objects in writing, so long as the institution submits the information required to be submitted under paragraphs (b)(1) through (5) of this section within 30 days of the effective date of this part, subject to an extension of time by the Board, and such additional information as requested by the Board thereafter.

(d) *Compliance with the Commodity Exchange Act.* A banking institution that is engaged in a retail forex business on the effective date of this part and complies with paragraph (c) of this section shall be deemed to be acting pursuant to a rule or regulation described in section 2(c)(2)(E)(ii)(I) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(E)(ii)(I)).

§ 240.5 Application and closing out of offsetting long and short positions.

(a) *Application of purchases and sales.* Any banking institution that—

(1) Engages in a retail forex transaction involving the purchase of any currency for the account of any retail forex customer when the account of such retail forex customer at the time of such purchase has an open retail forex transaction for the sale of the same currency;

(2) Engages in a retail forex transaction involving the sale of any currency for the account of any retail forex customer when the account of such retail forex customer at the time of such sale has an open retail forex transaction for the purchase of the same currency;

(3) Purchases a put or call option involving foreign currency for the account of any retail forex customer when the account of such retail forex customer at the time of such purchase has a short put or call option position with the same underlying currency, strike price, and expiration date as that purchased; or

(4) Sells a put or call option involving foreign currency for the account of any retail forex customer when the account of such retail forex customer at the time of such sale has a long put or call option position with the same underlying currency, strike price, and expiration date as that sold shall:

(i) Immediately apply such purchase or sale against such previously held opposite transaction with the same customer; and

(ii) Promptly furnish such retail forex customer with a statement showing the financial result of the transactions involved and the name of any introducing broker to the account.

(b) *Close-out against oldest open position.* In all instances in which the short or long position in a customer's retail forex account immediately prior to an offsetting purchase or sale is greater than the quantity purchased or sold, the banking institution shall apply such offsetting purchase or sale to the oldest portion of the previously held short or long position.

(c) *Transactions to be applied as directed by customer.* Notwithstanding paragraphs (a) and (b) of this section, the offsetting transaction shall be applied as directed by a retail forex customer's specific instructions. These instructions may not be made by the banking institution or a related person.

§ 240.6 Disclosure.

(a) *Risk disclosure statement required.* No banking institution may open or maintain an account for a retail forex customer for the purpose of engaging in retail forex transactions unless the banking institution has furnished the retail forex customer with a separate written disclosure statement containing only the language set forth in paragraph (d) of this section and the disclosures required by paragraphs (e), (f), and (g) of this section.

(b) *Acknowledgement of risk disclosure statement required.* The banking institution must receive from the retail forex customer a written acknowledgement signed and dated by the customer that the customer received and understood the written disclosure statement required by paragraph (a) of this section.

(c) *Placement of risk disclosure statement.* The disclosure statement may be attached to other documents as the initial page(s) of such documents and as the only material on such page(s).

(d) *Content of risk disclosure statement.* The language set forth in the written disclosure statement required by paragraph (a) of this section shall be as follows:

Risk Disclosure Statement

Retail forex transactions generally involve the leveraged trading of contracts denominated in foreign currency with a banking institution as your counterparty. Because of the leverage and the other risks disclosed here, you can rapidly lose all of the funds or property you give the banking institution as margin for such trading and you may lose more than you pledge as margin. You should be aware of and carefully consider the following points before determining whether such trading is appropriate for you.

(1) Trading foreign currencies is a not on a regulated market or exchange—your banking institution is your trading counterparty and has conflicting interests. The retail forex transaction you are entering into is not conducted on an interbank market, nor is it conducted on a futures exchange subject to regulation by the Commodity Futures Trading Commission. The foreign currency trades you transact are trades with your banking institution as the counterparty. When you sell, the banking institution is the buyer. When you buy, the banking institution is the seller. As a result, when you lose money trading, your banking institution is making money on such trades, in addition to any fees, commissions, or spreads the banking institution may charge.

(2) Any electronic trading platform that you may use for retail foreign currency transactions with your banking institution is not a regulated exchange. It is an electronic connection for accessing your banking institution. The terms of availability of such a platform are governed only by your contract with your banking institution. Any trading platform that you may use to enter into off-exchange foreign currency transactions is only connected to your banking institution. You are accessing that trading platform only to transact with your banking institution. You are not trading with any other entities or customers of the banking institution by accessing such platform. The availability and operation of any such platform, including the consequences of the unavailability of the

trading platform for any reason, is governed only by the terms of your account agreement with the banking institution.

(3) You may be able to offset or liquidate any trading positions only through your banking institution because the transactions are not made on an exchange, and your banking institution may set its own prices. Your ability to close your transactions or offset positions is limited to what your banking institution will offer to you, as there is no other market for these transactions. Your banking institution may offer any prices it wishes. Your banking institution may establish its prices by offering spreads from third party prices, but it is under no obligation to do so or to continue to do so. Your banking institution may offer different prices to different customers at any point in time on its own terms. The terms of your account agreement alone govern the obligations your banking institution has to you to offer prices and offer offset or liquidating transactions in your account and make any payments to you. The prices offered by your banking institution may or may not reflect prices available elsewhere at any exchange, interbank, or other market for foreign currency.

(4) Paid solicitors may have undisclosed conflicts. The banking institution may compensate introducing brokers for introducing your account in ways that are not disclosed to you. Such paid solicitors are not required to have, and may not have, any special expertise in trading, and may have conflicts of interest based on the method by which they are compensated. You should thoroughly investigate the manner in which all such solicitors are compensated and be very cautious in granting any person or entity authority to trade on your behalf. You should always consider obtaining dated written confirmation of any information you are relying on from your banking institution in making any trading or account decisions.

(5) Retail forex transactions are not insured by the Federal Deposit Insurance Corporation.

(6) Retail forex transactions are not a deposit in, or guaranteed by, a banking institution.

(7) Retail forex transactions are subject to investment risks, including possible loss of all amounts invested.

Finally, you should thoroughly investigate any statements by any banking institution that minimize the importance of, or contradict, any of the terms of this risk disclosure. Such statements may indicate sales fraud.

This brief statement cannot, of course, disclose all the risks and other aspects of trading off-exchange foreign currency with a banking institution. I hereby acknowledge that I have received and understood this risk disclosure statement.

_____

Date

_____

Signature of Customer

(e)(1) *Disclosure of profitable accounts ratio.* Immediately following the language set forth in paragraph (d) of this section, the statement required by paragraph (a) of this section shall include, for each of the most recent four calendar quarters during which the banking institution maintained retail forex customer accounts:

(i) The total number of retail forex customer accounts maintained by the banking institution over which the banking institution does not exercise investment discretion;

(ii) The percentage of such accounts that were profitable for retail forex customer accounts during the quarter; and

(iii) The percentage of such accounts that were not profitable for retail forex customer accounts during the quarter.

(2) *Statement of profitable trades.* (i) The banking institution's statement of profitable trades shall include the following legend: Past performance is not necessarily indicative of future results.

(ii) Each banking institution shall provide, upon request, to any retail forex customer or prospective retail forex customer the total number of retail forex accounts maintained by the banking institution for which the banking institution does not exercise investment discretion, the percentage of such accounts that were profitable, and the percentage of such accounts that were not profitable for each calendar quarter during the most recent five-year period during which the banking institution maintained such accounts.

(f) *Disclosure of fees and other charges.* Immediately following the language required by paragraph (e) of this section, the statement required by paragraph (a) of this section shall include:

(1) The amount of any fee, charge, spread, or commission that the banking institution may impose on the retail forex customer in connection with a retail forex account or retail forex transaction;

(2) An explanation of how the banking institution will determine the amount of such fees, charges, spreads, or commissions; and

(3) The circumstances under which the banking institution may impose such fees, charges, spreads, or commissions.

(g) *Set-off.* Immediately following the language required by paragraph (f) of this section, the statement required by paragraph (a) of this section shall include:

(1) A statement as to whether the banking institution will or will not retain the right to set off obligations of the retail forex customer arising from the customer's retail forex transactions, including margin calls and losses, against the customer's other assets held by the banking institution;

(2) If the banking institution states that it reserves its right to set off obligations of the retail forex customer arising from the customer's retail forex transactions against the customer's other assets, the banking institution must receive from the retail forex customer a written acknowledgement signed and dated by the customer that the customer received and understood the written disclosure required by paragraph (g)(1) of this section.

(h) *Future disclosure requirements.* If, with regard to a retail forex customer, the banking institution changes any fee, charge, or commission required to be disclosed under paragraph (f) of this section, then the banking institution shall mail or deliver to the retail forex customer a notice of the changes at least 15 days prior to the effective date of the change.

(i) *Form of disclosure requirements.* The disclosures required by this section shall be clear and conspicuous and designed to call attention to the nature and significance of the information provided.

(j) *Other disclosure requirements unaffected.* This section does not relieve a banking institution from any other disclosure obligation it may have under applicable law.

§ 240.7 Recordkeeping.

(a) *General rule.* A banking institution engaging in retail forex transactions shall keep full, complete and systematic records, together with all pertinent data and memoranda, of all transactions relating to its retail forex business, including:

(1) *Retail forex account records.* For each retail forex account:

(i) The name and address of the person for whom such retail forex account is carried or introduced and the principal occupation or business of the person;

(ii) The name of any other person guaranteeing the account or exercising trading control with respect to the account;

(iii) The establishment or termination of the account;

(iv) A means to identify the person who has solicited and is responsible for the account or assign account numbers in such a manner as to identify that person;

(v) The funds in the account, net of any commissions and fees;

(vi) The account's net profits and losses on open trades;

(vii) The funds in the account plus or minus the net profits and losses on open trades, adjusted for the net option value in the case of open options positions;

(viii) Financial ledger records that show separately for each retail forex customer all charges against and credits to such retail forex customer's account, including but not limited to retail forex customer funds deposited, withdrawn, or transferred, and charges or credits resulting from losses or gains on closed transactions; and

(ix) A list of all retail forex transactions executed for the account, with the details specified in paragraph (a)(2) of this section.

(2) *Retail forex transaction records.* For each retail forex transaction:

(i) The date and time the banking institution received the order;

(ii) The price at which the banking institution placed the order, or, in the case of an option, the premium that the retail forex customer paid;

(iii) The customer account identification information;

(iv) The currency pair;

(v) The size or quantity of the order;

(vi) Whether the order was a buy or sell order;

(vii) The type of order, if the order was not a market order;

(viii) The size and price at which the order is executed, or in the case of an option, the amount of the premium paid for each option purchased, or the amount credited for each option sold;

(ix) For options, whether the option is a put or call, expiration date, quantity, underlying contract for future delivery or underlying physical, strike price, and details of the purchase price of the option, including premium, mark-up, commission, and fees;

(x) For futures, the delivery date; and

(xi) If the order was made on a trading platform:

(A) The price quoted on the trading platform when the order was placed, or, in the case of an option, the premium quoted;

(B) The date and time the order was transmitted to the trading platform; and

(C) The date and time the order was executed.

(3) *Price changes on a trading platform.* If a trading platform is used, daily logs showing each price change on the platform, the time of the change to the nearest second, and the trading volume at that time and price.

(4) *Methods or algorithms.* Any method or algorithm used to determine the bid or asked price for any retail forex transaction or the prices at which customers orders are executed, including, but not limited to, any mark-ups, fees, commissions or other items which affect the profitability or risk of loss of a retail forex customer's transaction.

(5) *Daily records* which show for each business day complete details of:

(i) All retail forex transactions that are futures transactions executed on that day, including the date, price, quantity, market, currency pair, delivery date, and the person for whom such transaction was made;

(ii) All retail forex transactions that are option transactions executed on that day, including the date, whether the transaction involved a put or call, the expiration date, quantity, currency pair, delivery date, strike price, details of the purchase price of the option, including premium, mark-up, commission and fees, and the person for whom the transaction was made; and

(iii) All other retail forex transactions executed on that day for such account, including the date, price, quantity, currency and the person for whom such transaction was made.

(6) *Other records.* Written acknowledgements of receipt of the risk disclosure statement required by § 240.6(b), offset instructions pursuant to § 240.5(c), records required under paragraphs (b) through (f) of this section, trading cards, signature cards, street books, journals, ledgers, payment records, copies of statements of purchase, and all other records, data and memoranda that have been prepared in the course of the banking institution's retail forex business.

(b) *Ratio of profitable accounts.* (1) With respect to its active retail forex customer accounts over which it did not exercise investment discretion and that are not retail forex proprietary accounts open for any period of time during the quarter, a banking institution shall prepare and maintain on a quarterly basis (calendar quarter):

(i) A calculation of the percentage of such accounts that were profitable;

(ii) A calculation of the percentage of such accounts that were not profitable; and

(iii) Data supporting the calculations described in paragraphs (b)(1)(i) and (b)(1)(ii) of this section.

(2) In calculating whether a retail forex account was profitable or not profitable during the quarter, the banking institution shall compute the realized and unrealized gains or losses on all retail forex transactions carried in the retail forex account at any time during the quarter, and subtract all fees, commissions, and any other charges posted to the retail forex account during the quarter, and add any interest income and other income or rebates credited to the retail forex account during the quarter. All deposits and withdrawals of funds made by the retail forex customer during the quarter must be excluded from the computation of whether the retail forex account was profitable or not profitable during the quarter. Computations that result in a zero or negative number shall be considered a retail forex account that was not profitable. Computations that result in a positive number shall be considered a retail forex account that was profitable.

(3) A retail forex account shall be considered ''active'' for purposes of paragraph (b)(1) of this section if and only if, for the relevant calendar quarter, a retail forex transaction was executed in that account or the retail forex account contained an open position resulting from a retail forex transaction.

(c) *Records related to possible violations of law.* A banking institution engaging in retail forex transactions shall make a record of all communications received by the banking institution or its related persons concerning facts giving rise to possible violations of law related to the banking institution's retail forex business. The record shall contain: the name of the complainant, if provided; the date of the communication; the relevant agreement, contract, or transaction; the substance of the communication; and the name of the person who received the communication and the final disposition of the matter.

(d) *Records for noncash margin.* A banking institution shall maintain a record of all noncash margin collected pursuant to § 240.9. The record shall show separately for each retail forex customer:

(1) A description of the securities or property received;

(2) The name and address of such retail forex customer;

(3) The dates when the securities or property were received;

(4) The identity of the depositories or other places where such securities or property are segregated or held, if applicable;

(5) The dates on which the banking institution placed or removed such securities or property into or from such depositories; and

(6) The dates of return of such securities or property to such retail forex customer, or other disposition thereof, together with the facts and circumstances of such other disposition.

(e) *Order tickets.*

(1) Except as provided in paragraph (e)(2) of this section, immediately upon the receipt of a retail forex transaction order, a banking institution shall prepare an order ticket for the order (whether unfulfilled, executed or canceled). The order ticket shall include:

(i) Account identification (account or customer name with which the retail forex transaction was effected);

(ii) Order number;

(iii) Type of order (market order, limit order, or subject to special instructions);

(iv) Date and time, to the nearest minute, the retail forex transaction order was received (as evidenced by timestamp or other timing device);

(v) Time, to the nearest minute, the retail forex transaction order was executed; and

(vi) Price at which the retail forex transaction was executed.

(2) *Post-execution allocation of bunched orders.* Specific identifiers for retail forex accounts included in bunched orders need not be recorded at time of order placement or upon report of execution as required under paragraph (e)(1) of this section if the following requirements are met:

(i) The banking institution placing and directing the allocation of an order eligible for post-execution allocation has been granted written investment discretion with regard to participating customer accounts and makes the following information available to customers upon request:

(A) The general nature of the post-execution allocation methodology the banking institution will use;

(B) Whether the banking institution has any interest in accounts which may be included with customer accounts in bunched orders eligible for post-execution allocation; and

(C) Summary or composite data sufficient for that customer to compare the customer's results with those of other comparable customers and, if applicable, any account in which the banking institution has an interest.

(ii) Post-execution allocations are made as soon as practicable after the entire transaction is executed;

(iii) Post-execution allocations are fair and equitable, with no account or group of accounts receiving consistently favorable or unfavorable treatment; and

(iv) The post-execution allocation methodology is sufficiently objective and specific to permit the Board to verify fairness of the allocations using that methodology.

(f) *Record of monthly statements and confirmations.* A banking institution shall retain a copy of each monthly statement and confirmation required by § 240.10.

(g) *Form of record and manner of maintenance.* The records required by this section must clearly and accurately reflect the information required and provide an adequate basis for the audit of the information. A banking institution must create and maintain audio recordings of oral orders and oral offset instructions. Record maintenance may include the use of automated or electronic records provided that the records are easily retrievable, and readily available for inspection.

(h) *Length of maintenance.* A banking institution shall keep each record required by this section for at least five years from the date the record is created.

§ 240.8 Capital requirements.

(a) *Capital required for a state member bank.* A banking institution defined in section 240.2(b)(1) offering or entering into retail forex transactions must be well-capitalized as defined in section 208.43 of Regulation H (12 CFR 208.43).

(b) *Capital required for an uninsured state-licensed branch of a foreign bank.* A banking institution defined in § 240.2(b)(2) offering or entering into retail forex transactions must be well-capitalized under the capital rules made applicable to it pursuant to § 225.2(r)(3) of Regulation Y (12 CFR 225.2(r)(3)).

(c) *Capital required for financial holding companies and bank holding companies.* A banking institution defined in § 240.2(b)(3) or (4) offering or entering into retail forex transactions must be well-capitalized as defined in § 225.2(r) of Regulation Y (12 CFR 225.2(r)).

(d) *Capital required for savings and loan holding companies.* A banking institution defined in § 240.2(b)(5) offering or entering into retail forex transactions must be well-capitalized as defined in § 238.2(s) of Regulation LL (12 CFR 238.2(s)).

(e) *Capital required for an agreement corporation or Edge Act corporation.* A banking institution defined in § 240.2(b)(6) or (7) offering or entering into retail forex transactions must maintain capital in compliance with the capital adequacy guidelines that are made applicable to an Edge corporation engaged in banking pursuant to § 211.12 (c)(2) of Regulation K (12 CFR 211.12(c)(2)).

§ 240.9 Margin requirements

(a) *Margin required.* A banking institution engaging, or offering to engage, in retail forex transactions must collect from each retail forex customer an amount of margin not less than:

(1) Two percent of the notional value of the retail forex transaction for major currency pairs and 5 percent of the notional value of the retail forex transaction for all other currency pairs;

(2) For short options, 2 percent for major currency pairs and 5 percent for all other currency pairs of the notional value of the retail forex transaction, plus the premium received by the retail forex customer; or

(3) For long options, the full premium charged and received by the banking institution.

(b)(1) *Form of margin.* Margin collected under paragraph (a) of this section or pledged by a retail forex customer for retail forex transactions in excess of the requirements of paragraph (a) of this section must be in the form of cash or the following financial instruments:

(i) Obligations of the United States and obligations fully guaranteed as to principal and interest by the United States;

(ii) General obligations of any State or of any political subdivision thereof;

(iii) General obligations issued or guaranteed by any enterprise, as defined in 12 U.S.C. 4502(10);

(iv) Certificates of deposit issued by an insured depository institution, as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

(v) Commercial paper;

(vi) Corporate notes or bonds;

(vii) General obligations of a sovereign nation;

(viii) Interests in money market mutual funds; and

(ix) Such other financial instruments as the Board deems appropriate.

(2) *Haircuts.* A banking institution shall establish written policies and procedures that include:

(i) Haircuts for noncash margin collected under this section; and

(ii) Annual evaluation, and, if appropriate, modification of the haircuts.

(c) *Major currencies.* (1) for the purposes of paragraphs (a)(1) and (a)(2) of this section, major currency means:

(i) United States Dollar (USD)

(ii) Canadian Dollar (CAD)

(iii) Euro (EUR)

(iv) United Kingdom Pound (GBP)

(v) Japanese Yen (JPY)

(vi) Swiss Franc (CHF)

(vii) New Zealand Dollar (NZD)

(viii) Australian Dollar (AUD)

(ix) Swedish Kronor (SEK)

(x) Danish Kroner (DKK)

(xi) Norwegian Krone (NOK), and

(xii) Any other currency as determined by the Board.

(d) *Margin calls; liquidation of position.* For each retail forex customer, at least once per day, a banking institution shall:

(1) Mark the value of the retail forex customer's open retail forex positions to market;

(2) Mark the value of the margin collected under this section from the retail forex customer to market;

(3) Determine whether, based on the marks in paragraphs (d)(1) and (d)(2) of

this section, the banking institution has collected margin from the retail forex customer sufficient to satisfy the requirements of this section; and

(4) If, pursuant to paragraph (d)(3) of this section, the banking institution determines that it has not collected margin from the retail forex customer sufficient to satisfy the requirements of this section then, within a reasonable period of time, the banking institution shall either:

(i) Collect margin from the retail forex customer sufficient to satisfy the requirements of this section; or

(ii) Liquidate the retail forex customer's retail forex transactions.

§ 240.10 Required reporting to customers.

(a) *Monthly statements.* Each banking institution must promptly furnish to each retail forex customer, as of the close of the last business day of each month or as of any regular monthly date selected, except for accounts in which there are neither open positions at the end of the statement period nor any changes to the account balance since the prior statement period, but in any event not less frequently than once every three months, a statement that clearly shows:

(1) For each retail forex customer:

(i) The open retail forex transactions with prices at which acquired;

(ii) The net unrealized profits or losses in all open retail forex transactions marked to the market;

(iii) Any money, securities or other property held as margin for retail forex transactions; and

(iv) A detailed accounting of all financial charges and credits to the retail forex customer's retail forex accounts during the monthly reporting period, including: money, securities, or property received from or disbursed to such customer; realized profits and losses; and fees, charges, and commissions.

(2) For each retail forex customer engaging in retail forex transactions that are options:

(i) All such options purchased, sold, exercised, or expired during the monthly reporting period, identified by underlying retail forex transaction or underlying currency, strike price, transaction date, and expiration date;

(ii) The open option positions carried for such customer and arising as of the end of the monthly reporting period, identified by underlying retail forex transaction or underlying currency, strike price, transaction date, and expiration date;

(iii) All such option positions marked to the market and the amount each position is in the money, if any;

(iv) Any money, securities or other property held as margin for retail forex transactions; and

(v) A detailed accounting of all financial charges and credits to the retail forex customer's retail forex accounts during the monthly reporting period, including: money, securities, or property received from or disbursed to such customer; realized profits and losses; premiums and mark-ups; and fees, charges, and commissions.

(b) *Confirmation statement.* Each banking institution must, not later than the next business day after any retail forex transaction, send:

(1) To each retail forex customer, a written confirmation of each retail forex transaction caused to be executed by it for the customer, including offsetting transactions executed during the same business day and the rollover of an open retail forex transaction to the next business day;

(2) To each retail forex customer engaging in forex option transactions, a written confirmation of each forex option transaction, containing at least the following information:

(i) The retail forex customer's account identification number;

(ii) A separate listing of the actual amount of the premium, as well as each mark-up thereon, if applicable, and all other commissions, costs, fees and other charges incurred in connection with the forex option transaction;

(iii) The strike price;

(iv) The underlying retail forex transaction or underlying currency;

(v) The final exercise date of the forex option purchased or sold; and

(vi) The date the forex option transaction was executed.

(3) To each retail forex customer engaging in forex option transactions, upon the expiration or exercise of any option, a written confirmation statement thereof, which statement shall include the date of such occurrence, a description of the option involved, and, in the case of exercise, the details of the retail forex or physical currency position which resulted therefrom including, if applicable, the final trading date of the retail forex transaction underlying the option.

(c) Notwithstanding the provisions of paragraphs (b)(1) through (3) of this section, a retail forex transaction that is caused to be executed for a pooled investment vehicle that engages in retail forex transactions need be confirmed only to the operator of such pooled investment vehicle.

(d) *Controlled accounts.* With respect to any account controlled by any person other than the retail forex customer for whom such account is carried, each banking institution shall promptly furnish in writing to such other person the information required by paragraphs (a) and (b) of this section.

(e) *Introduced accounts.* Each statement provided pursuant to the provisions of this section must, if applicable, show that the account for which the banking institution was introduced by an introducing broker and the name of the introducing broker.

§ 240.11 Unlawful representations.

(a) *No implication or representation of limiting losses.* No banking institution engaged in retail foreign exchange transactions or its related persons may imply or represent that it will, with respect to any retail customer forex account, for or on behalf of any person:

(1) Guarantee such person or account against loss;

(2) Limit the loss of such person or account; or

(3) Not call for or attempt to collect margin as established for retail forex customers.

(b) *No implication of representation of engaging in prohibited acts.* No banking institution or its related persons may in any way imply or represent that it will engage in any of the acts or practices described in paragraph (a) of this section.

(c) *No Federal government endorsement.* No banking institution or its related persons may represent or imply in any manner whatsoever that any retail forex transaction or retail forex product has been sponsored, recommended, or approved by the Board, the Federal government, or any agency thereof.

(d) *Assuming or sharing of liability from bank error.* This section shall not be construed to prevent a banking institution from assuming or sharing in the losses resulting from the banking institution's error or mishandling of a retail forex transaction.

(e) *Certain guaranties unaffected.* This section shall not affect any guarantee entered into prior to the effective date of this part, but this section shall apply to any extension, modification or renewal thereof entered into after such date.

§ 240.12 Authorization to trade.

(a) *Specific authorization required.* No banking institution may directly or indirectly effect a retail forex transaction for the account of any retail forex customer unless, before the transaction occurs, the retail forex customer specifically authorized the banking institution to effect the retail forex transaction.

(b) A retail forex transaction is ''specifically authorized'' for purposes

of this section if the retail forex customer specifies:

(1) The precise retail forex transaction to be effected;

(2) The exact amount of the foreign currency to be purchased or sold; and

(3) In the case of an option, the identity of the foreign currency or contract that underlies the option.

§ 240.13 Trading and operational standards.

(a) *Internal rules, procedures, and controls required.* A banking institution engaging in retail forex transactions shall establish and implement internal rules, procedures, and controls designed, at a minimum, to:

(1) Ensure, to the extent reasonable, that each order received from a retail forex customer that is executable at or near the price that the banking institution has quoted to the customer is entered for execution before any order in any retail forex transaction for:

(i) A proprietary account;

(ii) An account in which a related person has an interest, or any account for which such a related person may originate orders without the prior specific consent of the account owner, if the related person has gained knowledge of the retail forex customer's order prior to the transmission of an order for a proprietary account;

(iii) An account in which a related person has an interest, if the related person has gained knowledge of the retail forex customer's order prior to the transmission of an order for a proprietary account; or

(iv) An account in which a related person may originate orders without the prior specific consent of the account owner, if the related person has gained knowledge of the retail forex customer's order prior to the transmission of an order for a proprietary account;

(2) Prevent banking institution related persons from placing orders, directly or indirectly, with another person in a manner designed to circumvent the provisions of paragraph (a)(1) of this section; and

(3) Fairly and objectively establish settlement prices for retail forex transactions.

(b) *Disclosure of retail forex transactions.* No banking institution engaging in retail forex transactions may disclose that an order of another person is being held by the banking institution, unless the disclosure is necessary to the effective execution of such order or the disclosure is made at the request of the Board.

(c) *Handling of retail forex accounts of related persons of retail forex counterparties.* No banking institution engaging in retail forex transactions shall knowingly handle the retail forex account of any related person of another retail forex counterparty unless the banking institution:

(1) Receives written authorization from a person designated by such other retail forex counterparty with responsibility for the surveillance over such account;

(2) Prepares immediately upon receipt of an order for the account a written record of the order, including the account identification and order number, and records thereon to the nearest minute, by time-stamp or other timing device, the date and time the order is received; and

(3) Transmits on a regular basis to the other retail forex counterparty copies of all statements for the account and of all written records prepared upon the receipt of orders for the account pursuant to paragraph (c)(2) of this section.

(d) *Related person of banking institution establishing account at another retail forex counterparty.* No related person of a banking institution working in the banking institution's retail forex business may have an account, directly or indirectly, with another retail forex counterparty unless the other retail forex counterparty:

(1) Receives written authorization to open and maintain the account from a person designated by the banking institution of which it is a related person with responsibility for the surveillance over the account pursuant to paragraph (a)(2) of this section;

(2) Prepares immediately upon receipt of an order for the account a written record of the order, including the account identification and order number, and records thereon to the nearest minute, by time-stamp or other timing device, the date and time the order is received; and

(3) Transmits on a regular basis to the banking institution copies of all statements for the account and of all written records prepared by the other retail forex counterparty upon receipt of orders for such account pursuant to paragraph (d)(2) of this section.

(e) *Prohibited trading practices.* No banking institution engaging in retail forex transactions may:

(1) Enter into a retail forex transaction, to be executed pursuant to a market or limit order at a price that is not at or near the price at which other retail forex customers, during that same time period, have executed retail forex transactions with the banking institution;

(2) Adjust or alter prices for a retail forex transaction after the transaction has been confirmed to the retail forex customer;

(3) Provide a retail forex customer a new bid price for a retail forex transaction that is higher than its previous bid without providing a new asked price that is also higher than its previous asked price by a similar amount;

(4) Provide a retail forex customer a new bid price for a retail forex transaction that is lower than its previous bid without providing a new asked price that is also lower than its previous asked price by a similar amount; or

(5) Establish a new position for a retail forex customer (except one that offsets an existing position for that retail forex customer) where the banking institution holds outstanding orders of other retail forex customers for the same currency pair at a comparable price.

§ 240.14 Supervision.

(a) *Supervision by the banking institution.* A banking institution engaging in retail forex transactions shall diligently supervise the handling by its officers, employees, and agents (or persons occupying a similar status or performing a similar function) of all retail forex accounts carried, operated, or advised by the banking institution and all activities of its officers, employees, and agents (or persons occupying a similar status or performing a similar function) relating to its retail forex business.

(b) *Supervision by officers, employees, or agents.* An officer, employee, or agent of a banking institution must diligently supervise his or her subordinates' handling of all retail forex accounts at the banking institution and all the subordinates' activities relating to the banking institution's retail forex business.

§ 240.15 Notice of transfers.

(a) *Prior notice generally required.* Except as provided in paragraph (b) of this section, a banking institution must provide a retail forex customer with 30 days' prior notice of any assignment of any position or transfer of any account of the retail forex customer. The notice must include a statement that the retail forex customer is not required to accept the proposed assignment or transfer and may direct the banking institution to liquidate the positions of the retail forex customer or transfer the account to a retail forex counterparty of the retail forex customer's selection.

(b) *Exceptions.* The requirements of paragraph (a) of this section shall not apply to transfers:

(1) Requested by the retail forex customer;

(2) Made by the Federal Deposit Insurance Corporation as receiver or conservator under the Federal Deposit Insurance Act or other law; or

(3) Otherwise authorized by applicable law.

(c) *Obligations of transferee banking institution.* A banking institution to which retail forex accounts or positions are assigned or transferred under paragraph (a) of this section must provide to the affected retail forex customers the risk disclosure statements and forms of acknowledgment required by this part and receive the required signed acknowledgments within sixty days of such assignments or transfers. This requirement shall not apply if the banking institution has clear written evidence that the retail forex customer has received and acknowledged receipt of the required disclosure statements.

§ 240.16 Customer dispute resolution.

(a) No banking institution shall enter into any agreement or understanding with a retail forex customer in which the customer agrees, prior to the time a claim or grievance arises, to submit any claim or grievance regarding any retail forex transaction or disclosure to any settlement procedure.

(b) *Election of forum.* (1) Within 10 business days after the receipt of notice from the retail forex customer that the customer intends to submit a claim to arbitration, the banking institution shall provide the customer with a list of persons qualified in dispute resolution.

(2) The customer must, within 45 days after receipt of such list, notify the banking institution of the person selected. The customer's failure to provide such notice shall give the banking institution the right to select a person from the list.

(c) *Enforceability.* A dispute settlement procedure may require parties using the procedure to agree, under applicable state law, submission agreement, or otherwise, to be bound by an award rendered in the procedure if the agreement to submit the claim or grievance to the procedure was made after the claim or grievance arose. Any award so rendered by the procedure will be enforceable in accordance with applicable law.

(d) *Time limits for submission of claims.* The dispute settlement procedure used by the parties may not include any unreasonably short limitation period foreclosing submission of a customer's claims or grievances or counterclaims.

(e) *Counterclaims.* A procedure for the settlement of a retail forex customer's claims or grievances against a banking institution or employee thereof may permit the submission of a counterclaim in the procedure by a person against whom a claim or grievance is brought if the counterclaim:

(1) Arises out of the transaction or occurrence that is the subject of the retail forex customer's claim or grievance; and

(2) Does not require for adjudication the presence of essential witnesses, parties, or third persons over which the settlement process lacks jurisdiction.

(f) *Cross-border transactions.* This section shall not apply to transactions within the scope of sections 202, 302, and 305 of the Federal Arbitration Act (9 U.S.C. 202, 302, and 305).

§ 240.17 Reservation of authority.

The Board may modify the disclosure, recordkeeping, capital and margin, reporting, business conduct, documentation, or other standards or requirements under this part for a specific retail forex transaction or a class of retail forex transactions if the Board determines that the modification is consistent with safety and soundness and the protection of retail forex customers.

By order of the Board of Governors of the Federal Reserve System, April 3, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–08163 Filed 4–8–13; 8:45 am]

BILLING CODE 6210–01–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 615, 621, and 652

RIN 3052–AC75

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Accounting and Reporting Requirements; Federal Agricultural Mortgage Corporation Funding and Fiscal Affairs; GAAP References and Other Conforming Amendments

AGENCY: Farm Credit Administration.

ACTION: Direct final rule.

SUMMARY: The Farm Credit Administration (FCA, Agency, or our) is adopting technical amendments to various regulations to conform certain references to accounting standards in these rules to the Financial Accounting Standards Board (FASB) *Accounting Standards Codification*®.

DATES: The regulation shall become effective upon the expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Michael T. Wilson, Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4124, TTY (703) 883–4056,

or

Jeff Pienta, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4431, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this direct final rule is to carry out the FCA Board's commitment to the principles contained in the Board's Policy Statement on Regulatory Philosophy,[1] which includes the elimination of outdated regulations and technical amendments to ensure that regulations are accurate. In furtherance of this objective, the Agency is making a number of technical changes to amend the current regulations in parts 615, 621 and 652 to conform certain references in these rules to the FASB Accounting Standards Codification.

II. Background

On June 30, 2009, the FASB issued Statement of Financial Accounting Standards No. 168, ''The Financial Accounting Standards Board Accounting Standards Codification™ and the Hierarchy of Generally Accepted Accounting Principles—a replacement of FASB Statement No. 162'' (SFAS 168), which established the Accounting Standards Codification as the source of authoritative accounting principles recognized by the FASB to be applied in the preparation of financial statements in conformity with U.S. generally accepted accounting principles (GAAP). The Accounting Standards Codification restructured the numerous existing U.S. accounting and reporting standards and literature issued by the FASB and other related private-sector standard setters into a single source of authoritative literature. With the issuance of SFAS 168, all guidance contained in the Accounting Standards Codification carries equal authority, and accounting literature not included in the Accounting Standards Codification will be considered non-authoritative. Also, the issuance of SFAS 168 was not intended to, and did not, change current GAAP. The Accounting Standards Codification is effective for interim and

[1] *See* 70 FR 71142, November 25, 2005.

annual periods ending after September 15, 2009.

III. Discussion

The issuance of the Accounting Standards Codification affects existing references in certain FCA regulations, bookletters and other forms of Agency guidance that refer to specific FASB standards and literature of other related private-sector standard setters, because these references are now superseded by the Accounting Standards Codification. For this reason, on September 3, 2009, the FCA issued an Informational Memorandum [2] to clarify that, concurrent with the issuance of SFAS 168, references in FCA regulations, bookletters and other guidance to specific standards under GAAP should be understood to mean the corresponding reference in the Accounting Standards Codification as identified using the cross-reference finding tool included in the Accounting Standards Codification. The FCA stated in the Informational Memorandum that, as appropriate, it intended to initiate an effort to update the GAAP references. This direct final rule is a result of that initiative with respect to the FCA's regulations.

The amendments in this direct final rule result from a direct conversion of the prior GAAP reference to the corresponding reference in the Accounting Standards Codification. All of the amendments are technical in nature and none of the changes are intended to represent a substantive change in the underlying regulation.

IV. Certain Findings

Under the Administrative Procedure Act, a notice of proposed rulemaking is not required when the Agency, for good cause, finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. These amendments are technical changes to eliminate obsolete terminology and revise reporting and disclosure requirements as necessary to achieve consistency between the Agency's compliance requirements and the FASB Accounting Standards Codification. It is unlikely that the public would have comments on such non-substantive, technical amendments, and the Agency therefore finds that it is unnecessary to publish notice of these amendments.

V. Direct Final Rule

We are amending regulations described in the text of amendments below by a direct final rulemaking. The Administrative Conference of the United States recommends direct final rulemaking for Federal agencies to enact noncontroversial regulations on an expedited basis, without the usual notice and comment period.[3] This process enables us to reduce the time and resources we need to develop, review, and publish a direct final rule.

In a direct final rulemaking, we notify the public that the rule will become final on a specified date unless we receive a significant adverse comment during the comment period. A significant adverse comment is one where the commenter explains why the rule would be inappropriate (including challenges to its underlying premise or approach), ineffective, or unacceptable without a change. In general, a significant adverse comment would raise an issue serious enough to warrant a substantive response from the Agency in a notice-and-comment proceeding.

We believe that a direct final rulemaking is the appropriate method for amending the regulations in Part I. above because the changes are technical in nature and do not substantively alter the rights or responsibilities of any party.

VI. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the direct final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

12 CFR Part 621

Accounting, Agriculture, Banks, banking, Penalties, Reporting and recordkeeping requirements, rural areas.

12 CFR Part 652

Agriculture, Banks, banking, Capital, Investments, Rural areas.

For the reasons stated in the preamble, parts 615, 621 and 652 of chapter VI, title 12 of the Code of Federal Regulations are amended as follows:

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

■ 1. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608.

§ 615.5207 [Amended]

■ 2. Amend paragraph (j) by removing the phrase, ''covered by the definition of ''accumulated other comprehensive income'' contained in the Statement of Financial Accounting Standards No. 130, as promulgated by the Financial Accounting Standards Board'' and adding in its place, the phrase ''included in the component of equity referred to as ''accumulated other comprehensive income'' (or similar term) as provided by Financial Accounting Standards Board Accounting Standards Codification 220, Comprehensive Income, and pursuant to Financial Accounting Standards Board Accounting Standards Codification subparagraph 220–10–45–14''.

§ 615.5301 [Amended]

■ 3. Amend § 615.5301 by:

■ a. Removing the phrase in paragraphs (b)(5) and (i)(5), ''covered by the definition of ''accumulated other comprehensive income'' contained in the Statement of Financial Accounting Standards No. 130, as promulgated by the Financial Accounting Standards Board'' and adding in its place, the phrase ''included in the component of equity referred to as ''accumulated other comprehensive income'' (or similar term) as provided by Financial Accounting Standards Board Accounting Standards Codification 220, Comprehensive Income, and pursuant to Financial Accounting Standards Board Accounting Standards Codification subparagraph 220–10–45–14''.

■ b. Removing the phrase in paragraph (j)(1) introductory text, ''As set forth in Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities,* as promulgated by the Financial Accounting Standards

[2] *See* FCA Informational Memorandum, *Financial Accounting Standards Board Accounting Standards Codification,* dated September 3, 2009.

[3] Recommendation 95–4, referencing the Administrative Procedure Act ''good cause'' exemption at 5 U.S.C. 553(b)(B), adopted June 15, 1995.

Board—'' and adding in its place, the phrase ''As set forth in Financial Accounting Standards Board Accounting Standards Codification Topic 815, Derivatives and Hedging—''.

PART 621—ACCOUNTING AND REPORTING REQUIREMENTS

■ 4. The authority citation for part 621 continues to read as follows:

Authority: Secs. 5.17, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2279aa–11); sec. 514 of Pub. L. 102–552.

§ 621.6 [Amended]

■ 5. Amend paragraph (b) by removing the phrase, ''Statement of Financial Accounting Standards No. 15, Accounting by Debtors and Creditors for Troubled Debt Restructurings, as promulgated by the FASB'', and adding in its place, the phrase ''Financial Accounting Standards Board Accounting Standards Codification Subtopic 310—40, Receivables—Troubled Debt Restructurings by Creditors''.

PART 652—FEDERAL AGRICULTURAL MORTGAGE CORPORATION FUNDING AND FISCAL AFFAIRS

■ 6. The authority citation for part 652 continues to read as follows:

Authority: Secs. 4.12, 5.9, 5.17, 8.11, 8.31, 8.32, 8.33, 8.34, 8.35, 8.36, 8.37, 8.41 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2252, 2279aa–11, 2279bb, 2279bb–1, 2279bb–2, 2279bb–3, 2279bb–4, 2279bb–5, 2279bb–6, 2279cc); sec. 514 of Pub. L. 102–552, 106 Stat. 4102; sec. 118 of Pub. L. 104–105, 110 Stat. 168.

5.0 [Amended]

■ 7. Amend paragraph b. of Appendix A by removing the phrase ''Financial Accounting Standards Board Interpretation No. 45 (FIN 45) Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others'' and adding in its place, the phrase ''Financial Accounting Standards Board Accounting Standards Codification Topic 460, Guarantees''.

Dated: April 3, 2013.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2013–08140 Filed 4–8–13; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–0317; Special Conditions No. 25–487–SC]

Special Conditions: Airbus Model A330–200 Airplanes; Bulk Cargo Lower Deck Crew Rest Compartments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special condition; request for comments.

SUMMARY: These special conditions are issued for the Airbus Model A330–200 airplane. This airplane as modified by TTF Aerospace LLC will have a novel or unusual design feature associated with the installation of bulk cargo lower deck crew rest compartments. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is April 3, 2013. We must receive your comments by May 24, 2013.

ADDRESSES: Send comments identified by docket number FAA–2013–0317 using any of the following methods:

Federal eRegulations Portal: Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.

Mail: Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

Hand Delivery or Courier: Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays.

Fax: Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2195; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions are unnecessary because the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On May 19, 2011, TTF Aerospace LLC applied for a supplemental type certificate to install a bulk cargo lower deck crew rest compartment in the Airbus Model A330–200 airplane. The Airbus Model A330–200 airplane is a wide-body, twin engine jet airplane. Operating this model requires two pilots. Model A330–200 airplanes that carry up to 375 passengers have three pairs of Type A exits, and one pair of Type 1 exits, and Model A330–200 airplanes that carry up to 379 passengers have four pairs of Type A exits. Versions of the Model A330

airplanes have a range of 4,000 to 7,250 nautical miles and can carry 150,000 pounds of cargo.

Type Certification Basis

Under the provisions of § 21.101, TTF Aerospace LLC must show that the Airbus Model A330–200, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A46NM or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in A46NM are as follows: 14 CFR part 25, as amended by Amendments 25–1 through 25–63; certain regulations at later Amendments 25–65, 25–66, and 25–68, 25–69, 25–73, 25–75, 25–77, 25–78, 25–81, 25–82, 25–84, and 25–85 with exceptions. Refer to Type Certificate Data Sheet A46NM, as applicable, for a complete description of the certification basis for these models, including certain special conditions and equivalent safety findings that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model A330–200 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A330–200 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Airbus Model A330–200 will incorporate the following novel or unusual design features: bulk cargo lower deck crew rest compartments.

While the installation of the crew rest compartment is not a new concept for large transport category airplane, each crew rest compartment has unique features based on design, location, and use on the airplane. The bulk cargo lower deck crew rest (BCCR) compartment is novel in terms of part 25 in that it will be located under the passenger cabin floor in the aft cargo compartment of Airbus Model A330–200 series airplanes. Due to the novel or unusual features associated with the installation of a BCCR compartment, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificates of these airplanes. It will be the size of the aft section of the bulk cargo loading area and will be optional for removal from the cargo compartment. The BCCR compartment will be occupied in flight but not during taxi, take off, or landing. No more than eight crew members at a time will be permitted to occupy it. The BCCR compartment will have a built in smoke detection system, an oxygen system, and decompression warning system that all connect to the main cabin and cockpit.

The BCCR compartment will be accessed from the main deck via a ''stair house.'' The floor within the stair house has a hatch that leads to stairs which occupants use to descend into the BCCR compartment. An interface will keep this hatch open when the stair house door is open. In addition, an emergency hatch opens directly into the main passenger cabin. The BCCR has access panels to allow the crew to perform maintenance without removal of the crew rest compartment.

This installation of BCCR is similar to the installation of Lower Deck Mobile Crew Rest (LD–MCR) on Airbus Model A330 and 340 series airplanes for which Special Conditions No. 25–281–SC were issued on December 29, 2004. The currently installed LD–MCR will be removed and the BCCR will be installed in the aft lower lobe of the airplane. The BCCR occupies the entire bulk baggage compartment.

Discussion

The applicant should note that the FAA considers smoke or fire detection and fire suppression systems (including airflow management features which prevent hazardous quantities of smoke or fire extinguishing agent from entering any other compartment occupied by crew members or passengers) for crew rest compartments complex in terms of paragraph 6d of Advisory Circular (AC) 25.1309–1A, *System Design and Analysis,* dated June 21, 1988. In addition, the FAA considers failure of the crew rest compartment fire protection system (i.e., smoke or fire detection and fire suppression systems) in conjunction with a crew rest fire to be a catastrophic event. Based on the ''Depth of Analysis Flowchart'' shown in Figure 2 of AC 25.1309–1A, the depth of analysis should include both qualitative and quantitative assessments. Refer to paragraphs 8d, 9, and 10 of AC 25.1309–1A. In addition, it should be noted that flammable fluids, explosives, or other dangerous cargo are prohibited from being carried in the crew rest areas.

The requirements to enable crew members' quick entry to the crew rest compartment and to locate a fire source inherently places limits on the amount of baggage that may be carried and the size of the crew rest area. The FAA considers that the crew rest area must be limited to the stowage of crew personal luggage and must not be used for the stowage of cargo or passenger baggage. The design of such a system to include cargo or passenger baggage would require additional requirements to ensure safe operation.

The addition of galley equipment or a kitchenette incorporating a heat source (e.g., cook tops, microwaves, coffee pots, etc.), other than a conventional lavatory or kitchenette hot water heater, within the BCCR compartment defined in the ''Novel or Unusual Design Features'' section, may require further Special Conditions to be considered. A hot water heater is acceptable without further Special Conditions consideration.

Operational Evaluations and Approval

In lieu of a type design placard indicating the operational qualification of the crew rest compartment, the following Operational Evaluation and Approval process must be followed.

These special conditions outline requirements for flight crew and cabin crew rest compartment design approvals (e.g., type design change or supplemental type certificate) administered by the FAA's Aircraft Certification Service. Prior to operational use of a flight (cabin) crew rest compartment, the FAA's Flight Standards Service must evaluate for operational suitability the flight (cabin) crew sleeping quarters and rest facilities. Refer to §§ 91.1061(b)(1), 121.485(a), 121.523(b), and 135.269(b)(5).

Compliance with these special conditions does not ensure that the applicant has demonstrated compliance

with the requirements of 14 CFR parts 91, 121, or 135.

To obtain an operational evaluation, the type design holder must contact the appropriate Aircraft Evaluation Group (AEG) in the Flight Standards Service and request an evaluation for operational suitability of the flight crew sleeping quarters in their crew rest facility. Results of these evaluations should be documented and appended to the applicable Flight Standardization Board (FSB) Report. Individual operators may reference these standardized evaluations in discussions with their FAA Principal Operating Inspector (POI) as the basis for an operational approval, in lieu of an on-site operational evaluation.

Any changes to the approved flight (cabin) crew rest compartment configuration that affect crew member emergency egress or any other procedures affecting the safety of the occupying crewmembers and/or related training shall require a re-evaluation and approval. In the event of any design change that affects egress, safety procedures, or training, the applicant is responsible for notifying the FAA's AEG that a new crew rest facility evaluation is required.

All instructions for continued airworthiness (ICAs) will be submitted to the Seattle AEG for approval acceptance, including service bulletins, before issuance of the FAA modification approval.

Amendment 25–38 modified the requirements of § 25.1439(a) by adding, ''In addition, protective breathing equipment must be installed in each isolated separate compartment in the airplane. Including upper and lower lobe galleys, in which crew member occupancy is permitted during flight for the maximum number of crew members expected to be in the area during any operation.'' The BCCR compartment is an isolated separate compartment, so § 25.1439(a) is applicable. However, the § 25.1439(a) protective breathing equipment (PBE) requirements for isolated separate compartments are not appropriate because the BCCR is novel and unusual in terms of the number of occupants.

In 1976, when Amendment 25–38 was adopted, small galleys were the only isolated compartments that had been certificated. Two crewmembers were the maximum expected to occupy those galleys.

This crew rest compartment can accommodate up to eight crew members. This large number of occupants in an isolated compartment was not envisioned at the time Amendment 25–38 was adopted. It is not appropriate for all occupants to don PBEs in the event of a fire because the first action should be to leave the confined space unless the occupant is fighting the fire. Taking the time to don the PBE would prolong the time for the emergency evacuation of the occupants and possibly interfere with efforts to extinguish the fire. This special condition therefore provides procedures that establish a level of safety equivalent to the PBE requirements.

For all of the areas discussed above, these special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Airbus Model A330–200. Should TTF Aerospace LLC apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A46NM to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Airbus Model A330–200 airplanes modified by TTF Aerospace LLC. The FAA formulated the proposed Special Conditions for the A330–200 bulk cargo lower deck crew rest (BCCR) compartment from previous requirements established for various airplanes. The BCCR compartment must meet the following requirements.

1. Occupancy of the BCCR compartment is limited to the total number of installed bunks and seats in that compartment. There must be an approved seat or berth able to withstand the maximum flight loads when occupied for each occupant permitted in the crew rest compartment. The maximum occupancy is eight in the BCCR compartment.

(a) There must be appropriate placards displayed in a conspicuous place at each entrance to the BCCR compartment to indicate:

(1) The maximum number of occupants allowed;

(2) That occupancy is restricted to crew members that are trained in the evacuation procedures for the crew rest compartment;

(3) That occupancy is prohibited during taxi, take-off and landing;

(4) That smoking is prohibited in the crew rest compartment;

(5) That hazardous quantities of flammable fluids, explosives, or other dangerous cargo are prohibited in the crew rest compartment.

(6) That the crew rest area must be limited to the stowage of crew personal luggage and must not be used for the stowage of cargo or passenger baggage.

(b) There must be at least one ashtray located conspicuously on or near the entry side of any entrance to the crew rest compartment.

(c) There must be a means to prevent passengers from entering the compartment in the event of an emergency or when no flight attendant is present.

(d) There must be a means for any door installed between the crew rest compartment and passenger cabin to be capable of being quickly opened from inside the compartment, even when crowding occurs at each side of the door.

(e) For all doors installed in the evacuation routes, there must be a means to preclude anyone from being trapped inside the compartment. If a locking mechanism is installed, it must be capable of being unlocked from the

outside without the aid of special tools. The lock must not prevent opening from the inside of the compartment at any time.

2. There must be at least two emergency evacuation routes, which could be used by each occupant of the crew rest compartment to rapidly evacuate to the main cabin and be able to be closed from the main passenger cabin after evacuation. In addition—

(a) The routes must be located with one at each end of the compartment, or with two having sufficient separation within the compartment and between the routes to minimize the possibility of an event (either inside or outside of the crew rest compartment) rendering both routes inoperative.

(b) The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure, or persons standing on top of or against the escape route. If an evacuation route uses an area where normal movement of passengers occurs, it must be demonstrated that passengers would not impede egress to the main deck. If a hatch is installed in an evacuation route, the point at which the evacuation route terminates in the passenger cabin should not be located where normal movement by passengers or crew occurs (main aisle, cross aisle, passageway, or galley complex). If such a location cannot be avoided, special consideration must be taken to ensure that the hatch or door can be opened when a person, the weight of a ninety-fifth percentile male, is standing on the hatch or door. The use of evacuation routes must not be dependent on any powered device. If there is low headroom at or near an evacuation route, provisions must be made to prevent or to protect occupants (of the crew rest area) from head injury.

(c) Emergency evacuation procedures, including the emergency evacuation of an incapacitated occupant from the crew rest compartment, must be established. All of these procedures must be transmitted to the operator for incorporation into their training programs and appropriate operational manuals.

(d) There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crew members be trained in the use of evacuation routes.

3. There must be a means for the evacuation of an incapacitated person (representative of a 95th percentile male) from the crew rest compartment to the passenger cabin floor.

The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crew member (a total of one assistant within the crew rest area) may provide assistance in the evacuation. Additional assistance may be provided by up to three persons in the main passenger compartment. For evacuation routes having stairways, the additional assistants may descend down to one half the elevation changes from the main deck to the lower deck compartment, or to the first landing, whichever is higher.

4. The following signs and placards must be provided in the crew rest compartment:

(a) At least one exit sign, located near each exit, meeting the requirements of § 25.812(b)(1)(i) at Amendment 25–58, except that a sign with reduced background area of no less than 5.3 square inches (excluding the letters) may be used, provided that it is installed such that the material surrounding the exit sign is light in color (e.g., white, cream, or light beige). If the material surrounding the exit sign is not light in color, a sign with a minimum of a one-inch wide background border around the letters would also be acceptable;

(b) An appropriate placard located near each exit defining the location and the operating instructions for each evacuation route;

(c) Placards must be readable from a distance of 30 inches under emergency lighting conditions; and

(d) The exit handles and evacuation path operating instruction placards must be illuminated to at least 160 microlamberts under emergency lighting conditions.

5. There must be a means in the event of failure of the aircraft's main power system, or of the normal crew rest compartment lighting system, for emergency illumination to be automatically provided for the crew rest compartment.

(a) This emergency illumination must be independent of the main lighting system.

(b) The sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(c) The illumination level must be sufficient for the occupants of the crew rest compartment to locate and transfer to the main passenger cabin floor by means of each evacuation route.

(d) The illumination level must be sufficient with the privacy curtains in the closed position for each occupant of the crew rest compartment to locate a deployed oxygen mask.

6. There must be means for two-way voice communications between crew members on the flight deck and occupants of the crew rest compartment. There must also be public address system microphones at each flight attendant seat required to be near a floor level exit in the passenger cabin per § 25.785(h) at Amendment 25–51 which allows two-way voice communications between flight attendants and the occupants of the crew rest compartment, except that one microphone may serve more than one exit provided the proximity of the exits allow unassisted verbal communication between seated flight attendants.

7. There must be a means for manual activation of an aural emergency alarm system, audible during normal and emergency conditions, to enable crew members on the flight deck and at each pair of required floor level emergency exits to alert occupants of the crew rest compartment of an emergency situation. Use of a public address or crew interphone system will be acceptable, provided an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight, after the shutdown or failure of all engines and auxiliary power units (APU), or the disconnection or failure of all power sources dependent on their continued operation (i.e., engine and APU), for a period of at least ten minutes.

8. There must be a means, readily detectable by seated or standing occupants of the crew rest compartment, which indicates when seat belts should be fastened. In the event there are no seats, at least one means must be provided to cover anticipated turbulence (e.g., sufficient handholds). Seat belt type restraints must be provided for berths and must be compatible for the sleeping attitude during cruise conditions. There must be a placard on each berth requiring that seat belts must be fastened when occupied. If compliance with any of the other requirements of these special conditions is predicated on specific head location, there must be a placard identifying the head position.

9. In lieu of the requirements specified in § 25.1439(a) at Amendment 25–38 that pertain to isolated compartments and to provide a level of safety equivalent to that which is provided occupants of a small isolated galley, the following equipment must be provided in the crew rest compartment:

(a) At least one approved hand-held fire extinguisher appropriate for the kinds of fires likely to occur;

(b) Two protective breathing equipment (PBE) devices approved to Technical Standard Order (TSO)–C116 or equivalent, suitable for fire fighting, or one PBE for each hand-held fire extinguisher, whichever is greater; and

(c) One flashlight.

Note: Additional PBEs and fire extinguishers in specific locations, (beyond the minimum numbers prescribed in special condition 9) may be required as a result of any egress analysis accomplished to satisfy special condition 2(a).

10. A smoke or fire detection system (or systems) must be provided that monitors each occupiable area within the crew rest compartment, including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each system must provide:

(a) A visual indication to the flight deck within one minute after the start of a fire;

(b) An aural warning in the crew rest compartment; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

11. The crew rest compartment must be designed such that fires within the compartment can be controlled without a crew member having to enter the compartment, or the design of the access provisions must allow crew members equipped for fire fighting to have unrestricted access to the compartment. The time for a crew member on the main deck to react to the fire alarm, to don the fire fighting equipment, and to gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the fire source. Procedures describing methods to search the crew rest compartments for fire sources(s) must be established. These procedures must be transmitted to the operator for incorporation into their training programs and appropriate operational manuals.

12. There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the crew rest compartment from entering any other compartment occupied by crew members or passengers. This means must include the time periods during the evacuation of the crew rest compartment and, if applicable, when accessing the crew rest compartment to manually fight a fire. Smoke entering any other compartment occupied by crew members or passengers when the access to the crew rest compartment is opened, during an emergency evacuation, must dissipate within five minutes after the access to the crew rest compartment is closed. Hazardous quantities of smoke may not enter any other compartment occupied by crew members or passengers during subsequent access to manually fight a fire in the crew rest compartment (the amount of smoke entrained by a firefighter exiting the crew rest compartment through the access is not considered hazardous). During the 1-minute smoke detection time, penetration of a small quantity of smoke from the crew rest compartment into an occupied area is acceptable. Flight tests must be conducted to show compliance with this requirement.

There must be a provision in the firefighting procedures to ensure that all door(s) and hatch(es) at the crew rest compartment outlets are closed after evacuation of the crew rest compartment and during firefighting to minimize smoke and extinguishing agent from entering other occupiable compartments.

If a built-in fire extinguishing system is used in lieu of manual fire fighting, then the fire extinguishing system must be designed so that no hazardous quantities of extinguishing agent will enter other compartments occupied by passengers or crew. The system must have adequate capacity to suppress any fire occurring in the crew rest compartment, considering the fire threat, volume of the compartment, and the ventilation rate.

13. There must be a supplemental oxygen system within the crew rest compartment as follows:

(a) There must be at least one mask for each seat, and berth in the crew rest compartment.

(b) If a destination area (such as a changing area) is provided in the BCCR compartment, then there must be an oxygen mask readily available for each occupant that can reasonably be expected to be in the destination area (with the maximum number of required masks within the destination area being limited to the placarded maximum occupancy of the crew rest compartment).

(c) There must also be an oxygen mask readily accessible to each occupant that can reasonably be expected to be either transitioning from the main cabin into the crew rest compartment, transitioning within the crew rest compartment, or transitioning from the crew rest compartment to the main cabin.

(d) The system must provide an aural and visual alert to warn the occupants of the BCCR compartment to don oxygen masks in the event of decompression. The aural and visual alerts must activate concurrently with the deployment of the oxygen masks in the passenger cabin. To compensate for sleeping occupants, the aural alert must be heard in each section of the BCCR compartment and must sound continuously for a minimum of five minutes or until a reset switch within the BCCR compartment is activated. A visual alert that informs occupants that they must don an oxygen mask must be visible in each section.

(e) There must also be a means by which the oxygen masks can be manually deployed from the flight deck.

(f) Procedures for occupants in the crew rest compartment in the event of decompression must be established. These procedures must be transmitted to the operator for incorporation into their training programs and appropriate operational manuals.

(g) The supplemental oxygen system for the crew rest compartment shall meet the same 14 CFR part 25 regulations as the supplemental oxygen system for the passenger cabin occupants except for the 10 percent additional masks requirement of 14 CFR 25.1447(c)(1).

(h) The illumination level of the normal BCCR compartment lighting system must automatically be sufficient for each occupant of the compartment to locate a deployed oxygen mask.

14. The following additional requirements apply to crew rest compartments that are divided into several sections by the installation of curtains or partitions:

(a) To compensate for sleeping occupants, there must be an aural alert that can be heard in each section of the crew rest compartment that accompanies automatic presentation of supplemental oxygen masks. Supplemental oxygen must meet the requirements of Special Condition no. 13.

(b) A placard is required adjacent to each curtain that visually divides or separates, for privacy purposes, the crew rest compartment into small sections. The placard must require that the curtain(s) remains open when the private section it creates is unoccupied.

(c) For each section in the crew rest compartment that is created by the installation of a curtain, the following requirements of these Special Conditions must be met with the curtain open or closed:

(1) Emergency illumination (Special Condition no. 5);

(2) Emergency alarm system (Special Condition no. 7);

(3) Seat belt fasten signal or return to seat signal as applicable (Special Condition no. 8); and

(4) The smoke or fire detection system (Special Condition no. 10).

(d) Crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the crew rest compartment, and they must meet the requirements of § 25.812(b)(1)(i) at Amendment 25–58. An exit sign with reduced background area as described in Special Condition No. 4.(a) may be used to meet this requirement.

(e) For sections within a crew rest compartment that are created by the installation of a partition with a door separating the sections, the following requirements of these Special Conditions must be met with the door open or closed:

(1) There must be a secondary evacuation route from each section to the main deck, or alternatively, it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment. Removal of an incapacitated occupant within this area must be considered. A secondary evacuation route from a small room designed for only one occupant for short time duration, such as a changing area or lavatory, is not required. However, removal of an incapacitated occupant within this area must be considered.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section meeting the requirements of § 25.812(b)(1)(i) at Amendment 25–58 that direct occupants to the primary stairway exit. An exit sign with reduced background area as described in Special Condition No. 4.(a) may be used to meet this requirement.

(5) Special Conditions No. 5 (emergency illumination), No. 7 (emergency alarm system), No. 8 (fasten seat belt signal or return to seat signal as applicable) and No. 10 (smoke or fire detection system) must be met with the door open or closed.

(6) Special Conditions No. 6 (two-way voice communication) and No. 9 (emergency fire fighting and protective equipment) must be met independently for each separate section except for lavatories or other small areas that are not intended to be occupied for extended periods of time,

15. Where a waste disposal receptacle is fitted, it must be equipped with a built-in fire extinguisher designed to discharge automatically upon occurrence of a fire in the receptacle.

16. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of § 25.853 at Amendment 25–66. Mattresses must comply with the flammability requirements of § 25.853(b) and (c) at Amendment 25–66.

17. The addition of a lavatory within the crew rest compartment would require the lavatory to meet the same requirements as those for a lavatory installed on the main deck except with regard to Special Condition 10 for smoke detection.

18. When a crew rest compartment is installed or enclosed as a removable module in part of a cargo compartment or is located directly adjacent to a cargo compartment without an intervening cargo compartment wall, the following applies:

(a) Any wall of the module (container) forming part of the boundary of the reduced cargo compartment, subject to direct flame impingement from a fire in the cargo compartment and including any interface item between the module (container) and the airplane structure or systems, must meet the applicable requirements of § 25.855 at Amendment 25–60.

(b) Means must be provided so that the fire protection level of the cargo compartment meets the applicable requirements of §§ 25.855 at Amendment 25–60, 25.857 at Amendment 25–60 and 25.858 at Amendment 25–54 when the module (container) is not installed.

(c) Use of each emergency evacuation route must not require occupants of the crew rest compartment to enter the cargo compartment in order to return to the passenger compartment.

(d) The aural warning in Special Condition 7 must sound in the crew rest compartment in the event of a fire in the cargo compartment.

19. Means must be provided to prevent access into the Class C cargo compartment during all airplane operations and to ensure that the maintenance door is closed during all airplane flight operations.

20. All enclosed stowage compartments within the crew rest compartment that are not limited to stowage of emergency equipment or airplane supplied equipment (e.g., bedding) must meet the design criteria given in the table below. As indicated by the table below, enclosed stowage compartments greater than 200 ft^3 in interior volume are not addressed by this Special Condition. The in-flight accessibility of very large enclosed stowage compartments and the subsequent impact on the crew members' ability to effectively reach any part of the compartment with the contents of a hand fire extinguisher will require additional fire protection considerations similar to those required for inaccessible compartments such as Class C cargo compartments.

Fire protection features	Stowage compartment interior volumes		
	less than 25 ft^3	25 ft^3 to 57 ft^3	57 ft^3 to 200 ft^3
Materials of Construction [1]	Yes	Yes	Yes
Detectors [2]	No	Yes	Yes
Liner [3]	No	Conditional	Yes
Locating Device [4]	No	Yes	Yes

[1] *Material*

The material used to construct each enclosed stowage compartment must at least be fire resistant and must meet the flammability standards established for interior components per the requirements of § 25.853. For compartments less than 25 ft^3 in interior volume, the design must ensure the ability to contain a fire likely to occur within the compartment under normal use.

[2] *Detectors*

Enclosed stowage compartments equal to or exceeding 25 ft^3 in interior volume must be provided with a smoke or fire detection system to ensure that a fire can be detected within a one-minute detection time. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication in the flight deck within one minute after the start of a fire;

(b) An aural warning in the crew rest compartment; and

(c) A warning in the main passenger cabin, This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

[3] *Liner*

If it can be shown that the material used to construct the stowage compartment meets the flammability requirements of a liner for a Class B cargo compartment (i.e., § 25.855 at Amendment 25–116, and Appendix F, part I, paragraph (a)(2)(ii)), then no liner would be required for enclosed stowage compartments equal to or greater than 25 ft^3 in interior volume but less than 57 ft^3 in interior volume. For all enclosed stowage compartments equal to or greater than 57 ft^3 in interior volume but less than or equal to 200 ft^3, a liner must be provided that meets the requirements of § 25.855 at Amendment 25–60 for a Class B cargo compartment.

[4] *Location Detector*

Crew rest areas which contain enclosed stowage compartments exceeding 25 ft^3 interior volume and which are located away from one central location such as the entry to the crew rest area or a common area within the crew rest area would require additional fire protection features and/or devices to assist the firefighter in determining the location of a fire.

Issued in Renton, Washington, on April 3, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08156 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0609; Airspace Docket No. 12–AEA–10]

Amendment of Class D and Class E Airspace; Caldwell, NJ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E Airspace at Caldwell, NJ as the Paterson Non-Directional Radio Beacon (NDB) has been decommissioned and new Standard Instrument Approach Procedures have been developed at Essex County Airport. This action enhances the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, June 27, 2013. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

On January 24, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class D and Class E airspace at Caldwell, NJ (78 FR 5149) Docket No. FAA–2012–0609. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class D and Class E airspace designations are published in paragraph 5000 and 6004, respectively of FAA Order 7400.9W dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR Part 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class D airspace extending upward from the surface to and including 2,700 feet MSL within a 4.1-mile radius of Essex County Airport, and the Class E airspace area designated as an extension of Class D surface area is amended to within 2 miles each side of the 030° bearing of the airport extending from the 4.1-mile radius to 7 miles northeast of the airport, to accommodate the new Standard Instrument Approach Procedures developed for Essex County Airport, Caldwell, NJ. The Patterson Non-Directional Beacon has been decommissioned, and the NDB approach cancelled.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Essex County Airport, Caldwell, NJ.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, effective September 15, 2012, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

AEA NJ D Caldwell, NJ [Amended]

Essex County Airport, Caldwell, NJ
(Lat. 40°52′30″ N., long. 74°16′53″ W.)

That airspace extending upward from the surface up to and including 2,700 feet MSL within a 4.1-mile radius of Essex County Airport, excluding the portion that coincides with Morristown, NJ Class D airspace area. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

AEA NJ E4 Caldwell, NJ [Amended]

Essex County Airport, Caldwell, NJ
(Lat. 40°52′30″ N., long. 74°16′53″ W.)

That airspace extending upward from the surface within 2 miles each side of a 030° bearing from the Essex County Airport, extending from the 4.1–mile radius of the airport to 7 miles northeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in College Park, Georgia, on March 29, 2013.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2013–08101 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1270; Airspace Docket No. 12–AEA–16]

Amendment of Class D and Class E Airspace; Reading, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E Airspace at Reading, PA, as the SHAPP OM navigation aid has been decommissioned, requiring the modification of Standard Instrument Approach Procedures (SIAPs) at Reading Regional/Carl A. Spaatz Field. This action enhances the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, June 27, 2013. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

On January 28, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class D and Class E airspace at Reading, PA (78 FR 5754) Docket No. FAA–2012–1270. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class D and Class E airspace designations are published in paragraphs 5000, 6002, 6004, and 6005 respectively of FAA Order 7400.9W dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class D airspace extending upward from the surface to 2,800 feet MSL within a 4.8-mile radius of Reading Regional/Carl A. Spaatz Field, Reading, PA, and Class E surface airspace, Class E airspace designated as an extension of Class D, and Class E airspace extending upward from 700 feet above the surface at Reading, Regional/Carl A. Spaatz Field, to accommodate the new Standard Instrument Approach Procedures developed for the airport. Decommissioning of the SHAPP OM navigation aid has made this action necessary for continued safety and management of IFR operations at the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Reading Regional/Carl A. Spaatz Field, Reading, PA.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, effective September 15, 2012, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

AEA PA D Reading, PA [Amended]

Reading Regional/Carl A. Spaatz Field, Reading, PA
(Lat. 40°22′42″ N., long. 75°57′55″ W.)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 4.8-mile radius of Reading Regional/Carl A. Spaatz Field. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AEA PA E2 Reading, PA [Amended]

Reading Regional/Carl A. Spaatz Field, Reading, PA
(Lat. 40°22′42″ N., long. 75°57′55″ W.)

That airspace extending from the surface within a 4.8-mile radius of Reading Regional/Carl A. Spaatz Field, and within 4- miles either side of the 172° bearing from the airport, extending from the 4.8-mile radius, to 10.1-miles south of the airport. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E airspace designated as an extension to a class D surface area.

* * * * *

AEA PA E4 Reading, PA [Amended]

Reading Regional/Carl A. Spaatz Field, Reading, PA
(Lat. 40°22′42″ N., long. 75°57′55″ W.)

That airspace extending from the surface within 4 miles either side of the 172° bearing from Reading Regional/Carl A. Spaatz Field extending from the 4.8-mile radius to 10.1 miles south of the airport. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5 Reading, PA [Amended]

Reading Regional/Carl A. Spaatz Field, Reading, PA
(Lat. 40°22′42″ N., long. 75°57′55″ W.)

That airspace extending upward from 700 feet above the surface within a 10.3-mile radius of Reading Regional/Carl A. Spaatz Field.

Issued in College Park, Georgia, on April 1, 2013.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2013–08102 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AD53

Adaptation of Regulations to Incorporate Swaps—Records of Transactions; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a compliance date stated in the preamble to a notice of final rulemaking published in the **Federal Register** of December 21, 2012 (77 FR 75523), regarding Adaptation of Regulations to Incorporate Swaps—Records of Transactions.

DATES: This correction to the preamble is effective April 9, 2013.

FOR FURTHER INFORMATION CONTACT: Katherine Driscoll, Associate Director, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; 202–418–5544; *kdriscoll@cftc.gov.*

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission is correcting the preamble of final rules that appeared in the **Federal Register** on December 21, 2012 (77 FR 75523). The final rulemaking made certain conforming amendments to recordkeeping provisions of regulations 1.31 and 1.35(a) to integrate them more fully with the new statutory framework created by the Dodd-Frank Wall Street Reform and Consumer Protection Act. On page 75530, in the first column, in the Supplementary Information section of the preamble, revise the incorrect text of ''[November 28, 2013]'' to read ''December 21, 2013''.

Issued in Washington, DC, on March 29, 2013, by the Commission.

Christopher J. Kirkpatrick,

Deputy Secretary of the Commission.

[FR Doc. 2013–07797 Filed 4–8–13; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038–AC96

Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Correcting amendments.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is correcting a final rule published in the **Federal Register** of September 11, 2012 (77 FR 55904). That rule, 17 CFR 23.505, took effect on November 13, 2012. Subsequently, the CFTC published final rules in the **Federal Register** of December 13, 2012 (77 FR 74284), that re-codified the Commission regulation at 17 CFR 39.6 as a new Commission regulation at 17 CFR 50.50. This correction amends cross-references in 17 CFR 23.505 to conform them with the final rules published on December 13, 2012.

DATES: Effective on April 9, 2013.

FOR FURTHER INFORMATION CONTACT: Frank Fisanich, Chief Counsel, 202–418–5949, *ffisanich@cftc.gov,* or Jason A. Shafer, Attorney-Advisor, 202–418–5097, *jshafer@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 11, 2012 (77 FR 55904), the CFTC published final rules setting forth requirements for swap confirmation, portfolio reconciliation, portfolio compression, and swap trading relationship documentation for Swap Dealers and Major Swap Participants. Those rules, in 17 CFR part 23, include cross-references to the Commission regulation at 17 CFR 39.6. After the effective date of the Part 23 rules (November 13, 2012), the CFTC published final rules in the **Federal Register** of December 13, 2012 (77 FR 74284) that re-codified the Commission regulation at 17 CFR 39.6 as a new Commission regulation at 17 CFR 50.50. Those rules took effect on February 11, 2013. Thus, the Commission is making correcting amendments to the affected section of 17 CFR part 23 to replace the cross-references to 17 CFR 39.6 with cross-references to 17 CFR 50.50.

List of Subjects in 17 CFR part 23

Antitrust, Commodity futures, Conduct standards, Conflict of interests, Major swap participants, Reporting and recordkeeping, Swap dealers, Swaps.

Accordingly, 17 CFR part 23 is corrected by making the following correcting amendments:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

■ 1. The authority citation for Part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b–1, 6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21.

■ 2. In § 23.505, revise paragraphs (a) introductory text, (a)(2), and (a)(5) to read as follows:

§ 23.505 End user exception documentation.

(a) *For swaps excepted from a mandatory clearing requirement.* Each swap dealer and major swap participant shall obtain documentation sufficient to provide a reasonable basis on which to believe that its counterparty meets the statutory conditions required for an exception from a mandatory clearing requirement, as defined in section 2h(7) of the Act and § 50.50 of this chapter. Such documentation shall include:

* * * * *

(2) That the counterparty has elected not to clear a particular swap under section 2h(7) of the Act and § 50.50 of this chapter;

* * * * *

(5) That the counterparty generally meets its financial obligations associated with non-cleared swaps. *Provided,* that a swap dealer or major swap participant need not obtain documentation of paragraphs (a)(3), (4), or (5) of this section if it obtains documentation that its counterparty has reported the information listed in § 50.50(b)(1)(iii) in accordance with § 50.50(b)(2) of this chapter.

* * * * *

Issued in Washington, DC, on April 4, 2013, by the Commission.

Christopher J. Kirkpatrick,

Deputy Secretary of the Commission.

[FR Doc. 2013–08197 Filed 4–8–13; 8:45 am]

BILLING CODE 6351–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34–69284; File No. S7–29–11]

RIN 3235–AL18

Amendment to Rule Filing Requirements for Dually-Registered Clearing Agencies

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''SEC'' or ''Commission'') is affirming recent amendments to Rule 19b–4 under the Securities Exchange Act of 1934 (''Exchange Act'') in connection with filings of proposed rule changes by certain registered clearing agencies and is expanding on those amendments in response to comments received (collectively, ''Final Rule''). The Commission also is making corresponding technical modifications to the General Instructions for Form 19b–4 under the Exchange Act. The amendments to Rule 19b–4 and the instructions to Form 19b–4 are intended to streamline the rule filing process in areas involving certain activities concerning non-security products that may be subject to duplicative or inconsistent regulation as a result of, in part, certain provisions under Section 763(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act'').

DATES: Effective June 10, 2013.

FOR FURTHER INFORMATION CONTACT: Joseph P. Kamnik, Assistant Director; Gena Lai, Senior Special Counsel; and Neil Lombardo, Attorney, Office of Clearance and Settlement, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–7010 at (202) 551–5710.

SUPPLEMENTARY INFORMATION: The Commission is adopting a Final Rule that affirms and expands upon recent amendments to Rule 19b–4 under the Exchange Act concerning categories of proposed rule changes that qualify for effectiveness upon filing under Section 19(b)(3)(A) of the Exchange Act. The Commission also is making a corresponding technical modification to the General Instructions for Form 19b–4 under the Exchange Act.

I. Introduction

A. Background on the Commission's Process for Proposed Rule Changes

Section 19(b)(1) of the Exchange Act [1] requires each self-regulatory organization (''SRO''), including any Registered Clearing Agency,[2] to file with the Commission copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of such SRO (collectively, ''proposed rule change''),[3] which must be submitted on Form 19b–4 [4] in accordance with the General Instructions thereto. Once a proposed rule change has been filed, the Commission is required to publish it in the **Federal Register** to provide an opportunity for public comment.[5] A proposed rule change generally may not take effect unless the Commission approves it,[6] or it otherwise becomes effective under Section 19(b).[7]

Section 19(b)(2) of the Exchange Act sets forth the standards and time periods for Commission action either to approve, disapprove, or institute proceedings to determine whether the proposed rule change should be disapproved.[8] The Commission must approve a proposed rule change if it

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Section 3(a)(26) of the Exchange Act, 15 U.S.C. 78c(a)(26) (defining the term ''self-regulatory organization'' to mean any national securities exchange, registered securities association, *registered clearing agency,* and, for purposes of Section 19(b) and other limited purposes, the Municipal Securities Rulemaking Board) (emphasis added).

[3] 15 U.S.C. 78s(b)(1). Section 3(a)(27) of the Exchange Act defines ''rules'' to include ''the constitution, articles of incorporation, bylaws, and rules, or instruments corresponding to the foregoing * * * and such of the stated policies, practices, and interpretations of such exchange, association, or clearing agency as the Commission, by rule, may determine to be necessary or appropriate in the public interest or for the protection of investors to be deemed to be rules of such exchange, association, or clearing agency.'' 15 U.S.C. 78c(a)(27). Rule 19b–4(b) under the Exchange Act defines ''stated policy, practice, or interpretation'' to mean, in part, ''[a]ny material aspect of the operation of the facilities of the self-regulatory organization'' or ''[a]ny statement made generally available'' that ''establishes or changes any standard, limit, or guideline'' with respect to the ''rights, obligations, or privileges'' of persons or the ''meaning, administration, or enforcement of an existing rule.'' 17 CFR 240.19b–4(b).

[4] *See* 17 CFR 249.819.

[5] *See* 15 U.S.C. 78s(b)(1). The SRO is required to prepare the notice of its proposed rule change on Exhibit 1 of Form 19b–4 that the Commission then publishes in the **Federal Register.**

[6] *See* 15 U.S.C. 78s(b)(2). However, as provided in Section 19(b)(2)(D) of the Exchange Act, 15 U.S.C. 78s(b)(2)(D), a proposed rule change shall be ''deemed to have been approved by the Commission'' if the Commission does not take action on a proposal that is subject to Commission approval within the statutory time frames specified in Section 19(b)(2).

[7] *See, e.g.,* 15 U.S.C. 78s(b)(3)(A).

[8] *See* 15 U.S.C. 78s(b)(2).

finds that the underlying rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the SRO proposing the rule change.[9]

At the same time, Section 19(b)(3)(A) of the Exchange Act provides that a proposed rule change may become effective upon filing with the Commission, without pre-effective notice and opportunity for comment, if it is appropriately designated by the SRO as: (i) Constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the SRO; (ii) establishing or changing a due, fee, or other charge imposed by the SRO on any person, whether or not the person is a member of the SRO; or (iii) relating solely to the administration of the SRO.[10]

Section 19(b)(3)(B) of the Exchange Act also separately provides that a proposed rule change may be put into effect summarily if it appears to the Commission that such action is necessary for the protection of investors, the maintenance of fair and orderly markets, or the safeguarding of securities or funds, and provides that any proposed rule change so put into effect shall be filed promptly thereafter with the Commission under Section 19(b)(1) of the Exchange Act.[11] Accordingly, a proposed rule change put into effect summarily under Section 19(b)(3)(B) of the Exchange Act is also subject to the procedures of Section 19(b)(2) of the Exchange Act—in other words, that it is summarily effective only until such time as the Commission: (i) enters an order, pursuant to Section 19(b)(2)(A) of the Act, to approve or disapprove such proposed rule change; or (ii) institutes proceedings to determine whether the proposed rule change should be disapproved.[12]

Under Section 19(b)(3)(C) of the Exchange Act, the Commission summarily may temporarily suspend a proposed rule change of an SRO that has taken effect pursuant to either Section 19(b)(3)(A) or 19(b)(3)(B) of the Exchange Act within sixty days of its filing if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.[13] If the Commission takes such action, it is then required to institute proceedings to determine whether the proposed rule change should be approved or disapproved.[14]

In addition to the matters expressly set forth in the statute, Section 19(b)(3)(A) also provides the Commission with the authority, by rule and when consistent with the public interest, to designate other types of proposed rule changes that may be effective upon filing with the Commission.[15] The Commission has previously used this authority to designate, under Rule 19b–4 of the Exchange Act, certain rule changes that qualify for effectiveness upon filing under Section 19(b)(3)(A).[16] On July 7, 2011, the Commission adopted an interim final rule (''Interim Final Rule'') to amend Rule 19b–4 to include in the list of categories that qualify for effectiveness upon filing under Section 19(b)(3)(A) of the Exchange Act any matter effecting a change in an existing service of a Registered Clearing Agency that (i) primarily affects the futures clearing operations of the clearing agency with respect to futures that are not security futures and (ii) does not significantly affect any securities[17] clearing operations of the clearing agency or any related rights or obligations of the clearing agency or persons using such service.[18] The Interim Final Rule also made corresponding technical modifications to the General Instructions for Form 19b–4. These actions were intended to provide a streamlined process for making effective, subject to certain conditions, proposed rule changes that primarily concern the futures clearing operations of a Registered Clearing Agency and are not linked to securities clearing operations.

B. Clearing Agencies Deemed Registered Under the Dodd-Frank Act

Section 763(b) of the Dodd-Frank Act[19] provides that (i) a depository institution registered with the Commodities Futures Trading Commission (''CFTC'') that cleared swaps as a multilateral clearing organization prior to the date of enactment of the Dodd-Frank Act and (ii) a derivatives clearing organization (''DCO'') registered with the CFTC that cleared swaps pursuant to an exemption from registration as a clearing agency prior to the date of enactment of the Dodd-Frank Act will be deemed registered with the Commission as a clearing agency solely for the purpose of clearing security-based swaps (''Deemed Registered Provision'').[20] On July 16, 2011, the Deemed Registered Provision, along with other general provisions

[9] 15 U.S.C. 78s(b)(2).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 15 U.S.C. 78s(b)(3)(B).

[12] *See* Securities Exchange Act Release Nos. 11461 (June 11, 1975); 11554 (July 28, 1975); 11555 (July 28, 1975); and 11556 (July 28, 1975). *See also* 17 CFR 249.819.

[13] 15 U.S.C. 78s(b)(3)(C).

[14] *Id.* Temporary suspension of a proposed rule change and any subsequent action to approve or disapprove such change shall not affect the validity or force of the rule change during the period it was in effect and shall not be reviewable under Section 25 of the Exchange Act, nor shall it be deemed to be ''final agency action'' for purposes of 5 U.S.C. 704. *Id.*

[15] 15 U.S.C. 78s(b)(3)(A).

[16] For example, Rule 19b–4(f) under the Exchange Act currently permits SROs to declare rule changes to be immediately effective pursuant to Section 19(b)(3)(A) if properly designated by the SRO as: (i) Effecting a change in an existing service of a Registered Clearing Agency that: (A) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible; and (B) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service; (ii) effecting a change in an existing order-entry or trading system of an SRO that: (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) does not have the effect of limiting the access to or availability of the system; or (iii) effecting a change that: (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the SRO has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. *See* 17 CFR 240.19b–4(f).

[17] Section 3(a)(10) of the Exchange Act defines ''security'' to include ''any note, stock, treasury stock, security future, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or substitution, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any instrument commonly known as a 'security'; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing * * *.'' 15 U.S.C. 78c(a)(10).

[18] *See Amendment to Rule Filing Requirements for Dually-Registered Clearing Agencies,* Securities Exchange Act Release No. 34–64832 (July 7, 2011), 76 FR 41056 (July 13, 2011).

[19] The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[20] *See* Section 763(b) of the Dodd-Frank Act (adding new Section 17A(l) to the Exchange Act, 15 U.S.C. 78q–1(1)). Under this Deemed Registered Provision, each of the Chicago Mercantile Exchange Inc. (''CME''), ICE Clear Europe Limited (''ICE Clear Europe'') and ICE Clear Credit LLC (''ICC''), as the successor entity of ICE Trust US LLC, became Registered Clearing Agencies solely for the purpose of clearing security-based swaps. Registered Clearing Agencies that currently conduct a swaps or a futures business are The Options Clearing Corporation (''OCC''), CME, ICE Clear Europe and ICC.

under Title VII of the Dodd-Frank Act, became effective,[21] thereby requiring each affected clearing agency to comply with all requirements of the Exchange Act and the rules and regulations thereunder applicable to Registered Clearing Agencies including, for example, the obligation to file proposed rule changes under Section 19(b) of the Exchange Act. The clearing of swaps,[22] futures, options on futures, and forwards is generally regulated by the CFTC in connection with its oversight and supervision of DCOs. DCOs are generally permitted to implement rule changes by self-certifying that the new rule complies with the CEA and the CFTC's regulations.[23] The changes effected by the Interim Final Rule were intended to eliminate unnecessary delays that could arise due to the differences between the Commission's rule filing process and the CFTC's self-certification process, which generally allows rule changes to become effective either before or within ten days after filing.[24]

C. The Interim Final Rule

The Interim Final Rule amended Rule 19b–4 to expand the list of categories that qualify for effectiveness immediately upon filing pursuant to Section 19(b)(3)(A) of the Exchange Act to include proposed rule changes made by Registered Clearing Agencies with respect to certain futures clearing operations.[25] Specifically, the Interim Final Rule amended Rule 19b–4(f)(4)(ii) to allow a proposed rule change concerning futures clearing operations filed by a Registered Clearing Agency to take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) so long as it is properly designated by the Registered Clearing Agency as effecting a change in a service of the Registered Clearing Agency that meets two conditions.[26] The first condition, set forth in Interim Final Rule 19b–4(f)(4)(ii)(A), is that the proposed rule change must primarily affect the futures clearing operations of the clearing agency with respect to futures that are not security futures.[27] For purposes of this requirement, a Registered Clearing Agency's ''futures clearing operations'' includes any activity that would require the Registered Clearing Agency to register with the CFTC as a DCO in accordance with the CEA.[28] In addition, to ''primarily affect'' such futures clearing operations means that the proposed rule change is targeted to affect matters related to the clearing of futures specifically, and that any effect on other clearing operations would be incidental in nature and not significant in extent. Because a security futures product is a security for purposes of the Exchange Act,[29] a Registered Clearing Agency may not invoke Rule 19b–4(f)(4)(ii) to designate proposed rule changes concerning the agency's security futures operations as taking effect upon filing with the Commission pursuant to Section 19(b)(3)(A). Instead, the Commission reviews such proposed rule changes in accordance with Section 19(b)(2), unless there is another basis for the change to be filed under Section 19(b)(3)(A).

The second condition, contained in Interim Final Rule 19b–4(f)(4)(ii)(B), is that the proposed rule change must not significantly affect any securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency or persons using such service.[30] The phrase ''significantly affect'' is used elsewhere in Rule 19b–4 in the context of defining other categories of proposed rule changes that qualify for effectiveness upon filing under Section 19(b)(3)(A) of the Exchange Act.[31] Accordingly, ''significantly affect'' has the same meaning and interpretation as that phrase has in Rules 19b–4(f)(4)(i) (as amended by the Interim Final Rule), 19b–4(f)(5), and 19b–4(f)(6). The Commission believes that a Registered Clearing Agency's ''securities clearing operations * * * or any related rights or obligations of the clearing agency or persons using such service'' would include activity that would require the Registered Clearing Agency to register as a clearing agency in accordance with the Exchange Act.

II. Final Rule

A. Comments Received on the Interim Final Rule

The Commission received three comment letters on the Interim Final Rule.[32] Two commenters urged the Commission to modify the Interim Final Rule to broaden the list of rule changes that qualify for effectiveness upon filing pursuant to Section 19(b)(3)(A) to include changes related to all products that are regulated by the CFTC.[33]

In their comment letters, both CME and ICE Clear Europe urged the Commission to expand Rule 19b–4(f)(4)(ii) to include proposed rule changes related to the swaps clearing

[21] Section 774 of the Dodd-Frank Act states, ''[u]nless otherwise provided, the provisions of this subtitle shall take effect on the later of 360 days after the date of the enactment of this subtitle or, to the extent a provision of this subtitle requires a rulemaking, not less than 60 days after publication of the final rule or regulation implementing such provision of this subtitle.''

[22] Section 721 of the Dodd-Frank Act amended Section 1a of the Commodity Exchange Act (''CEA'') to define the term ''swap.'' Among other things, the definition of ''swap'' specifically excludes any security-based swap other than a mixed swap. 7 U.S.C. 1a(47)(B)(x). *See also Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping,* 77 FR 48207 (August 13, 2012) (''Adopting Release''); 76 FR 29818 (May 23, 2011) (''Proposing Release'').

[23] *See* 7 U.S.C. 7a–2(c) and 17 CFR 40.6.

[24] *See* 7 U.S.C. 7a–2(c) and 17 CFR 40.6.

[25] When an SRO designates a proposed rule change as becoming effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Exchange Act, the Commission has the power summarily to temporarily suspend the change within sixty days of its filing if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act. *See* 15 U.S.C. 78s(b)(3)(A). *See also supra* note 14 and accompanying text.

[26] 17 CFR 240.19b–4(f)(4)(ii) (as amended by the Interim Final Rule).

[27] 17 CFR 240.19b–4(f)(4)(ii)(A) (as amended by the Interim Final Rule). For example, rules of general applicability that apply equally to securities clearing operations, including security-based swaps, would not be considered to primarily affect such futures clearing operations. In addition, changes to general provisions in the constitution, articles, or bylaws of the Registered Clearing Agency that address the operations of the entire clearing agency would not be considered to primarily affect such futures clearing operations. *See* Interim Final Rule, Securities Exchange Act Release No. 64832 (July 7, 2011), 76 FR 41056, 41058 (July 13, 2011).

[28] *See* 7 U.S.C. 7a–1 (providing that it shall be unlawful for a DCO, unless registered with the CFTC, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a DCO (as described in 7 U.S.C. 1a(9)) with respect to a contract of sale of a commodity for future delivery (or option on such a contract) or option on a commodity, in each case unless the contract or option is (i) otherwise excluded from registration in accordance with certain sections of the CEA or (ii) a security futures product cleared by a Registered Clearing Agency); *see also* Interim Final Rule, Securities Exchange Act Release No. 64832 (July 7, 2012), 76 FR 41056, 41058 (July 13, 2011).

[29] 15 U.S.C. 78c(a)(10).

[30] 17 CFR 240.19b–4(f)(4)(ii)(B) (as amended by the Interim Final Rule).

[31] *See, e.g.,* 17 CFR 240.19b–4(f)(4)(i) (as amended by the Interim Final Rule) (in respect of a proposed rule change in an existing service of a Registered Clearing Agency that: (1) Does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (2) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service); *see also* Interim Final Rule, Securities Exchange Act Release No. 64832 (July 7, 2012), 76 FR 41056, 41059 (July 13, 2011).

[32] Copies of comments received on the proposal are available on the Commission's Web site at: *http://www.sec.gov/comments/s7-29-11/s72911.shtml.*

[33] *See, e.g.,* comment letter of Craig Donohue, Chief Executive Office, CME Group, Inc. (Sep. 15, 2011) (''CME Letter'') and comment letter of Shearman & Sterling LLP, on behalf of ICE Clear Europe Limited (Sept. 15, 2011) (''ICE Clear Europe Letter'').

operations of a Registered Clearing Agency.[34] In particular, CME noted that its current business involves the clearing of both futures and swaps, including agricultural swaps, interest rate swaps, certain over-the-counter (''OTC'') commodity products (including gold forwards and freight forwards) and, potentially, energy and foreign exchange swaps.[35] CME raised concerns that, by omitting swaps and certain other OTC products from the types of products covered by Rule 19b–4(f)(4)(ii), it is ''now subject to substantial potential delays'' when implementing rule changes that deal with products over which the Commission is not its primary regulator.[36] ICE Clear Europe raised similar concerns with respect to its non-security-based swaps business, particularly its longstanding energy derivatives clearing business.[37] Specifically, ICE Clear Europe requested that Rule 19b–4(f)(4)(ii) be expanded to include proposed rule changes that relate solely to swaps, and are not related to security-based swaps.[38]

CME also requested that the Commission revise Rule 19b–4(f)(4)(ii) generally such that only proposed rule changes that relate directly to security-based swap clearing activities would be subject to the Commission's review in accordance with Section 19(b)(2).[39] CME further requested that Rule 19b–4(f)(4)(ii) permit proposed rule change filings to be made pursuant to Section 19(b)(3)(A) with respect to ''rules of general applicability for product categories, such as [credit default swaps], where clearing is offered for both swaps and security-based swaps'' and that a Section 19(b)(2) filing not be required for any other swap or ''OTC product categories with no direct or significant impact on security-based swaps,'' and should also not be required for ''broad rules of general applicability as to clearing operations that will not have any particular or significant impact on security-based swaps clearing.''[40]

CME stated that, at present, its entire business, including the clearing of credit default swaps on broad-based indices, falls under the exclusive jurisdiction of the CFTC, and that the effect of the Interim Final Rule has been to replace the rule filing regime of the CEA with the pre-approval rule filing regime of the Exchange Act. CME stated that it believes the Deemed Registered Provision was intended to allow clearing agencies already authorized to clear and engaged in the clearing of credit default swaps and other products under the authority of the CFTC to continue to do so without undue disruption to its service offerings, and that Congress did not intend to change this fundamental division of responsibilities.

B. Amendments to the Interim Final Rule

The Commission hereby affirms the amendments effected by the Interim Final Rule. As set forth herein, and after giving consideration to the comments received concerning the Interim Final Rule, the Commission is hereby modifying Rule 19b–4(f)(4)(ii) in two further respects.

1. Inclusion of Other Products That Are Not Securities, Including Certain Swaps and Forwards[41]

First, the Commission is revising Rule 19b–4(f)(4)(ii) to add certain rule changes primarily affecting a Registered Clearing Agency's clearing operations for other non-securities products to the list of changes that qualify for effectiveness upon filing pursuant to Section 19(b)(3)(A). In particular, in response to commenters,[42] the Commission is broadening Rule 19b–4(f)(4)(ii)(A) to encompass proposed rule changes that primarily affect not only a Registered Clearing Agency's clearing of futures that are not security futures, but also other products that are not securities, including swaps that are not security-based swaps[43] or mixed swaps,[44] and forwards that are not security forwards.[45] The Commission believes that also including proposed rule changes that primarily affect a Registered Clearing Agency's clearing operations with respect to these non-securities products in the list of changes that would qualify for effectiveness upon filing under Section 19(b)(3)(A) is consistent with the Commission's purposes for initially amending Rule 19b–4 pursuant to the Interim Final Rule. Specifically, this approach should help limit potential delays to the effectiveness of rule changes that primarily concern a Registered Clearing Agency's clearing operations with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, subject to the limitations contained in Rule 19b–4(f)(4)(ii)(B).[46]

For purposes of Rule 19b–4(f)(4)(ii)(A), a Registered Clearing Agency's clearing operations with

[34] *See* CME Letter and ICE Clear Europe Letter.

[35] *See* CME Letter.

[36] *Id.*

[37] *See* ICE Clear Europe Letter.

[38] *Id.*

[39] *See* CME Letter.

[40] *Id.* In its comment letter, CME noted that Executive Order 13563, which the President signed on January 18, 2011, requires, among other things, that all executive branch agencies identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public, in each case where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law. While this order does not apply to independent agencies, the President separately signed Executive Order 13579 on July 11, 2011, which requires each independent agency to develop and release a public plan to periodically review its existing significant regulations ''to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.'' The Commission notes that the purpose of Rule 19b–4(f)(4)(ii) is to reduce burdens that would otherwise apply to Registered Clearing Agencies by virtue of certain statutory provisions contained in the Exchange Act, as amended by the Dodd-Frank Act. Specifically, the Final Rule permits Registered Clearing Agencies to submit to the Commission for effectiveness upon filing proposed rule changes that effect changes in their existing services that primarily affect their clearing of products that are not securities, including futures that are not security futures, swaps that are not securities-based swaps or mixed swaps, and forwards that are not security forwards, and that and do not significantly affect the clearing agency's securities clearing operations or the rights or obligations of the clearing agency with respect to securities clearing or persons using such securities clearing services.

[41] Section 721 of the Dodd-Frank Act defines the term ''swap'' broadly to encompass a variety of derivatives products. The definition includes, for example, interest rate swaps, commodity swaps, currency swaps, equity swaps, and credit default swaps. It also extends to certain types of forward contracts, as well as certain types of options, but excludes, among other things, options on any security or group or index of securities, including any interest therein or based on the value thereof. *See* 7 U.S.C. 1a(47).

[42] *See* CME Letter and ICE Clear Europe Letter.

[43] *See* 15 U.S.C. 78(c)(68).

[44] *See* 15 U.S.C. 78(c)(68)(D).

[45] The Commission notes that it would not regard a clearing agency's filing of proposed rule changes relating to a product the legal status of which may not be clear pursuant to Section 19(b)(2) or Section 19(b)(3)(B) of the Act as a determination or presumption by the clearing agency that such proposed rule changes involve products that are securities. Similarly, the Commission's acceptance of proposed rule changes for filing under paragraph (f)(4)(ii) would not constitute a presumption or determination by the Commission that the products involved are not securities. The Commission also notes that Section 718 of the Dodd-Frank Act (''Section 718'') established a process through which the Commission and the CFTC could work together to determine the status of ''novel derivative products'' that may have elements of both securities and contracts of sale of a commodity for future delivery (or options on such contracts or options on commodities). In this regard, the Commission notes that the filing of a proposed rule change pursuant to Section 19(b)(2) or Section 19(b)(3)(B) of the Act, or paragraph (f)(4)(ii), would not be considered a notice under Section 718 to the Commission.

[46] 17 CFR 240.19b–4(f)(ii)(B) (providing, as the second condition for satisfying Rule 19b–4(f)(ii), that the proposed rule change ''[d]oes not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service.'').

respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, would include an activity that would require the Registered Clearing Agency to register with the CFTC as a DCO in accordance with the CEA.[47] In addition, a proposed rule change ''[p]rimarily affects'' a clearing agency's clearing operations with respect to products that are not securities when it is targeted to matters related only to the clearing of those products.[48] For example, rules of general applicability that would apply equally to securities clearing operations, including security-based swaps, would not be considered to primarily affect a Registered Clearing Agency's non-securities clearing operations. While CME requested that rules of general applicability be eligible for effectiveness upon filing, the Commission believes rules that would have equal applicability to securities clearing operations must be filed for Commission review in accordance with Section 19(b)(2), which will enable the Commission to fulfill its statutory obligations under the Exchange Act. If rules that have a significant impact on securities operations were permitted to become immediately effective, the Commission would not have the ability to review the impact of the rules against Exchange Act standards before their effectiveness, which would undercut the scope of the Commission's oversight of registered clearing agencies. In addition, changes to general provisions in the constitution, articles, or bylaws of the Registered Clearing Agency that address the operations of the entire clearing agency also would not be considered to primarily affect such Registered Clearing Agency's clearing operations with respect to products that are not securities.

Further, because security futures, security-based swaps, mixed swaps, security forwards, and options on securities are considered securities for purposes of the Exchange Act,[49] a Registered Clearing Agency would not be permitted to file proposed rule changes related to these lines of business pursuant to Section 19(b)(3)(A) of the Exchange Act in reliance on Rule 19b–4(f)(4)(ii). Instead, such clearing agency would continue to be required to file proposed rule changes related to its clearing of security futures, security-based swaps, mixed swaps, security forwards, options on securities, or other securities products for Commission review in accordance with Section 19(b)(2) of the Exchange Act, unless there is another basis for the proposed rule change to be filed under Section 19(b)(3)(A).

The Commission generally believes that it is appropriate to review proposed rule changes in accordance with the process set forth in Section 19(b)(2) of the Exchange Act whenever the changes ''significantly affect'' any securities clearing operations of the clearing agency (unless there is another basis for the proposed rule change to be filed under Section 19(b)(3)(A)), even in circumstances when such effects may be indirect.[50]

The Commission is charged with determining whether the rules of a Registered Clearing Agency are designed, among other things, ''to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible * * * and, to protect investors and the public interest.'' [51] The Commission's oversight responsibility over Registered Clearing Agencies extends to the clearing agency as a whole and is entity-based, rather than product-based.[52] If Registered Clearing Agencies did not file proposed rule changes with the Commission that relate to their clearing operations, as required under Section 19(b) of the Exchange Act, the Commission would not be able to meet its statutory oversight responsibilities.

2. Addition of the ''Fair and Orderly Markets'' Provision

In light of the issues identified by the commenters in connection with the Interim Final Rule, the Commission has determined to further revise Rule 19b–4(f)(4)(ii)(B) by adding a second clause that will permit clearing agencies to file a proposed rule change under Section 19(b)(3)(A) when the rule change primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, even when the proposed rule ''significantly affects'' any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, if the clearing agency can demonstrate that the rule change is ''necessary to maintain fair and orderly markets for products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards.''

A proposed rule change filed by a clearing agency relying on this ''fair and orderly markets'' provision must, in addition to being filed for approval pursuant to Section 19(b)(3)(A), be separately filed for approval pursuant to Section 19(b)(2), and this second filing must be made within fifteen calendar days after the proposed rule change was filed for approval under Section 19(b)(3)(A). Accordingly, in most cases, a rule that is effective upon filing under Section 19(b)(3)(A) that relies upon the ''fair and orderly markets'' provision of Rule 19b–4(f)(4)(ii)(B) shall be effective until such time as the Commission enters an order, pursuant to Section 19(b)(2)(A) of the Exchange Act, to approve such proposed rule change or, depending on the circumstances, until such time as the Commission summarily temporarily suspends the rule change

[47] *See* 7 U.S.C. 7a–1 (providing that it shall be unlawful for a DCO, unless registered with the CFTC, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a DCO (as described in 7 U.S.C. 1a(9)) with respect to a contract of sale of a commodity for future delivery (or option on such a contract) or option on a commodity, in each case unless the contract or option is (i) otherwise excluded from registration in accordance with certain sections of the CEA or (ii) a security futures product cleared by a Registered Clearing Agency).

[48] If a proposed rule change filed pursuant to Section 19(b)(3)(A) has an incidental but significant effect on clearing operations with respect to products that are not securities and does not qualify under new Rule 19b–4(f)(4)(ii)(B)(II), the Commission summarily may, within 60 days after the proposed rule change becomes effective under Section 19(b)(3)(A), temporarily suspend the rule change and institute proceedings to determine whether to approve or disapprove the rule change pursuant to the provisions of Section 19(b)(2). Alternatively, as with other filings that do not meet the requirements of Section 19(b)(3)(A) and Rule 19b–4(f), the Commission may reject the filing as technically deficient within seven business days, pursuant to Section 19(b)(10)(B). 15 U.S.C. 78s(b)(10)(B).

[49] 15 U.S.C. 78c(a)(10). As previously noted, however, the definition of ''swap'' specifically excludes any security-based swap other than a mixed swap. *See supra* note 22.

[50] For example, in instances where the swap and security-based swap business of a clearing agency are intertwined, such as when a clearing agency has established one clearing fund or pool of financial resources for both products, changes applicable to such swaps are unlikely to meet the requirement that the change not significantly affect any securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency or persons using such service.

[51] 15 U.S.C. 78q–1(b)(3)(F).

[52] *See* S. Rep. No. 94–75, at 34 (1975), *reprinted in* 1975 U.S.C.C.A.N. 179, 212 (''The Commission has oversight responsibility with respect to the self-regulatory organizations to insure that they exercise their delegated governmental power effectively to meet regulatory needs in the public interest and that they do not exercise that delegated power in a manner inimical to the public interest or unfair to private interests.'').

pursuant to Section 19(b)(3)(C) or, alternatively, until such time as the Commission, at the conclusion of proceedings to determine whether to approve or disapprove the proposed rule change, enters an order, pursuant to Section 19(b)(2)(B), approving or disapproving such proposed rule change.[53]

To demonstrate that a proposed rule change is ''necessary to maintain fair and orderly markets,'' a clearing agency must include in both of its filings with the Commission a detailed explanation of the following: (i) Why the proposed rule change is necessary to maintain fair and orderly markets for products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards; (ii) why the proposed rule change cannot achieve this goal unless it takes effect immediately; (iii) how, and to what extent, markets would be adversely affected if the proposed rule change were not implemented immediately; (iv) whether the proposed rule change is temporary or permanent; (v) how the proposed rule change significantly affects any securities clearing operations of the clearing agency or the rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service; and (vi) why the proposed rule change would have no adverse effect on maintaining fair and orderly markets for securities.

The Commission believes that the new ''fair and orderly markets'' provision directly addresses the specific concerns raised by commenters, while preserving the core features of the Commission's existing notice and comment rule filing process. In particular, this provision is intended to respond to commenters' observations that the pre-effective notice and comment requirement of the Commission's Section 19(b)(2) rule filing process may unnecessarily burden existing non-securities markets. The new rule provision in Rule 19b–4(f)(4)(ii)(B)(II) allows Registered Clearing Agencies that are also DCOs to have rules that are necessary to maintain fair and orderly markets and that have a significant effect on securities operations of the Registered Clearing Agencies to take effect immediately upon filing, while the traditional notice and comment period under the Exchange Act proceeds thereafter.

The Commission believes the limited period of effectiveness while the notice and comment period proceeds is justified in the specific circumstances contemplated by the Final Rule given the nature of the issues raised by commenters and the substantial protections that will continue to exist under the Final Rule. In particular, the Dodd-Frank Act represents a significant reform of the national market system for securities and the national system for the clearance and settlement of securities transactions in which cooperation between the Commission and the CFTC is explicitly contemplated. Moreover, the clearly established time periods and procedures associated with the Commission's notice and comment process should lead to a greater level of assurance that rules enacted in this manner that will have significant direct or indirect effects on the securities clearing activities of the clearing agency either immediately or in the future will be given due consideration by the Commission with the benefit of views from outside parties.

The Commission does not intend or expect the new ''fair and orderly markets'' provision to become, in practice, a common method for Registered Clearing Agencies to submit proposed rule changes that affect their clearing operations with respect to products that are not securities, including futures that are not securities futures, swaps that are not securities-based swaps or mixed swaps, and forwards that are not security forwards, but which also affect their securities clearing operations.[54] The ''necessary to maintain fair and orderly markets'' language central to the new provision is intended to be narrowly circumscribed, and will permit clearing agencies to use the new provision for rule filings that may be necessary to respond promptly to major market emergencies and other situations of significant importance to the functioning of markets for products that are not securities. In instances when securities clearing operations are significantly affected, but the proposed rule change is not necessary to maintain fair and orderly markets for products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, a Registered Clearing Agency must file the proposed rule change pursuant to Section 19(b)(1) of the Exchange Act for approval under Section 19(b)(2) without reliance on Rule 19b–4(f)(4)(ii)(B)(II).

Finally, the Commission notes that Section 19(b)(2) of the Exchange Act permits the Commission to approve a proposed rule change on an accelerated basis if it finds good cause to do so and publishes its reasons for so finding.[55] The application of this provision will be determined by the Commission on a case-by-case basis depending on the facts and circumstances pertaining to the proposed rule change.

3. Conclusion

The Commission believes that permitting clearing agencies to submit proposed rule changes that meet the two conditions in Rule 19b–4(f)(4)(ii) for immediate effectiveness upon filing pursuant to Section 19(b)(3)(A) of the Exchange Act is consistent with the public interest and the purposes of the Exchange Act. In particular, this approach should help limit the potential for delays by providing a streamlined filing process for rule changes that primarily affect the clearing agency's clearing operations with respect to products that are not securities, including futures that are not securities futures, swaps that are not securities-

[53] Because proposed rule changes filed pursuant to Rule 19b–4(f)(4)(ii)(B)(II) are submitted in accordance with the Commission's statutory authority set forth in Section 19(b)(3)(A), the Commission would retain the power to summarily temporarily suspend the rule change within 60 days of its filing if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act. *See* 15 U.S.C. 78s(b)(3)(C). The Commission would then be required to institute proceedings to determine whether the rule should be approved or disapproved. *Id.* As a practical matter, however, the Commission expects that proposed rule changes filed under the ''fair and orderly markets'' provision would remain in effect while they are reviewed in accordance with Section 19(b)(2) which, among other things, requires the Commission to approve, disapprove, or institute proceedings to determine whether to disapprove a proposed rule change within 45 days of its date of publication in the **Federal Register**, subject in certain circumstances to an extension of up to an additional 45 days. The Commission would nonetheless retain the ability, within 60 days after a proposed rule change becomes effective under 19(b)(3)(A), to summarily temporarily suspend the rule change and institute proceedings or, after the 60-day summary suspension deadline, to disapprove the rule change pursuant to the provisions of Section 19(b)(2).

[54] One court that interpreted a ''fair and orderly markets'' standard appearing in another area of the Exchange Act found the phrase to be an indication that relevant Commission actions are to be evaluated primarily by reference to the Congressional purposes of the Securities Act Amendments of 1975 involving the establishment of a national market system for securities and a national system for the clearance and settlement of securities transactions. *See Ludlow Corp.* v. *SEC,* 604 F.2d 704 (D.C. Cir. 1979) (discussing origins and purposes of ''fair and orderly markets'' provision in Section 12(f)(2) of the Exchange Act).

[55] *See* 15 U.S.C. 78s(b)(2)(C)(iii) (''[t]he Commission may not approve a proposed rule change earlier than 30 days after the date of publication under paragraph (1), unless the Commission finds good cause for so doing and publishes the reason for the finding.'').

based swaps or mixed swaps, and forwards that are not security forwards which, unless such clearing operations were linked to securities clearing operations, would not be subject to regulation by the Commission. In addition, the information provided to the Commission by a Registered Clearing Agency in a filing submitted for review in accordance with Section 19(b)(2) of the Exchange Act is virtually identical to the information required to be included in a filing made pursuant to Section 19(b)(3)(A). At the same time, the Final Rule will specifically require clearing agencies relying on the new ''fair and orderly markets'' provision to continue to submit to the Section 19(b)(2) approval process while the rule change is in effect, and the Commission will retain the power to temporarily suspend the Registered Clearing Agency's rule change on a summary basis within sixty days after the rule is filed under Section 19(b)(3)(A) if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.[56]

B. Amendment to the General Instructions for Form 19b–4

To accommodate the amendment to Rule 19b–4 being adopted today, the Commission also is making a corresponding technical modification to the General Instructions for Form 19b–4 under the Exchange Act. Specifically, the Commission is amending Item 7(b) of the General Instructions for Form 19b–4 (Information to be Included in the Completed Form), which requires the respondent SRO to cite the statutory basis for filing a proposed rule change pursuant to Section 19(b)(3)(A) in accordance with the existing provisions of Rule 19b–4(f). This amendment revises Item 7(b)(iv) to include the option to file the form in accordance with Rule 19b–4(f)(4)(ii), which provides for situations when a Registered Clearing Agency is effecting a change in an existing service that (i) primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards and (ii) either (a) does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, or (b) does significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, but is necessary to maintain fair and orderly markets for products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards. Additional language is also being added to specify that clearing agencies using the ''fair and orderly markets'' provision will also be subject to the provisions of Section 19(b)(2) of the Exchange Act, in a manner equivalent to the process now used by the Commission for filings that are summarily approved by the Commission under Section 19(b)(3)(B) of the Exchange Act, and to specify the information clearing agencies must include in order to demonstrate that a proposed rule change is ''necessary to maintain fair and orderly markets for products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards.''

III. Paperwork Reduction Act

The Commission does not believe that the Final Rule contains any ''collection of information'' requirements as defined by the Paperwork Reduction Act of 1995, as amended (''PRA'').[57] The Final Rule affirms and further modifies recent amendments to Rule 19b–4 under the Exchange Act, such that the list of categories that qualify for effectiveness upon filing under Section 19(b)(3)(A) of the Exchange Act include any matter effecting a change in an existing service of a Registered Clearing Agency that: (i) primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not securities-based swaps or mixed swaps, and forwards that are not security forwards; and (ii) either (a) does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, or (b) does significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, but is necessary to maintain fair and orderly markets for products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards. In addition, a proposed rule change filed by a Registered Clearing Agency relying on the ''fair and orderly markets'' provision set forth in new Rule 19b–4(f)(4)(ii)(B)(II) would also be filed for approval pursuant to Section 19(b)(2) of the Exchange Act.[58] Lastly, the Final Rule also makes a corresponding technical modification to the General Instructions for Form 19b–4 under the Exchange Act.

The Commission does not believe that these amendments would require any new or additional collection of information, as such term is defined in the PRA. The PRA defines a ''collection of information'' as ''the obtaining, causing to be obtained, soliciting or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for * * * answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons * * *.''[59] The Commission does not believe that the reporting and recordkeeping provisions in this Final Rule contain ''collection of information requirements'' within the meaning of the PRA because fewer than ten persons are expected to rely on Rule 19b–4(f)(4)(ii). At present, only four Registered Clearing Agencies maintain a futures or swaps clearing business regulated by the CFTC.

IV. Economic Analysis

A. Introduction

The Commission is sensitive to the economic effects of the amendments to Rule 19b–4, including their costs and benefits. Section 23(a)[60] of the Exchange Act requires the Commission, when making rules and regulations

[56] 15 U.S.C. 78s(b)(3)(C). If the Commission takes such action, it is then required to institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[57] 44 U.S.C. 3501, *et seq.*

[58] Accordingly, in most cases, a rule that is effective upon filing under Section 19(b)(3)(A) that relies upon the ''fair and orderly markets'' provision of Rule 19b–4(f)(4)(ii)(B)(II) shall be effective only until such time as the Commission enters an order, pursuant to Section 19(b)(2)(A) of the Exchange Act, to approve such proposed rule change or, depending on the circumstances, until such time as the Commission summarily temporarily suspends the rule change pursuant to Section 19(b)(3)(C) or, alternatively, until such time as the Commission, at the conclusion of proceedings to determine whether to approve or disapprove the proposed rule change, enters an order, pursuant to Section 19(b)(2)(B), approving or disapproving such proposed rule change.

[59] 44 U.S.C. 3502(3)(A).

[60] 15 U.S.C. 78w(a).

under the Exchange Act, to consider the impact a new rule would have on competition. Section 23(a)(2) of the Exchange Act prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Section 3(f) of the Exchange Act[61] requires the Commission, when engaging in rulemaking that requires it to consider whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action would promote efficiency, competition, and capital formation. We have considered and discussed below the effects of the rules we are adopting today on efficiency, competition, and capital formation, as well as the benefits and costs associated with the rulemaking.

As noted above, the Deemed Registered Provision, along with other general provisions under Title VII of the Dodd-Frank Act, became effective on July 16, 2011. Accordingly, the four Registered Clearing Agencies that currently maintain a futures, swaps, or forwards clearing business regulated by the CFTC are generally required to file proposed rule changes with the Commission under Section 19(b) of the Exchange Act, and to comply separately with the CFTC's process for self-certification or direct approval of rules or rule amendments.[62] The Commission is sensitive to the increased burdens these obligations will impose, and agrees that it is in the public interest to eliminate any potential inefficiencies and undue delays that could result from the requirement that the Commission review changes to rules primarily affecting clearing operations with respect to products that are not securities, including futures that are not securities futures, swaps that are not securities swaps or mixed swaps, and forwards that are not security forwards before these changes may be considered effective.

In connection with the Interim Final Rule, the Commission identified certain costs and benefits of the amendments to Rule 19b–4 and Form 19b–4, and requested commenters to provide views and supporting information regarding the costs and benefits associated with the proposals, including estimates of these costs and benefits, as well as any costs and benefits not already identified. Although the Commission did not receive any comments on the specific cost-benefit analysis conducted in connection with the Interim Final Rule, one commenter expressed a general view questioning whether the Commission's rulemaking in this area adequately respects the jurisdictional boundaries established by Congress when it passed the Dodd-Frank Act, noting that the requirement to file with the Commission for review in accordance with Section 19(b)(2) proposed rule changes that primarily affect the futures and swaps operations of a clearing agency registered with the Commission and the CFTC (''Dually-Registered Clearing Agency'') is an unreasonable outcome under a costs-benefits analysis.[63] Specifically, this commenter argued that the Commission should not impose a rule that subjects a proposed rule change to a ''lengthy public comment review process'' in cases when the change relates to a matter that falls within the ''exclusive or primary jurisdiction'' of another agency (*i.e.,* the CFTC).[64] The commenter argued that duplicative regulatory oversight is inherently unreasonable and imposes ''tremendous'' costs, but did not adduce any empirical evidence to support its assertion.

The Commission disagrees with the commenter's assertion that the rule will result in unnecessarily duplicative regulatory oversight. The Exchange Act imposes upon the Commission an independent statutory responsibility to oversee the operations of Registered Clearing Agencies as a whole, and not solely in regard to specific products.[65] The Commission's role in reviewing rule filings ensures that the Commission has complete information regarding the overall scope of operations and financial condition of the clearing agency, so that the Registered Clearing Agency's ability to continue to provide clearing services for security futures, security-based swaps, mixed swaps, security forwards, options on securities, and other securities products in a manner consistent with the Exchange Act can be fully understood and placed in proper context. Accordingly, the Commission believes that its continued review of rule filings that primarily affect a Dually-Registered Clearing Agency's operations involving futures that are not securities futures, swaps that are not securities swaps or mixed swaps, forwards that are not security forwards, and other non-securities products is a necessary and appropriate part of the Commission's statutory mandate.

With respect to the commenter's assertion concerning unnecessary additional costs, the Commission observes that the Final Rule is not imposing an additional requirement to submit a proposed rule change to the Commission. As previously noted, Section 19(b)(1) of the Exchange Act requires each SRO, including all Registered Clearing Agencies, to file with the Commission copies of ''*any* proposed rule or any proposed change in, addition to, or deletion from the rules of such SRO'' (emphasis added).[66] On its face, this provision applies to all proposed rule changes without regard to the extent to which the affected product is subject to the jurisdiction of another agency. The changes made to Rule 19b–4 pursuant to the Interim Final Rule were intended to utilize the Commission's statutory authority in Section 19(b)(3)(A) of the Exchange Act to provide relief to Dually-Registered Clearing Agencies and to avoid undue delays that could result from the requirement that the Commission review proposed rule changes primarily concerning a clearing agency's non-security futures clearing operations before they may be considered effective. This Final Rule is intended to affirm and expand this relief to changes to rules primarily concerning a clearing agency's clearing operations with respect to swaps that are not securities-based swaps or mixed swaps, forwards that are not security forwards, and other non-securities products. The underlying obligation to file proposed rule changes arises entirely from Section 19(b)(1) of the Exchange Act and not from any action taken by the Commission pursuant to the Interim Final Rule or this Final Rule.

Accordingly, and for the reasons discussed below, the Commission believes that its analysis of the benefits and costs of the amendments to Rule 19b–4 and the General Instructions for Form 19b–4, as set forth in the Interim Final Rule and described herein, are appropriate. Further, the Commission believes that any impact on competition would be neutral, as all Registered Clearing Agencies may avail themselves of the Final Rule if the circumstances meet the requirements of the Final Rule.

[61] 15 U.S.C. 78c(f).

[62] These include OCC, CME, ICC, and ICE Clear Europe.

[63] *See* CME Letter.

[64] *Id.* In its letter, CME also noted that it currently does not clear any security-based swaps and is registered with the Commission solely by operation of the Deemed Registered Provision (although it does have plans to offer clearing services for credit default swaps that are security-based swaps in the near future). *See also* ICE Clear Europe Letter (expressing the view that ''rulemaking in furtherance of the purposes of the Dodd-Frank Act should, as much as possible, (i) respect the jurisdictional boundaries delegated to the CFTC and the Commission under that Act, and (ii) pursue efficiency and reduce the costs of rulemaking wherever possible'').

[65] *See* 15 U.S.C. 78q–1(b); *see also supra* note 52.

[66] *See supra* note 3.

Also, this rule does not increase barriers for new clearing agencies to enter the clearing markets, and implementation of the Final Rule will not favor larger entities over smaller ones, and hence the impact on competition is negligible. Finally, the Commission does not believe that the Final Rule contributes towards the promotion of capital formation of Registered Clearing Agencies in any appreciable manner.

The Commission discusses below a number of the costs and benefits that will attend the Final Rule. Many of these costs and benefits are difficult to quantify with any degree of certainty, particularly as it is difficult to predict the number of rule filings that will qualify for approval pursuant to Section 19(b)(3)(A) under the Final Rule. Thus, while much of the discussion is qualitative in nature, the Commission attempts to quantify certain burdens, when possible. The Commission believes that the changes brought about by the Final Rule—which will require Registered Clearing Agencies to file under Section 19(b)(1) both for Section 19(b)(2) approval and for Section 19(b)(3)(A) approval only in the rare situations in which the ''fair and orderly markets'' provision is invoked—will lead to only a negligible increase in the costs associated with filing proposed rule changes. The Commission further believes that these additional costs are justified by the efficiency gains that will result from the Final Rule's broadening of the types of rule changes that may become effective upon filing.

B. Justification for the Final Rule

The Final Rule is intended to improve regulatory processes. Allowing proposed rule changes that (i) primarily affect the clearing of products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards; and (ii) do not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, to be filed under Section 19(b)(3)(A) would further streamline rule filing procedures and reduce the potential for duplicative or inconsistent regulation affecting Registered Clearing Agencies. With regard to the addition of the ''fair and orderly markets'' provision and its attendant rule filing requirements, clearing agencies and the markets potentially benefit from the expedited effectiveness of the rule change, while a meaningful notice and comment process is preserved without the disruption of a summary suspension of the rule.

C. Affected Parties

As indicated in the PRA section above, the Final Rule will affect four Registered Clearing Agencies.

D. Baseline

The Interim Final Rule serves as the appropriate baseline for purposes of this analysis. Under the Interim Final Rule, the four Dually-Registered Clearing Agencies may file a proposed rule change and request that it become effective immediately upon filing if the rule change (i) primarily affects the futures clearing operations of the clearing agency with respect to futures that are not security futures and (ii) does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service. Registered Clearing Agencies seeking approval for proposed rule changes involving the clearing of other products that are not securities, including swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, providing the changes are not eligible for immediate effectiveness under Section 19(b)(3)(A) pursuant to one of the other eligibility categories, must do so pursuant to Section 19(b)(2), which requires a pre-effective notice and comment period, as well as formal Commission approval. Thus, in the ordinary case, Dually-Registered Clearing Agencies currently may not implement proposed rule changes with respect to certain products that are not securities, including swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards until the Commission: (i) Issues a notice of the proposed rule change for a period of time within which the public can comment; (ii) reviews and considers comments received regarding the proposed rule change, if any; and (iii) issues an order approving the proposed rule change. This review process ordinarily takes anywhere from forty-five to sixty calendar days after the Commission receives the proposed rule change from the clearing agency.[67]

Since the Interim Final Rule took effect on July 15, 2011,[68] Dually-Registered Clearing Agencies have utilized it on nine occasions to obtain immediate effectiveness for proposed rule changes that would not otherwise have been eligible to become effective upon filing.[69] An examination of proposed rule filings made during the 2012 calendar year, however, indicates the number of proposed rule changes eligible for immediate effectiveness under Section 19(b)(3)(A) would have more than doubled had the changes contemplated by the Final Rule been in place. Specifically, between January 1 and October 1, 2012, the Commission received 75 rule filings from Dually-Registered Clearing Agencies, 52 of which were not already eligible for immediate effectiveness under Section 19(b)(3)(A). Of these 52, the Commission believes that 23 additional filings, or approximately 44%, likely would have been eligible for filing under Rule 19b–4(f)(4)(ii) had the Final Rule been in effect.[70]

The Commission believes that requiring the Dually-Registered Clearing Agencies to seek approval under Section 19(b)(2) for the 23 proposed rule changes described above created inefficiencies and unnecessary delay because the Interim Final Rule did not permit these proposed rule changes—which primarily affected the Dually-Registered Clearing Agencies' handling of non-security products, and had no significant effect on securities clearing operations or any related rights or obligations—to be filed for immediate effectiveness. As noted, the Section

[67] The Commission has fifteen calendar days from the date of receipt of the proposed rule change to deliver notice of the proposed rule change for publication in the **Federal Register**, providing the clearing agency posted the notice of the proposed rule change, together with the substantive terms of the proposed change, that it delivered to the Commission on its Web site within two days of sending it to the Commission. 15 U.S.C. 78s(b)(2)(E). The Commission may not approve a proposed rule change until the thirtieth day after publication of the notice in the **Federal Register** and is required to approve, disapprove, or institute proceedings to determine whether to approve or disapprove a proposed rule change within forty-five days after publication of the notice in the **Federal Register**. *See* 15 U.S.C. 78s(b)(2)(C)(iii), (b)(2)(A).

[68] *See* Exchange Act Release No. 64832 (July 7, 2011), 76 FR 41056 (July 13, 2011).

[69] The Chicago Mercantile Exchange, Inc. filed seven of these proposed rule changes, while The Options Clearing Corporation and ICE Clear Credit LLC each filed one. All of these rule filings were made pursuant to Rule 19b–4(f)(4)(ii), which allows a proposed rule change to take effect upon filing if it primarily affects the clearing agency's futures clearing operations with respect to futures that are not securities futures and does not have a significant effect upon the clearing agency's securities clearing operations.

[70] *See, e.g., Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Amend Certain Aspects of the Performance Bond Regime Applicable to Cleared Only OTC FX Swaps,* Exchange Act Release No. 66354 (Feb. 8, 2012), 77 FR 8318 (Feb. 14, 2012) (SR–CME–2012–03); *Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Regarding Acceptance of Additional Interest Rate Swaps and Related Interbank Rates for Clearing,* Exchange Act Release No. 66786 (Apr. 11, 2012), 77 FR 22825 (Apr. 17, 2012) (SR–CME–2012–10).

19(b)(2) process requires the Commission to solicit public comments, review them, and issue an order approving or denying the rule change, a process that can take between 45 and 60 days, and possibly longer. This engenders a substantial degree of timing uncertainty for clearing agencies, as they must await the Commission's approval order before they can implement the proposed changes. This uncertainty, in turn, raises the transaction costs associated with implementing rule changes. The Commission believes this delay and the associated increase in transactional costs to be unnecessary because these rule changes are similar to the futures-related rule changes that presently qualify for immediate effectiveness under the Interim Final Rule.

E. Benefits and Costs and Consideration of the Final Rule's Effects on Efficiency, Competition, and Capital Formation

1. Benefits

Rule 19b–4(f)(4)(ii), as amended by this Final Rule, will streamline the rule filing process by permitting Registered Clearing Agencies to utilize Section 19(b)(3)(A) for proposed rule changes that primarily affect the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, and either do not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, or do significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, but are necessary to maintain fair and orderly markets for products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards. As such rule changes will become effective upon filing, the Final Rule should eliminate any potential inefficiencies and undue delays that could result from the requirement that the Commission review these proposed rule changes before they take effect. At the same time, the Commission retains the power to temporarily suspend these rule changes summarily within sixty days of their filing if it appears to the Commission that taking such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.[71]

As a result, the Commission is providing Registered Clearing Agencies with the ability to make these proposed rule changes effective upon filing, thereby limiting potential delays in implementing changes to the clearing agencies' clearing operations with respect to products that are not securities that may be beneficial to both the clearing agencies and market participants. As the figures cited in the preceding section indicate, the number of proposed rule changes that could become effective upon filing may increase under the Final Rule. This, in turn, should enhance the efficiency of the filing process for affected clearing agencies, without impairing the Commission's ability to review the filings and to determine whether it would be necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act, to conduct a more thorough analysis of any issues the filings may present. As noted, these amendments to Rule 19b–4 and the General Instructions for Form 19b–4 by the Commission are intended to streamline the rule filing process in areas involving certain activities concerning products that are not securities that may be subject to duplicative or inconsistent regulation as a result of, in part, certain provisions under Section 763(b) of the Dodd-Frank Act. The Commission recognizes the importance of the proper allocation of regulatory resources and will monitor and evaluate the implementation and effects of these rule changes.

2. Costs

As noted above, the Final Rule will expand the list of categories that qualify for effectiveness upon filing under Section 19(b)(3)(A) of the Exchange Act. These amendments will not materially increase or decrease the costs of complying with Rule 19b–4, nor will they modify an SRO's obligation to submit a proposed rule change to the Commission. Rather, the amendments will change the statutory basis under which a rule change is filed. This is because the costs associated with the 19(b)(3)(A) filing would approximately be the same as the 19(b)(2) filing, and, because of the nature of the occasion in which such a filing would be applicable, only under rare circumstances would a clearing agency file under the ''fair and orderly markets'' provision.

A proposed rule change filed by a Registered Clearing Agency relying on the ''fair and orderly markets'' provision set forth in Rule 19b–4(f)(4)(ii)(B)(II) would be subject to the procedures of both Section 19(b)(2) and Section 19(b)(3)(A) of the Exchange Act. Accordingly, in most cases, the proposed rule change shall be effective until such time as the Commission enters an order, pursuant to Section 19(b)(2)(A) of the Exchange Act, to approve such proposed rule change or, depending on the circumstances, until such time as the Commission summarily temporarily suspends the rule change pursuant to Section 19(b)(3)(C) or, alternatively, until such time as the Commission, at the conclusion of proceedings to determine whether to approve or disapprove the proposed rule change, enters an order, pursuant to Section 19(b)(2)(B), approving or disapproving such proposed rule change.

This new requirement applicable to Rule 19b–4(f)(4)(ii)(B)(II), which is in addition to the requirements that the Commission considered in connection with the cost-benefit analysis contained in the Interim Final Rule, would impose only a minimal additional burden on Registered Clearing Agencies that rely on the ''fair and orderly markets'' provision. Although a clearing agency seeking to use this provision would be required to make a separate filing under Section 19(b)(3)(A) in addition to the Section 19(b)(2) filing that is currently required, the information contained in both filings is virtually identical. Moreover, the Commission believes that clearing agencies will use the ''fair and orderly markets'' provision only on rare occasions, and thus the additional costs of making a Section 19(b)(3)(A) filing will seldom be incurred. The Commission concludes that the incremental costs associated with the Final Rule are negligible.[72]

[71] 15 U.S.C. 78s(b)(3)(C). If the Commission takes such action, it is then required to institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[72] The time required to complete a filing varies significantly and is difficult to separate from the time an SRO spends internally developing the proposed rule change. Accordingly, it is difficult to assess the impact of the Final Rule in terms of the additional amount of time SROs will have to devote to filing proposed rule changes. The Commission believes, however, that the Final Rule would have only a negligible effect in this regard. The Commission has estimated that 34 hours is the amount of time that would be required to complete an average proposed rule change filing, and 129 hours is the amount of time required to complete a novel or complex proposed rule change filing. Since the information contained in a Section 19(b)(2) filing is virtually identical to the

Continued

The Commission believes that the changes embodied in the Final Rule will not impair its ability to protect investors. Although the Final Rule will expand the types of proposed rule changes eligible to become effective upon filing, such rule changes remain subject to public comment after they take effect. Furthermore, the Commission summarily may temporarily suspend such rule changes within sixty days of filing if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.[73] Given these safeguards, the Commission perceives only minimal, if any, new risks to investors stemming from the Final Rule.

3. Effects on Competition

The Commission has also considered whether the Final Rule will have an appreciable effect on competition vis-à-vis the Interim Final Rule. Currently, the market for clearing services is segmented by financial instrument, and clearing agencies often specialize in particular instruments. As such, some market segments may tend to sustain natural monopolies, despite the existence of competitors that could potentially enter those segments.[74] For example, following a period of consolidation facilitated by Section 17(A) of the Exchange Act, only one clearing agency processes equities listed in the United States, and only one clearing agency handles exchange traded options. At the same time, there are three clearing agencies that clear swaps and security-based swaps. Although two of these clearing agencies are affiliated, they do not compete with each other; one serves the market in the United States, and the other serves the European market. Further, the affiliate serving the market in the United States has a dominant market share, though the Commission believes this may be subject to change as a result of competition from other clearing agencies.

The Commission believes that the impact of the Final Rule on competition would be neutral, as the Final Rule would apply equally to similarly-situated Registered Clearing Agencies. As noted in the PRA section of this Release, the Final Rule will affect only the four Dually-Registered Clearing Agencies. Every Dually-Registered Clearing Agency that clears any of the products described in the Final Rule may avail itself of the Final Rule's benefits if the circumstances warrant, and may avail itself of the ''fair and orderly markets'' provision if the proposed rule change also meets those qualifications, namely that the proposed rule change is necessary to maintain fair and orderly markets for futures that are not security futures, swaps that are not security-based swaps or mixed swaps, or forward contracts that are not security forwards. Further, the Final Rule does not increase barriers for clearing agencies to enter this market, and its implementation will not favor larger entities over smaller ones. The Final Rule's impact on competition is therefore negligible.

F. Alternatives Considered

The Commission considered CME's proposal that the Commission require only proposed rule changes relating directly to security-based swap clearing activities to be subject to the Commission's review in accordance with Section 19(b)(2). Specifically, CME posited that (i) the Commission should defer to the CFTC's rule filing processes with respect to proposed changes involving broad rules of general applicability as to clearing operations that would have only a peripheral impact on security-based swap clearing, and (ii) the Commission would still have the authority to abrogate rule changes by a clearing agency that do not meet the requirements of the Exchange Act.[75] The Commission believes that, while this approach would increase efficiency for some Registered Clearing Agencies, it would undermine the Commission's ability to carry out its statutory obligations under Section 19(b) and the Exchange Act, as discussed in Section IV.A., above. For example, in June 2012, CME implemented a rule change that altered the amount of CME's capital contribution to its financial safeguards package in connection with losses arising from products other than credit default swaps and interest rate swaps.[76] This amount would be applied to such losses before any amounts are applied from CME's Base Guaranty Fund. Although not directly applicable to products under the Commission's jurisdiction, the proposed rule change affects the operations and financial stability of the clearing agency. In another example, ICE Clear Credit LLC implemented a rule change in 2012 that permitted its participants to use US Treasuries to satisfy the initial margin-related liquidity requirements for all client-related positions cleared in a clearing participant's customer account,[77] representing a rule of general applicability that, pursuant to CME's alternative approach, may not have been subject to Commission review. As the Commission is tasked with ensuring that a clearing agency's rules are designed, among other things, to assure the safeguarding of securities and funds, the Interim Final Rule required, and the Final Rule continues to require, that proposed rule changes of general applicability be subject to the Commission's pre-effective notice and comment process or, if such proposed rule change is filed pursuant to the fair and orderly markets provision in Rule 19b–4(f)(4)(ii)(B), notice and comment after the change is temporarily effective under Section 19(b)(3)(A).

V. Regulatory Flexibility Certification

The Regulatory Flexibility Act (''RFA'')[78] requires the Commission, in promulgating rules, to consider the impact of those rules on small entities. The Commission certified in the Interim Final Rule release, pursuant to Section 605(b) of the RFA,[79] that the rule would not have a significant impact on a substantial number of small entities. The Commission received no comments on this certification.

For the purposes of Commission rulemaking in connection with the RFA, a small entity includes a clearing agency that: (i) Compared, cleared, and settled less than $500 million in securities transactions during the preceding fiscal year; (ii) had less than $200 million of funds and securities in its custody or control at all times during the preceding fiscal year (or at any time that it has been in business, if shorter) and (iii) is not affiliated with any person (other than a natural person) that is not a small

information required if the same filing were made under Section 19(b)(3)(A), the Commission believes that the 34 hour figure remains an appropriate estimate of the time it would take an SRO to prepare a proposed rule change for filing pursuant to the broadened scope of Section 19(b)(3)(A). Moreover, as the information contained in the Section 19(b)(2) filing that will be required under the ''fair and orderly markets'' provision is also virtually identical to the information contained in the Section 19(b)(3)(A) filing that is currently required, the Commission believes that the time estimates for a rule filing of average complexity and one involving novel issues remain unchanged at 34 and 129 hours, respectively, under all scenarios of the Final Rule.

[73] 15 U.S.C. 78s(b)(3)(C).

[74] A natural monopoly exists when a single provider is more efficient than multiple providers because economies of scale allow the single provider to have lower average costs.

[75] *See* CME Letter.

[76] Securities Exchange Act Rel. No. 67232 (June 21, 2012), 77 FR 38350 (June 27, 2012) (SR–CME–2012–24).

[77] Securities Exchange Act Rel. No. 66825 (Apr. 18, 2012), 77 FR 24546 (Apr. 24, 2012) (SR–ICC–2012–01).

[78] 5 U.S.C. 601 *et seq.*

[79] *See* 5 U.S.C. 605(b).

business or small organization.[80] Under the standards adopted by the Small Business Administration, small entities in the finance industry include the following: (i) for entities engaged in investment banking, securities dealing and securities brokerage activities, entities with $6.5 million or less in annual receipts; (ii) for entities engaged in trust, fiduciary and custody activities, entities with $6.5 million or less in annual receipts; and (iii) funds, trusts and other financial vehicles with $6.5 million or less in annual receipts.[81]

The amendments to Rule 19b–4 and to the General Instructions for Form 19b–4 apply to all Registered Clearing Agencies. There are currently seven clearing agencies with active operations registered with the Commission. Of the seven Registered Clearing Agencies with active operations, four currently maintain a futures or swaps clearing business. Based on the Commission's existing information about these four Registered Clearing Agencies, as well as on the entities likely to register with the Commission in the future, the Commission believes that such entities will not be small entities, but rather part of large business entities that exceed the thresholds defining ''small entities'' set out above.

For the reasons stated above, the Commission certifies that the amendments to Rule 19b–4 and to the General Instructions for Form 19b–4 would not have a significant economic impact on a substantial number of small entities for the purposes of the RFA.

VI. Statutory Basis and Text of Amendments

Pursuant to the Exchange Act, and particularly Section 19(b) thereof, 15 U.S.C. 78s(b), the Commission amends Rule 19b–4 as set forth below.

List of Subjects in 17 CFR Parts 240 and 249

Brokers, Reporting and recordkeeping requirements, Securities.

Text of Rule

In accordance with the foregoing, Title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 1. The general authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78*o,* 78*o*–4, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.;* 12 U.S.C. 5221(e)(3), 15 U.S.C. 8302, and 18 U.S.C. 1350,, unless otherwise noted.

* * * * *

■ 2. Revise § 240.19b–4(f)(4)(ii) to read as follows:

§ 240.19b–4 Filings with respect to proposed rule changes by self-regulatory organizations.

* * * * *

(f) * * *

(4) * * *

(ii)(A) Primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards; and

(B) Either

(*1*) Does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, or

(*2*) Does significantly affect any securities clearing operations of the clearing agency or the rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, but is necessary to maintain fair and orderly markets for products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards. Proposed rule changes filed pursuant to this subparagraph II must also be filed in accordance with the procedures of Section 19(b)(1) for approval pursuant to Section 19(b)(2) and the regulations thereunder within fifteen days of being filed under Section 19(b)(3)(A).

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 3. The general authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 4. Form 19b–4 (referenced in § 249.819) is amended by revising Item 7(b)(iv) of the General Instructions for Form 19b–4 as set forth in the attached Appendix A.

Note: The following Appendix A will not appear in the Code of Federal Regulations.

Appendix A

GENERAL INSTRUCTIONS FOR FORM 19b–4

* * * * *

Information to be Included in the Completed Form (''Form 19b–4 Information'')

* * * * *

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

* * * * *

(b) * * *

(iv) Effects a change in an existing service of a registered clearing agency that either (A)(1) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (2) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service or (B)(1) primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards and (2) either (a) does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, or (b) does significantly affect any securities clearing operations of the clearing agency or the rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service, but is necessary to maintain fair and orderly markets for products that are not securities, including futures that are not security futures, swaps that are not securities-based swaps or mixed swaps, and forwards that are not security forwards, and set forth the basis on which such designation is made, including, in the case of the fair and orderly markets provision, the following: (i) Why the proposed rule change is necessary to maintain fair and orderly markets for products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards; (ii) why the proposed rule change cannot achieve this goal unless it takes effect immediately; (iii) the nature and the extent of the effect upon the relevant markets if the proposed rule change were not implemented immediately; (iv) whether the proposed rule change is temporary or permanent; (v) how the proposed rule change significantly affects any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service; and (vi) why the proposed rule change would have no adverse effect on maintaining fair and orderly markets for securities.

(c) * * *

[80] 17 CFR 240.0–10(d).

[81] 13 CFR 121.201, Sector 52.

Note. The Commission has the power under Section 19(b)(3)(C) of the Act summarily to temporarily suspend within sixty days of its filing any proposed rule change which has taken effect upon filing pursuant to Section 19(b)(3)(A) of the Act or was put into effect summarily by the Commission pursuant to Section 19(b)(3)(B) of the Act. In exercising its summary power under Section 19(b)(3)(B), the Commission is required to make one of the findings described above but may not have a full opportunity to make a determination that the proposed rule change otherwise is consistent with the requirements of the Act and the rules and regulations thereunder. The Commission will generally exercise its summary power under Section 19(b)(3)(B) on condition that the proposed rule change to be declared effective summarily shall also be subject to the filing procedures of Section 19(b)(1) of the Act, for approval pursuant to Section 19(b)(2). Accordingly, in most cases, a summary order under Section 19(b)(3)(B) shall be effective until such time as the Commission enters an order, pursuant to Section 19(b)(2)(A) of the Exchange Act, to approve such proposed rule change or, depending on the circumstances, until such time as the Commission summarily temporarily suspends the rule change pursuant to Section 19(b)(3)(C) or, alternatively, until such time as the Commission, at the conclusion of proceedings to determine whether to approve or disapprove the proposed rule change, enters an order, pursuant to Section 19(b)(2)(B), approving or disapproving such proposed rule change. Similarly, the Commission requires that any proposed rule change which has taken effect upon filing pursuant to paragraph (B)(II) of Rule 19b–4(f)(4)(ii) shall also be subject to the filing procedures of Section 19(b)(1) of the Act, for approval pursuant to Section 19(b)(2) of the Act. Accordingly, such rule change shall be effective until such time as the Commission enters an order, pursuant to Section 19(b)(2)(A) of the Exchange Act, to approve such proposed rule change or, depending on the circumstances, until such time as the Commission summarily temporarily suspends the rule change pursuant to Section 19(b)(3)(C) or, alternatively, until such time as the Commission, at the conclusion of proceedings to determine whether to approve or disapprove the proposed rule change, enters an order, pursuant to Section 19(b)(2)(B), approving or disapproving such proposed rule change.

By the Commission.
Dated: April 3, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–08141 Filed 4–8–13; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, 526, 529, and 558

[Docket No. FDA–2013–N–0002]

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 43 approved new animal drug applications (NADAs) and 3 approved abbreviated new animal drug applications (ANADAs) from Boehringer Ingelheim Vetmedica, Inc. to Strategic Veterinary Pharmaceuticals, Inc.

DATES: This rule is effective April 9, 2013.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 240–276–8300, email: *steven.vaughn@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Boehringer Ingelheim Vetmedica, Inc., 2621 North Belt Highway, St. Joseph, MO 64506–2002 has informed FDA that it has transferred ownership of, and all rights and interest in, the following 43 approved NADAs and 3 approved ANADAs to Strategic Veterinary Pharmaceuticals, Inc., 100 NW. Airport Rd., St. Joseph, MO 64503:

TABLE 1.—APPLICATIONS TRANSFERRED

Application No.	Trade name
11–531	DIZAN (dithiazanine iodide) Tablets.
11–674	DIZAN (dithiazanine iodide) Powder.
12–469	DIZAN Suspension With Piperazine.
31–512	ATGARD (dichlovos) Swine Wormer Type A Medicated Article.
33–803	TASK (dichlovos) Dog Anthelmintic.
35–918	EQUIGARD (dichlovos).
38–200	MEDAMYCIN (oxytetracycline hydrochloride) Soluble Antibiotic.
39–483	BIO-TAL (thiamylal sodium) Injectable Solution.
40–848	ATGARD C (dichlovos) Swine Wormer Type A Medicated Article.
43–606	ATGARD V (dichlovos) Swine Wormer Type A Medicated Article.
45–143	OXYJECT (oxytetracycline hydrochloride) Injectable Solution.
47–278	OXY-TET 50 (oxytetracycline hydrochloride) Injectable Solution.
47–712	BIZOLIN-100 (phenylbutazone) Tablets.
48–010	ANAPLEX (dichlorophene and toluene) Capsules.
48–237	EQUIGEL (dichlovos) Oral Gel.
48–271	TASK (dichlovos) Tablets.
49–032	ATGARD C (dichlovos) 9.6% Type A Medicated Article.
55–097	DRY-MAST (penicillin G procaine/dihydrostreptomycin sulfate) Intramammary Infusion.
65–178	FERMYCIN (chlortetracycline hydrochloride or chlortetracycline bisulfate) Soluble Powder.
65–461	ANACETIN (chloramphenicol) Tablets.
65–481	Chlortetracycline Pneumonia/Calf Scour Boluses.
65–486	Chlortetracycline Bisulfate Soluble Powder.
65–491	MEDICHOL (chloramphenicol) Tablets.
65–496	Tetracycline Soluble Powder.
92–837	NEMACIDE (diethylcarbamazine citrate) Oral Syrup.
93–516	BIZOLIN (phenylbutazone) Injection 20%.
97–452	OXYJECT 100 (oxytetracycline hydrochloride) Injectable Solution.
98–569	MEDACIDE-SDM (sulfadimethoxine) Injection 10%.
99–618	BIZOLIN (phenylbutazone) 1–G Tablets.
108–963	MEDAMYCIN (oxytetracycline hydrochloride) Injectable Solution.

TABLE 1.—APPLICATIONS TRANSFERRED—Continued

Application No.	Trade name
109–305	Oxytocin Injection.
117–689	NEUROSYN (primidone) Tablets.
125–797	Nitrofurazone Dressing.
126–236	Nitrofurazone Soluble Powder.
126–676	D & T (dichlorophene and toluene) Worm Capsules.
127–627	NEMACIDE-C (diethylcarbamazine citrate) Tablets.
128–069	NEMACIDE (diethylcarbamazine citrate) Chewable Tablets.
132–028	ANESTATAL (thiamylal sodium) Powder for Injection.
135–771	Methylprednisolene Tablets.
136–212	Methylprednisolone Acetate Injectable Suspension.
137–310	Gentamicin Sulfate Injectable Solution.
138–869	Triamcinolone Acetonide Injectable Suspension.
140–442	Xylazine HCl Injection.
200–023	Gentamicin Sulfate Intrauterine Solution.
200–029	Ketamine Hydrochloride Injection.
200–165	SDM (sulfadimethoxine) 12.5% Oral Solution.

Accordingly, the Agency is amending the regulations in 21 CFR parts 510, 520, 522, 524, 526, 529, and 558 to reflect the transfer of ownership.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, 524, 526, and 529

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, 524, 526, 529, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In the table in paragraph (c)(1) of § 510.600, alphabetically add an entry for ''Strategic Veterinary Pharmaceuticals, Inc.''; and in the table in paragraph (c)(2), numerically add an entry for ''054628'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Strategic Veterinary Pharmaceuticals, Inc., 100 NW. Airport Rd., St. Joseph, MO 64503	054628
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
054628	Strategic Veterinary Pharmaceuticals, Inc., 100 NW. Airport Rd., St. Joseph, MO 64503
* * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.390a [Amended]

■ 4. In paragraph (b)(1)(i) of § 520.390a, remove ''000010'' and in its place add ''054628''.

§ 520.441 [Amended]

■ 5. In paragraph (b)(3) of § 520.441, remove ''000010'' and in its place add ''054628''.

§ 520.443 [Amended]

■ 6. In paragraph (b) of § 520.443, remove ''000010'' and in its place add ''054628''.

§ 520.580 [Amended]

■ 7. In paragraph (b)(2), remove ''000010 and 000061'' and in its place add ''Nos. 000061 and 054628''.

§ 520.600 [Amended]

■ 8. In paragraph (c) of § 520.600, remove ''000010'' and in its place add ''054628''.

§ 520.622a [Amended]

■ 9. In paragraph (a)(6) of § 520.622a, remove ''000010'' and in its place add ''054628''.

§ 520.622b [Amended]

■ 10. In paragraph (c)(2) of § 520.622b, remove ''000010'' and in its place add ''054628''.

§ 520.622c [Amended]

■ 11. In paragraph (b)(6) of § 520.622c, remove ''000010'' and in its place add ''054628''.

§ 520.763a [Amended]

■ 12. In § 520.763a, remove and reserve paragraph (a); in paragraph (c), remove ''000010'' and in its place add ''054628''; and remove paragraph (e).

§ 520.763b [Amended]

■ 13. In § 520.763b, remove and reserve paragraph (a); and in paragraph (c), remove ''000010'' and in its place add ''054628''.

§ 520.763c [Amended]

■ 14. In paragraph (b) of § 520.763c, remove ''000010'' and in its place add ''054628''; and remove and reserve paragraph (c).

§ 520.1408 [Amended]

■ 15. In paragraph (b) of § 520.1408, remove ''000010'' and in its place add ''054628''; and remove and reserve paragraph (c).

§ 520.1660d [Amended]

■ 16. In § 520.1660d:

■ a. In paragraph (b)(3), remove ''000010'' and in its place add ''054628''.

■ b. In paragraph (d)(1)(ii)(A)(*3*), remove ''000010'' and in its place add ''054628''.

■ c. In paragraph (d)(1)(ii)(B)(*3*), remove ''000010'' and in its place add ''054628''.

■ d. In paragraph (d)(1)(ii)(C)(*3*), remove ''000010'' and in its place add ''054628''.

§ 520.1720a [Amended]

■ 17. In paragraph (b)(2) of § 520.1720a, remove ''000010 and 000859'' and in its place add ''000859 and 054628''.

§ 520.1900 [Amended]

■ 18. In paragraph (b) of § 520.1900, remove ''000010'' and in its place add ''054628''; and in paragraphs (c)(1), (c)(2), and (c)(3), remove the footnote.

§ 520.2220a [Amended]

■ 19. In paragraph (a)(1) of § 520.2220a, remove ''000010, 000069, 000859, 054925, and 057561'' and in its place add ''000069, 000859, 054628, 054925, and 057561''.

§ 520.2345d [Amended]

■ 20. In paragraph (b)(2) of § 520.2345d, remove ''000010'' and in its place add ''054628''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 21. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.1044 [Amended]

■ 22. In paragraph (b)(3) of § 522.1044, remove ''000010'' and in its place add ''054628''.

§ 522.1222a [Amended]

■ 23. In paragraph (b) of § 522.1222a, remove ''000010, 000859, 061690, 026637, and 063286'' and in its place add ''000859, 026637, 054628, 061690, and 063286''.

§ 522.1410 [Amended]

■ 24. In paragraph (b) of § 522.1410, remove ''000010'' and in its place add ''054628''.

§ 522.1662a [Amended]

■ 25. In paragraphs (a)(2), (b)(2), (g)(2), and (h)(2) of § 522.1662a, remove ''000010'' and in its place add ''054628''.

■ 26. In § 522.1680, revise the section heading to read as set forth below; and in paragraph (b), remove ''000010, 000856, 000859, and 061623'' and in its place add ''000856, 000859, 054628, and 061623''.

§ 522.1680 Oxytocin.

* * * * *

■ 27. In § 522.1720, revise the section heading to read as set forth below; and in paragraph (b)(2), remove ''000010'' and in its place add ''054628''.

§ 522.1720 Phenylbutazone.

* * * * *

■ 28. In § 522.2220, revise the section heading as set forth below; and in paragraph (c)(2), remove ''000010'' and in its place add ''054628''.

§ 522.2220 Sulfadimethoxine.

* * * * *

■ 29. In § 522.2424, revise the section heading as set forth below; and in paragraph (b), remove ''000010 and 000856'' and in its place add ''000856 and 054628''; and remove paragraph (c)(4).

§ 522.2424 Sodium thiamylal.

* * * * *

§ 522.2483 [Amended]

■ 30. In paragraph (b) of § 522.2483, remove ''000010'' and in its place add ''054628''.

§ 522.2662 [Amended]

■ 31. In paragraph (b)(1) of § 522.2662, remove ''000010'' and in its place add ''054628''.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 32. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.1580b [Amended]

■ 33. In paragraph (b)(1) of § 524.1580b, remove ''000010, 000069, 050749, 054925, 058005, and 061623'' and in its place add ''000069, 050749, 054628, 054925, 058005, and 061623''.

§ 524.1580c [Amended]

■ 34. In paragraph (b) of § 524.1580c, remove ''000010 and 000069'' and in its place add ''000069 and 054628''.

PART 526—INTRAMAMMARY DOSAGE FORM NEW ANIMAL DRUGS

■ 35. The authority citation for 21 CFR part 526 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 526.1696b [Amended]

■ 36. In paragraph (b) of § 526.1696b, remove ''000010'' and in its place add ''054628''.

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 37. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 529.1044a [Amended]

■ 38. In paragraph (b) of § 529.1044a, remove ''000010, 000061, 000856, 000859 057561, 058005, and 061623'' and in its place add ''000061, 000856, 000859, 054628, 057561, 058005, and 061623''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 39. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.205 [Amended]

■ 40. In paragraph (a) of § 558.205, remove ''000010'' and in its place add ''054628''.

Dated: March 26, 2013.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 2013–07542 Filed 4–8–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Parts 581, 584, and 585

RIN 3141–AA47

Appeal Proceedings Before the Commission

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) is revising its appeals regulations to include, amongst the appealable actions, the Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the

Commission's minimum internal control standards and/or technical standards.

DATES: The effective date of these regulations is May 9, 2013.

FOR FURTHER INFORMATION CONTACT: Armando Acosta, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Email: *armando_acosta@nigc.gov;* telephone: (202) 632–7003.

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100–497, 25 U.S.C. 2701 et seq., was signed into law on October 17, 1988. The Act established the Commission and set out a comprehensive framework for the regulation of gaming on Indian lands. The Act requires that the Commission, by regulation, provide an opportunity for an appeal and a hearing before the Commission on fines levied by the Chair against the tribal operator of an Indian game or a management contractor, and to determine whether a temporary closure order issued by the Chair should be made permanent or dissolved. 25 U.S.C. 2713(a)(2), 2713(b). By regulation, the Commission has also provided rights to tribes and/or management contractors to appeal ordinance disapprovals, management contract approvals or disapprovals, enforcement actions, and actions to void an approved management contract. The appellate procedures for these actions are all consolidated in this subchapter.

II. Previous Rulemaking Activity

On September 21, 2012, the Commission published two final rules amending 25 CFR parts 543 and 547. In its final rule for part 543, the Commission provided tribal gaming regulatory authorities (TGRA) with rights to appeal the Chair's decisions to approve or object to a TGRA's adoption of alternate standards from those required by the Commission's minimum internal control standards contained in part 543 (77 FR 58708, Sept. 21, 2012). In its final rule for part 547, the Commission provided TGRAs with rights to appeal the Chair's decisions to approve or object to a TGRA's adoption of alternate standards from those required by the Commission's technical standards contained in part 547 (77 FR 58473, Sept. 21, 2012).

On September 25, 2012, the Commission published a final rule consolidating all appeal proceedings before the Commission into the current subchapter H (Appeal Proceedings Before the Commission). 77 FR 58941, Sept. 25, 2012. However, the new appeal rights provided under parts 543 and 547 were not included in subchapter H at that time. On January 22, 2013, the Commission published a Notice of Proposed Rulemaking proposing to revise subchapter H to include the new appeal rights provided to TGRAs under parts 543 and 547 (78 FR 4366, Jan. 22, 2013).

III. Review of Public Comments

In response to its Notice of Proposed Rulemaking published on January 22, 2013, the Commission received the following comments:

General Comments Applicable to the Entire Subchapter

Comment: One commenter applauded the revisions to the subchapter and stated that these long-term, permanent changes reflect the importance of tribal sovereignty rights and the true partnership between the federal government and tribal nations.

Response: The Commission agrees.

584.2 Who may appeal? and 585.2 Who may appeal?

Comment: One commenter was concerned that the proposed revisions limit appeals rights to TGRAs only. While the commenter recognizes that TGRAs are the parties most directly affected by the Chair's decisions to approve or object to a TGRA's adoption of alternate standards from those required by the Commission's minimum internal control standards and/or technical standards, the commenter suggests that the rule be revised to also permit tribal governments to bring appeals on behalf of TGRAs. The commenter provided multiple reasons for the suggested revision, including that some TGRAs lack independent litigation authority and thus may not be able to proceed with an appeal independent of the tribe; or that some TGRAs do not have the funding to proceed with an appeal without the financial assistance of the tribal government, and thus, for accounting purposes, the appeal would have to be brought in the name of the tribe rather than the TGRA.

Response: The Commission declines to revise the rule as suggested by the commenter. While the Commission has taken into consideration the circumstances that some TGRAs may lack independent litigation authority and/or that some TGRAs do not have the funding to proceed with an appeal without the financial assistance of a tribal government, the Commission believes that such circumstances are internal tribal matters that must be resolved between the TGRAs and their tribal governments before the appeals reach the Commission. As noted by the commenter, the TGRAs are the parties most affected by the Chair's decisions to approve or object to the TGRAs' adoption of alternate standards from those required by the Commission's minimum internal control standards and/or technical standards. If an appeal is successful, only a TGRA can implement the alternate standards in a gaming facility. Therefore, the Commission believes that only the TGRAs should be allowed to bring an appeal.

Regulatory Matters

Regulatory Flexibility Act

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. Moreover, Indian tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of $100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions. Nor will the rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, 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 the rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

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

National Environmental Policy Act

The Commission has determined that the 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

This proposed rule does not require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, et seq., and is therefore not subject to review by the Office of Management and Budget.

List of Subjects in 25 CFR Parts 581, 584, and 585

Appeals, Gambling, Indian-lands.

For the reasons set forth in the preamble, the Commission revises its regulations at 25 CFR chapter III, subchapter H, parts 581, 584, and 585, as follows:

Subchapter H—Appeal Proceedings Before the Commission

PART 581—MOTIONS IN APPEAL PROCEEDINGS BEFORE THE COMMISSION

■ 1. The authority citation for part 581 continues to read as follows:

Authority: 25 U.S.C. 2706, 2713, 2715.

■ 2. In § 581.1, paragraph (a) introductory text is republished and paragraphs (a)(3) and (4) are revised to read as follows:

§ 581.1 What is the scope of this part?

(a) This part governs motion practice under:

* * * * *

(3) Part 584 of this subchapter relating to appeals before a presiding official of notices of violation, orders of temporary closure, proposed civil fine assessments, the Chair's decisions to void or modify management contracts, the Commission's proposals to remove certificates of self-regulation, the Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the Commission's minimum internal control standards and/or technical standards, and notices of late fees and late fee assessments; and

(4) Part 585 of this subchapter relating to appeals to the Commission on written submissions of notices of violation, orders of temporary closure, proposed civil fine assessments, the Chair's decisions to void or modify management contracts, the Commission's proposals to remove certificates of self-regulation, the Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the Commission's minimum internal control standards and/or technical standards, and notices of late fees and late fee assessments.

* * * * *

■ 3. Revise § 581.4 to read as follows:

§ 581.4 How do I file a motion before a presiding official?

Motion practice before a presiding official on appeals of notices of violation, orders of temporary closure, proposed civil fine assessments, the Chair's decisions to void or modify management contracts, the Commission's proposals to remove certificates of self-regulation, the Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the Commission's minimum internal control standards and/or technical standards, and notices of late fees and late fee assessments is governed by § 584.4 of this subchapter.

PART 584—APPEALS BEFORE A PRESIDING OFFICIAL OF NOTICES OF VIOLATION, PROPOSED CIVIL FINE ASSESSMENTS, ORDERS OF TEMPORARY CLOSURE, THE CHAIR'S DECISIONS TO VOID OR MODIFY MANAGEMENT CONTRACTS, THE COMMISSION'S PROPOSALS TO REMOVE A CERTIFICATE OF SELF–REGULATION, THE CHAIR'S DECISIONS TO APPROVE OR OBJECT TO THE ADOPTION OF ALTERNATE STANDARDS FROM THOSE REQUIRED BY THE COMMISSION'S MINIMUM INTERNAL CONTROL STANDARDS AND/OR TECHNICAL STANDARDS, AND NOTICES OF LATE FEES AND LATE FEE ASSESSMENTS

■ 4. The authority citation for part 584 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2711, 2712, 2713, 2715, 2717.

■ 5. Revise the part heading to part 584 to read as set forth above.

■ 6. In § 584.1, paragraph (a) introductory text is republished, paragraph (a)(6) is redesignated as paragraph (a)(8) and new paragraphs (a)(6) and (7) are added to read as follows:

§ 584.1 What does this part cover?

(a) This part applies to appeals of the following where the appellant elects a hearing before a presiding official:

* * * * *

(6) The Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the Commission's minimum internal control standards under part 543 of this chapter;

(7) The Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the Commission's technical standards under part 547 of this chapter; and

* * * * *

■ 7. Amend § 584.2 by adding paragraph (c) to read as follows:

§ 584.2 Who may appeal?

* * * * *

(c) Appeals of the Chair's decisions to approve or object to the adoption of alternate standards from those required by the Commission's minimum internal control standards and/or technical standards may only be brought by the tribal gaming regulatory authority that approved the alternate standards for the gaming operation(s).

■ 8. Revise the section heading to § 584.3 to read as follows:

§ 584.3 How do I appeal a notice of violation, proposed civil fine assessment, order of temporary closure, the Chair's decision to void or modify a management contract, the Commission's proposal to remove a certificate of self-regulation, the Chair's decision to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the Commission's minimum internal control standards and/or technical standards, and a notice of late fees and late fee assessments?

* * * * *

PART 585—APPEALS TO THE COMMISSION ON WRITTEN SUBMISSIONS OF NOTICES OF VIOLATION, PROPOSED CIVIL FINE ASSESSMENTS, ORDERS OF TEMPORARY CLOSURE, THE CHAIR'S DECISIONS TO VOID OR MODIFY MANAGEMENT CONTRACTS, THE COMMISSION'S PROPOSALS TO REMOVE A CERTIFICATE OF SELF–REGULATION, THE CHAIR'S DECISIONS TO APPROVE OR OBJECT TO THE ADOPTION OF ALTERNATE STANDARDS FROM THOSE REQUIRED BY THE COMMISSION'S MINIMUM INTERNAL CONTROL STANDARDS AND/OR TECHNICAL STANDARDS, AND NOTICES OF LATE FEES AND LATE FEE ASSESSMENTS

■ 9. The authority citation for part 585 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2711, 2712, 2713, 2715, 2717.

■ 10. Revise the part heading to part 585 to read as set forth above.

■ 11. In § 585.1, paragraph (a) introductory text is republished, paragraph (a)(6) is redesignated as paragraph (a)(8), and new paragraphs (a)(6) and (7) are added to read as follows:

§ 585.1 What does this part cover?

(a) This part applies to appeals of the following where the appellant does not elect a hearing before a presiding official and instead elects to have the matter decided by the Commission solely on the basis of the written submissions:

* * * * *

(6) The Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the Commission's minimum internal control standards under part 543 of this chapter;

(7) The Chair's decisions to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the Commission's technical standards under part 547 of this chapter; and

* * * * *

■ 12. Amend § 585.2 by adding paragraph (c) to read as follows:

§ 585.2 Who may appeal?

* * * * *

(c) Appeals of the Chair's decisions to approve or object to the adoption of alternate standards from those required by the Commission's minimum internal control standards and/or technical standards may only be brought by the tribal gaming regulatory authority that approved the alternate standards for the gaming operation(s).

■ 13. Revise the section heading to § 585.3 to read as follows:

§ 585.3 How do I appeal a notice of violation, proposed civil fine assessment, order of temporary closure, the Chair's decision to void or modify a management contract, the Commission's proposal to remove a certificate of self regulation, the Chair's decision to approve or object to a tribal gaming regulatory authority's adoption of alternate standards from those required by the Commission's minimum internal control standards and/or technical standards, and notices of late fees and late fee assessments?

* * * * *

Dated: April 4, 2013.

Tracie L. Stevens,

Chairwoman.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2013–08263 Filed 4–8–13; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0201]

Drawbridge Operation Regulations; Snohomish River and Steamboat Slough, Everett, and Marysville, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the SR 529 Bridges across the Snohomish River, mile 3.6 near Everett, WA and the SR 529 Bridges across Steamboat Slough, mile 1.1, near Marysville, WA. This deviation is necessary to accommodate the Total Health Events Heroes Half Marathon. This deviation allows the bridges to remain in the closed position to allow safe movement of event participants.

DATES: This deviation is effective on April 28, 2013, from 7:00 a.m. until 12:01 p.m.

ADDRESSES: The docket for this deviation, [USCG–2013–0201] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Randall Overton, Bridge Administrator, Coast Guard Thirteenth District; telephone 206–220–7282, email *Randall.D.Overton@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Washington State Department of Transportation (WSDOT) has requested that the SR 529 Bridges across the Snohomish River and Steamboat Slough remain closed to vessel traffic to facilitate safe, uninterrupted roadway passage of participants of the Total Health Events Heroes Half Marathon. The SR 529 Bridges which cross the Snohomish River at mile 3.6 provide 38 feet of vertical clearance above mean high water elevation while in the closed position. The SR 529 Bridges which cross Steamboat Slough at mile 1.1 provide 10 feet of vertical clearance above mean high water elevation while in the closed position. Vessels which do not require a bridge opening may continue to transit beneath the bridges during this closure period. Under normal conditions the SR 529 Bridges crossing the Snohomish River operate in accordance with 33 CFR 117.1059(c) which requires advance notification of one-hour when a bridge opening is needed. Under normal conditions the SR 529 Bridges crossing Steamboat Slough operate in accordance with 33 CFR 117.1059(g) which requires advance notification of four hours when a bridge opening is needed. This deviation period is from 7:00 a.m. on April 28, 2013, to 12:01 p.m. April 28, 2013. The deviation allows the SR 529 Bridges crossing the Snohomish River and Steamboat Slough, to remain in the closed position and need not open for maritime traffic from 7:00 a.m. to 12:01 p.m. on April 28, 2013. The bridges shall operate in accordance to 33 CFR 117.1059 at all other times. Waterway usage on the Snohomish River and Steamboat Slough includes vessels ranging from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the bridges' operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The bridges will be required to open, if needed, for vessels engaged in emergency response operations during this closure period.

In accordance with 33 CFR 117.35(e), the drawbridges must return to their regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 25, 2013.

Randall D. Overton,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2013–08169 Filed 4–8–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0202]

Drawbridge Operation Regulations; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Hawthorne Bridge across the Willamette River, mile 13.1, at Portland, OR. This deviation is necessary to accommodate Portland's Rock-n-Roll Half Marathon. This deviation allows the bridge to remain in the closed position to allow for the safe movement of event participants.

DATES: This deviation is effective on May 19, 2013, from 3 a.m. until 12:01 p.m.

ADDRESSES: The docket for this deviation, [USCG–2013–0202] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Randall Overton, Bridge Administrator, Coast Guard Thirteenth District; telephone 206–220–7282, email *Randall.D.Overton@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Multnomah County has requested that the Hawthorne lift bridge remain closed to vessel traffic to facilitate safe, uninterrupted roadway passage of participants of the Rock-n-Roll Half Marathon event. The Hawthorne Bridge crosses the Willamette River at mile 13.1 and provides 49 feet of vertical clearance above Columbia River Datum 0.0 while in the closed position. Vessels which do not require a bridge opening may continue to transit beneath the bridge during this closure period. Under normal conditions this bridge operates in accordance with 33 CFR 117.897 which allows for the bridge to remain closed between 7 a.m. and 9 a.m. and 4 p.m. and 6 p.m. Monday through Friday. This deviation period is from 3 a.m. on May 19, 2013, until 12:01 p.m. May 19, 2013. The deviation allows the Hawthorne Bridge across the Willamette River, mile 13.1, to remain in the closed position and not open for maritime traffic from 3 a.m. on May 19, 2013, until 12:01 p.m. May 19, 2013. The bridge shall operate in accordance to 33 CFR 117.897 at all other times. Waterway usage on this stretch of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the bridge's operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The draw span will be required to open, if needed, for vessels engaged in emergency response operations during this closure period.

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

Dated: March 25, 2013.

Randall D. Overton,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2013–08171 Filed 4–8–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0209]

Drawbridge Operation Regulations; York River, between Yorktown and Gloucester Point, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the draw of the US 17/George P. Coleman Memorial Swing Bridge across the York River, at mile 7.0, between Gloucester Point and Yorktown, VA. This deviation is necessary to facilitate maintenance on the George P. Coleman Memorial Swing Bridge. This temporary deviation allows the drawbridge to remain in the closed-to-navigation position on specific dates and times.

DATES: This deviation is effective from 7 a.m. on April 21, 2013, until 5 p.m. April 28, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0209] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Jim Rousseau, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6557, email *James.L.Rousseau2@uscg.mil.* If you have questions on reviewing the docket, call Barbara Hairston, Program Manager, Docket Operations, 202–366–9826.

SUPPLEMENTARY INFORMATION: The Virginia Department of Transportation, who owns and operates this swing bridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.1025, to facilitate maintenance on the structure.

Under the regular operating schedule, the Coleman Memorial Bridge, at mile 7.0, between Gloucester Point and Yorktown, VA opens on signal except from 5 a.m. to 8 a.m. and 3 p.m. to 7 p.m. Monday through Friday, except Federal holidays the bridge shall remain closed to navigation. The Coleman Memorial Bridge has vertical clearances in the closed position of 60 feet above mean high water.

Under this temporary deviation, the drawbridge will be closed to navigation from 7 a.m. on April 21, 2013 to 5 p.m. on Sunday April 21, 2013; with an inclement weather date from 7 a.m. on April 28, 2013 to 5 p.m. on Sunday April 28, 2013. Emergency openings cannot be provided. There are no alternate routes for vessels transiting this section of the York River. In the event repairs are completed during the first weekend of closure, the bridge will return to its regular schedule during the second weekend.

The York River is used by a variety of vessels including military, tugs, and recreational vessels. The Coast Guard has carefully coordinated the restrictions with military, commercial,

and recreational waterway users. The Coast Guard will inform all users of the waterway through our Local and Broadcast Notice to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation. Mariners able to pass under the bridge in the closed position may do so at any time. Mariners are advised to proceed with caution.

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

Dated: March 27, 2013.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2013–08172 Filed 4–8–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0622; FRL–9798–5]

Approval and Promulgation of Implementation Plans; Georgia: New Source Review-Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve changes to the Georgia State Implementation Plan (SIP) submitted by the State of Georgia, through the Georgia Department of Natural Resources' Environmental Protection Division (EPD) to EPA, on September 26, 2006 (with a clarifying revision submitted on November 6, 2006), and July 26, 2012. The September 26, 2006, SIP submission makes multiple changes to the Georgia SIP including the State's permit exemption provisions. The July 26, 2012, submission includes changes to Georgia's New Source Review (NSR), Prevention of Significant Deterioration (PSD) program to incorporate by reference (IBR) federal PSD requirements regarding the implementation of the fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) and the deferral of, until July 21, 2014, PSD applicability to biogenic carbon dioxide (CO_2) emissions from bioenergy and other biogenic stationary sources as well as additional air quality rule revisions. EPA is approving portions of these submittals as revisions to Georgia's SIP because the Agency has determined that they are consistent with the Clean Air Act (CAA or Act) and EPA regulations regarding NSR permitting. EPA is also responding to comments received on the January 14, 2012, proposed rulemaking.

DATES: This rule will be effective May 9, 2013.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0622. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Georgia SIP, contact Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bradley's telephone number is (404) 562–9352; email address: *bradley.twunjala@epa.gov*. For information regarding NSR or PSD, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Ms. Adams' telephone number is (404) 562–9241; email address: *adams.yolanda@epa.gov*. For information regarding the $PM_{2.5}$ NAAQS, contact Mr. Joel Huey, Regulatory Development Section, at the same address above. Mr. Huey's telephone number is (404) 562–9104; email address: *huey.joel@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. This Action
III. Response to Comments
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I. Background

EPA is taking final action to approve portions of Georgia's July 26, 2012, and September 26, 2006 (with a clarifying revision submitted on November 6, 2006) [1] SIP submittals. The July 26, 2012, submission revises Georgia's SIP at Air Quality Control Rule 391–3–1–.02(7)—*Prevention of Significant Deterioration of Air Quality* to IBR [2] the version of 40 CFR 52.21 as of July 20, 2011, including certain federal NSR permitting requirements promulgated in the: (1) ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) Significant Monitoring Concentration (SMC), Final Rule,'' 75 FR 64864 (October 20, 2010), (hereafter referred to as the ''$PM_{2.5}$ PSD Increment—SILs–SMC Rule); [3] (2) ''Deferral for CO_2 Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs,'' Final Rule, 76 FR 43490 (July 20, 2011) (hereafter referred to as CO_2 Biomass Deferral Rule); and (3) EPA's interim rulemaking entitled ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Reconsideration of Inclusion of Fugitive Emissions; Interim Rule; Stay and Revisions,'' 76 FR 17548 (March 30, 2011) (hereafter referred to as the ''Fugitive Emissions Interim Rule''). The July 26, 2012, submittal also requests that EPA remove from the SIP the exclusion language at Rule 391–3–1–.02(7) regarding the coarse particle pollution (PM_{10}) surrogate and grandfathering provision promulgated in the ''Implementation of the New Source Review Program for Particulate

[1] On September 26, 2006, Georgia submitted to EPA multiple SIP revisions to Georgia's Air Quality Rules found at Chapter 391–3–1. A clarifying revision was submitted on November 6, 2006. EPA took action on a portion of Georgia's September 26, 2006, submittal in multiple actions published in the **Federal Register** on February 9, 2010 (75 FR 6309) and December 1, 2010 (75 FR 74624). Action on the remaining portions of the September 26, 2006, submittal is still under consideration and will be addressed in separate actions. *See* 75 FR 74624.

[2] Throughout this document IBR means ''incorporate by reference'' or ''incorporates by reference.''

[3] As is explained later in this final action, EPA is not taking action to approve either the SILs or SMC portions of that rule. Further, EPA's January 14, 2013, proposed rule did not include a proposal to approve Georgia's SILs submission.

Matter Less Than 2.5 Micrometers'' Rule, 73 FR 28321 (May 16, 2008) (hereafter referred to as ''NSR $PM_{2.5}$ Rule'') and amends the following regulations: (1) Rule 391–3–1–.01(nnn)—*Definitions* regarding testing and monitoring of air pollutants; (2) Rule 391–3–1–.02(2)(c)—*Incinerators;* and (3) Rule 391–3–1–.03(6)—*Exemptions*. The September 26, 2006, SIP submittal adds new text at 391–3–1–.03(6)(i)(3) regarding Georgia's permit exemptions.

On January 14, 2013, EPA published a proposed rulemaking to approve many of the aforementioned changes to Georgia's SIP. *See* 78 FR 2872. Details regarding these changes and EPA's final action are summarized below in Section II. EPA's January 14, 2013, proposed rulemaking contains more detailed information regarding Georgia's SIP revisions being approved today and the rationale for today's final action. Comments on the proposed rulemaking were due on or before February 13, 2013. EPA received one set of comments, and is responding to the comments relevant to today's final action which is not acting on everything that was included in the January 14, 2013, proposal, due to a recent court decision. Pursuant to section 110 of the CAA, EPA is now taking final action to approve certain changes to Georgia's SIP.

In this rulemaking EPA is not taking final action on portions of the July 26, 2012, SIP submittal regarding Georgia's request for incorporation of the $PM_{2.5}$ SILs and SMC thresholds as promulgated in EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule. EPA will initiate a separate action to address these portions of the submittal. See below for more explanation on the SILs and SMC thresholds. Additionally, Georgia's July 26, 2012, submittal included certain rules that are not a part of Georgia's federally-approved SIP. As a result, EPA is not taking action on those rules, which are as follows: Rules 391–3–1–.02(www)—*Sewage Sludge Incineration,* 391–3–1–.03(9)—*Permit Fees,* 391–3–1–.02(8)(b)—*New Source Performance Standards* and 391–3–1–.02(9)(b)—*Emissions Standards for Hazardous Air Pollutants,* as these regulations are not part of Georgia's federally-approved SIP.

A. $PM_{2.5}$ PSD Increment SILs-SMC Rule

The $PM_{2.5}$ PSD Increment-SILs-SMC Rule provided additional regulatory provisions under the PSD program regarding the implementation of the $PM_{2.5}$ NAAQS for NSR including: (1) $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS; (2) SILs used as a screening tool (by a major source subject to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and (3) a SMC, (also a screening tool) used by a major source subject to PSD to determine the subsequent level of $PM_{2.5}$ data gathering required for a PSD permit application. PSD increments prevent air quality in attainment/unclassifiable areas from deteriorating to the level set by the NAAQS. Therefore, an increment is the mechanism used to estimate ''significant deterioration'' [4] of air quality for a pollutant in an area. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility ''will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.'' When a source applies for a permit to emit a regulated pollutant in an area that meets the NAAQS, the state and EPA must determine if emissions of the regulated pollutant from the source will cause significant deterioration in air quality. As described in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, pursuant to the authority under section 166(a) of the CAA, EPA promulgated numerical PSD increments for $PM_{2.5}$ as a new pollutant [5] for which NAAQS were established after August 7, 1977,[6] and derived 24-hour and annual $PM_{2.5}$ increments for the three area classifications (Class I, II and III) using the ''contingent safe harbor'' approach. *See* 75 FR 64869 and the ambient air increment tables at 40 CFR 51.166(c)(1) and 52.21(c). In addition to PSD increments for the $PM_{2.5}$ NAAQS, the $PM_{2.5}$ PSD Increment-SILs-SMC Rule amended the definition at 40 CFR 51.166 and 52.21 for ''*major source baseline date*'' and ''*minor source baseline date''* (including trigger date) to establish the $PM_{2.5}$ NAAQS specific dates associated with the implementation of $PM_{2.5}$ PSD increments. *See* 75 FR 64864.

For background purposes, the SILs and SMC portions of the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, which EPA is not taking action on today, are numerical values that represent thresholds of insignificant modeled source impacts or monitored (ambient) concentrations, respectively. EPA established such values to be used as screening tools by a major source subject to PSD to determine the subsequent level of analysis and data gathering required for a PSD permit application for emissions of $PM_{2.5}$.

The Sierra Club challenged EPA's authority to implement the $PM_{2.5}$ SILs and SMC for PSD purposes as promulgated in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC Rule. On January 22, 2013, the U.S. Court of Appeals for the District of Columbia Circuit issued an order vacating and remanding to EPA for further consideration the portions of its $PM_{2.5}$ PSD Increment-SILs-SMC Rule addressing the $PM_{2.5}$ SILs, except for the parts codifying the $PM_{2.5}$SILs in the NSR rule at 40 CFR 51.165(b)(2). *See Sierra Club* v. *EPA,* 705 F.3d 458, 469. The court also vacated parts of the $PM_{2.5}$ PSD Increment-SILs-SMC Rule establishing the $PM_{2.5}$ SMC, finding that the Agency had exceeded its statutory authority with respect to these provisions. *Id.* The D.C. Circuit Court's decision can be found in the docket for today's rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0622.

As a result of D.C. Circuit Court's decision, EPA is not taking action at this time on any portions of Georgia's PSD SIP submission regarding the $PM_{2.5}$SILs and SMC provisions described at 40 CFR 51.166 and 52.21, which have now been vacated and remanded. Georgia's July 26, 2012, SIP revision IBR both the $PM_{2.5}$ SIL and SMC screening tools promulgated in EPA's October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC Rule. In the January 14, 2013, proposed rulemaking, EPA proposed to approve into the Georgia SIP the $PM_{2.5}$ SMC but not the $PM_{2.5}$ SILs. While the Agency proposed to approve the SMC in the January 14, 2013, proposed rule, the Agency is not moving forward with this proposed approval as a result of the court's January 22, 2013, decision. EPA will consider Georgia's January 26, 2012, SIP revision (and EPA's previous

[4] Significant deterioration occurs when the amount of the new pollution exceeds the applicable PSD increment, which is the ''maximum allowable increase'' of an air pollutant allowed to occur above the applicable baseline concentration for that pollutant. Section 169(4) of the CAA provides that the baseline concentration of a pollutant for a particular baseline area is generally the air quality at the time of the first application for a PSD permit in the area.

[5] EPA generally characterized the $PM_{2.5}$ NAAQS as a NAAQS for a new indicator of PM. EPA did not replace the PM_{10} NAAQS with the NAAQS for $PM_{2.5}$ when the $PM_{2.5}$ NAAQS were promulgated in 1997. EPA rather retained the annual and 24-hour NAAQS for $PM_{2.5}$ as if $PM_{2.5}$ was a new pollutant even though EPA had already developed air quality criteria for PM generally. *See* 75 FR 64864 (October 20, 2012).

[6] EPA interprets 166(a) to authorize EPA to promulgate pollutant-specific PSD regulations meeting the requirements of section 166(c) and 166(d) for any pollutant for which EPA promulgates a NAAQS after 1977.

proposal) with regard to the $PM_{2.5}$ SILs and SMC thresholds in an action separate from today's rulemaking.

B. CO_2 Biomass Deferral

As was explained in more detail in EPA's January 14, 2013, proposed rulemaking, EPA's CO_2 Biomass Deferral Rule defers until July 21, 2014, the consideration of CO_2 emissions from bioenergy and other biogenic sources (hereafter referred to as ''biogenic CO_2 emissions'') when determining whether a stationary source meets the PSD and title V applicability thresholds, including those for the application of best available control technology.[7] *See* 76 FR 43490. EPA incorporated the biomass deferral into the regulations governing state programs and into the federal PSD program by amending the definition of ''*subject to regulation*'' under 40 CFR 51.166 and 52.21 respectively. The deferral is intended to be a temporary measure, in effect for no more than three years, to allow EPA time to conduct detailed examination of the science and technical issues related to accounting for biogenic CO_2 emissions, and determine what, if any, treatment of biogenic CO_2 emissions should be in the PSD and title V programs. The deferral applies only to biogenic CO_2 emissions and does not affect non-greenhouse gas (GHG) pollutants or other GHGs (e.g., methane and nitrous oxide) emitted from the combustion of biomass fuel.

C. Fugitive Emissions Interim Rule

EPA's Fugitive Emissions Interim Rule extends the Agency's March 31, 2010,[8] stay of the original December 19, 2008, Fugitive Emissions Rule reverting the CFR text back to the language that existed prior to the December 19, 2008, Fugitive Emissions Rule changes regarding the treatment of fugitive emissions.[9] *See* 73 FR 77882. EPA plans to issue a final rule affirming the interim rule as final. The final rule will remain in effect until EPA completes its reconsideration of the Natural Resource Defense Counsel's (NRDC) petition. *See* 78 FR 2872.

D. $PM_{2.5}$ Grandfathering Provision

EPA's $PM_{2.5}$ grandfather provision (established in the 2008 NSR $PM_{2.5}$ Rule) allowed PSD applicants that submitted a complete permit application prior to July 15, 2008, to continue relying upon the 1997 PM_{10} Surrogate Policy rather than amend their application to demonstrate compliance directly with the new $PM_{2.5}$ requirements. *See* 73 FR 28321. On January 13, 2011, Georgia submitted a SIP revision to IBR into the Georgia SIP the version of 40 CFR 52.21 as of June 3, 2010 which included language that excluded the grandfathering exemption (at 40 CFR 52.21(i)(1)(xi)) from the state's PSD regulations (at Rule 391–3–1–.02(7)(b)(6)(i)) ensuring that sources were not subject to the grandfathering provision. EPA approved Georgia's January 13, 2011, SIP revision on September 8, 2011 (76 FR 55572). On May 18, 2011, EPA repealed the $PM_{2.5}$ grandfathering provision [10] at 40 CFR 52.21(i)(1)(xi). *See* 76 FR 28646. Georgia's July 26, 2012, SIP submittal incorporates into the Georgia SIP the version of 40 CFR 52.21 as of July 20, 2011, including the May 18, 2011, repeal of the grandfather provision. Thus, the $PM_{2.5}$ grandfathering exclusion language previously approved into Georgia's SIP at Rule 391–3–1–.02(7)(b)(6)(i) is no longer necessary. Georgia's July 26, 2012, SIP submittal removes the unnecessary language pertaining to the removal of the grandfather provision from Rule 391–3–1–.02(7)(b)(6)(i).[11]

In addition to updates to Rule 391–3–1–.02(7), the July 26, 2012, SIP revision also (1) amends Georgia's definitions at 391–3–1–.01 by revising subparagraph (nnnn) to reference the February 1, 2012, update to Georgia's ''Procedures for Testing and Monitoring Sources of Air Pollutants;'' (2) revises Rule 391–3–1–.02(2)—*Incinerators* to add exemptions to subparagraph (c)(6)(ix)–(xiii) to exempt certain incinerators from the state rule that are subject to more stringent, state adopted federal standards at Rule 391–3–1.02; and (3) modifies Georgia's provisions at Rule 391–3–1–.03(6)(i)(4) regarding permit exemptions. Georgia's September 26, 2006, SIP (with a clarifying revision submitted on November 6, 2006) revises the permit exemption provisions at Rule 391–1–.03(6)(i)(3). Both 391–3–1–.03(6)(1)(3) and the provision at (i)(4) provide exemptions from the requirement of a source to obtain a SIP permit for cumulative modifications where the combined emission increases are below specific *de minimis* thresholds.[12] *See* 78 FR 2872.

II. This Action

EPA is taking final action to approve into the Georgia SIP portions of the State's July 26, 2012 and September 26, 2006 (as clarified on November 6, 2006) SIP revisions. Georgia's Rule 391–3–1–.02(7) IBR the federal NSR PSD regulations at 40 CFR 52.21 into the Georgia SIP. EPD's July 26, 2012, SIP revision IBR the version of 40 CFR 52.21 at 391–3–1–.02(7) as of July 20, 2011. By IBR the version of 40 CFR 52.21 effective on July 20, 2011, this revisions

[7] On June 3, 2010, EPA promulgated the GHG Tailoring Rule (which include CO_2, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride) which tailored the applicability criteria that determine which GHG emission sources become subject to the PSD program of the CAA. EPA established in the GHG Tailoring Rule a phase-in approach for PSD applicability and established the first two steps of the phase-in for the largest GHG emitters. *See* 75 FR 31514. Please refer to the July 12, 2012, rulemaking finalizing GHG Tailoring Rule Step 3. *See* 77 FR 41051. On January 13, 2011, EPD submitted a SIP revision to EPA to IBR into the Georgia SIP (at 391–3–1–.02(7)), the version of 40 CFR 52.21 as of June 3, 2010, which included the GHG Tailoring Rule thresholds. EPA took final action to approve Georgia's SIP revision on September 8, 2011. *See* 76 FR 55572. Georgia's submittal also revised the State's title V operating permit provisions (which are not included in the federally approved SIP) to incorporate the GHG Tailoring Rule provisions. As such, EPA did not take final action to approve Georgia's update to its title V. As with the Tailoring Rule, the Biomass Deferral addresses both PSD and title V requirements. However, as part of this action EPA is only taking action on Georgia's PSD program.

[8] After granting NRDC petition for reconsideration of the Fugitives Rule, EPA stayed the 2008 rule for 18 months to October 3, 2011 on March 31, 2010, allowing the Agency time to propose, take comment and issue a final action regarding the inclusion of fugitive emissions in NSR applicability determinations.

[9] The December 19, 2008, final rule required fugitive emissions to be included in determining whether a physical or operational change results in a major modification only for sources in industries that have been designated through rulemaking under section 302(j) of the CAA. Pursuant to CAA section 302(j), examples of these industry sectors include oil refineries, Portland cement plants, and iron and steel mills.

[10] In the May 16, 2008, NSR $PM_{2.5}$ Rule, EPA finalized regulations to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and nonattainment areas including the grandfather provision. *See* 73 FR 2832.

[11] Georgia's previous incorporation by reference of 40 CFR 52.21 at 391–3–1–.02(7) was as of June 3, 2010, which did not include the May 18, 2011, repeal of the PM_{10} Surrogate Policy; therefore the grandfathering exclusion language at 391–3–1–.02(7)(b)(6)(i) was necessary at that time. The June 3, 2010, IBR date was approved into the Georgia SIP on September 8, 2011. *See* 76 FR 55572.

[12] The September 26, 2006, SIP revision to Rule 391–3–1–.03(6)(i)(3) adds text that excludes contemporaneous emission decreases from the combined emission increases for cumulative modifications when determining if they are below specific emission thresholds for carbon monoxide, lead, particulate matter, PM_{10}, sulfur dioxide, nitrogen oxide, volatile organic compounds and any hazardous air pollutant applicable to any existing source. The July 26, 2012, SIP revision, adds Rule 391–3–1.03(6)(i)(4) which is an alternative to the exemption in (i)(3) that only applies to small modifications at existing quarry sources that are not major sources where the combined emission increases can include contemporaneous emission decreases from all nonexempt modified activities and are less than 10 tons per year of particulate matter and PM_{10}. Neither exemption may be used to lower the potential to emit below ''major source'' thresholds, or avoid any ''applicable requirement'' as defined in 40 CFR 70.2. *See* Georgia Rule 391–3–1–.03(6).

incorporates into the Georgia SIP the numerical $PM_{2.5}$ PSD increments promulgated in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule (pursuant to section 166(a) of the CAA) at 40 CFR 52.21(c) including the amendments to ''*major source baseline date*'' (at 40 CFR 52.21(b)(14)(i)(c)); ''*minor source baseline date*'' and establishment of the ''trigger date'' (40 CFR 52.21(b)(14)(ii)(c)); and the definition of ''*baseline area*'' (at 40 CFR 52.21(b)(15)(i) and (ii)). Regarding the $PM_{2.5}$ SILs and SMC provisions, in light of the D.C. Circuit Court January 22, 2013, court order to remand and vacate the SILs back to the Agency and vacate the SMC, EPA is not taking action on the portion of the submittal containing the SILs or SMC.

In addition, the July 26, 2012, submission IBR the CO_2 Biomass Rule, thus deferring until July 21, 2014, the consideration of ''biogenic CO_2 emissions'' when determining whether a stationary source meets the PSD and title V applicability thresholds by updating the definition for ''*subject to regulation.''* The submission IBR date as serves to include in the Georgia SIP the extension of the stay in the Fugitive Emissions Interim Rule.

The July 26, 2012, SIP submission also (1) IBR the May 18, 2011, repeal of the $PM_{2.5}$ grandfathering provision thereby removing the unnecessary grandfathering exclusion language from Rule 391–3–1–.02(7)(b)(6)(i); (2) amends Georgia's definition at 391–3–1–.01 subparagraph (nnnn) ''Procedures for Testing and Monitoring Sources of Air Pollutants;'' (3) revises Georgia's incinerator regulations at 391–3–1–.02(2) by adding exemptions to subparagraphs (c)(6)(ix)–(xiii) to exempt certain incinerators from the state rule that are subject to more stringent, state adopted federal standards at Rule 391–3–1.02; and (4) modifies Georgia's provisions at Rule 391–3–1–.03(6)(i)(4) regarding permit exemptions.

Lastly, EPA is taking final action to approve Georgia's September 26, 2006, SIP submission (as clarified on November 6, 2006) which revises the permit exemption provisions at Rule 391–1–.03(6)(i)(3). The changes to Georgia's rules submitted September 26, 2006 (as clarified on November 6, 2006) and July 26, 2012, became state effective on March 27, 2006, and August 9, 2012, respectively. EPA is taking final action to approve changes mentioned above in the July 26, 2012, and September 26, 2006, SIP revisions to update the State's existing SIP-approved PSD program to be consistent with federal NSR regulations (at 40 CFR 52.21) and the CAA as well as changes to Air Quality Rules 391–3–1–.01, .02(2) and .03.

III. Response to Comments

EPA received one set of comments on the January 14, 2013, proposed rulemaking from GreenLaw (hereafter referred to as the ''Commenter''). A copy of these comments can be found in the docket for today's rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0622. The Commenter submitted three comments one of which supports EPA's proposed January 14, 2013, actions to approve the $PM_{2.5}$ PSD Increments, Surrogate Policy repeal and extension of the Fugitives Emissions Rule stay into the Georgia SIP in accordance with the CAA. EPA appreciates the Commenter's support of the Agency's action to ensure Georgia's PSD permitting program is consistent with federal NSR permitting requirements. To the extent that the comments supported EPA's proposed actions, and the final actions being taken today, EPA need not provide a response to those comments. A summary of and response to the comments potentially adverse to today's action is provided below.

Comment: The Commenter states that EPA cannot approve a SIP submittal that includes the $PM_{2.5}$ SMC and SILs. The Commenter cites to the D.C. Circuit Court's January 22, 2013, court decision which vacated and remanded back to EPA the SILs and vacated the SMC citing the monitoring provisions exceeded EPA's authority. Further, the Commenter affirms that the changes proposed for approval simply change the date of incorporation by reference but that EPA should clarify in its final rulemaking that it is ''denying approval'' of SILs and SMCs into the Georgia SIP.

Response: With regard to the $PM_{2.5}$ SILs, EPA never proposed approval of Georgia's submission as to those provisions. As a result, EPA is not now taking any action regarding Georgia's $PM_{2.5}$ SILs submission. With regard to the $PM_{2.5}$ SMC provisions, EPA did propose approval of those provisions but in light of the D.C. Circuit's January 22, 2013, court order, EPA is not now taking final action on EPA's January 14, 2013, proposal regarding Georgia's $PM_{2.5}$ SMC submission. EPA will consider Georgia's January 26, 2012, SIP revision (and EPA's previous proposal) with regard to the $PM_{2.5}$ SILs and SMC thresholds in an action separate from today's rulemaking.

IV. Final Action

EPA is taking final action to approve, into the Georgia SIP, portions of Georgia's September 26, 2006 (as clarified on November 6, 2006) and July 26, 2012, SIP revisions adopting federal regulations amended in the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC rule; the June 3, 2010, CO_2 Biomass Deferral Rule; and the March 30, 2011, Fugitive Emissions Interim Rule, amendments regarding the $PM_{2.5}$ Grandfathering Provision, definition changes regarding testing and monitoring, and changes regarding exemptions from the requirement to obtain a SIP permit and exemptions for incinerators. EPA is taking final action to approve these aforementioned changes to Georgia's SIP because they are consistent with section 110 of the CAA and current EPA regulations regarding NSR permitting.

EPA is not, however, taking final action to approve in this rulemaking the portion of Georgia's July 26, 2012, SIP revision incorporating the $PM_{2.5}$ SILs and SMC thresholds and provisions promulgated in EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule. EPA is also not taking final action to approve in this rulemaking Rules 391–3–1–.02(www)—*Sewage Sludge Incineration,* 391–3–1–.03(9)—*Permit Fees,* 391–3–1–.02(8)(b)—*New Source Performance Standards* and 391–3–1–.02(9)(b)—*Emissions Standards for Hazardous Air Pollutants,* which were included in Georgia's July 26, 2012, SIP revision, but are not part of Georgia's SIP.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

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

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

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

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

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 10, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 27, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart (L)—Georgia

■ 2. Section 52.570 is amended in the paragraph (c) table by revising the entries for ''391–3–1–.01,'' ''391–3–1.02(2)(c),'' ''391–3–1.02(7)'' and ''391–3–1.03'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.01	Definitions	8/9/12	4/9/13 [Insert citation of publication].	
* *	*	*	* *	*
391–3–1–.02(2)	Emission Standards			
* *	*	*	* *	*
391–3–1.02(2)(c)	Incinerators	8/9/12	4/9/13 [Insert citation of publication].	

EPA APPROVED GEORGIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
* *	*	*	* *	*
391–3–1–.02(7)	Prevention of Significant Deterioration of Air Quality (PSD).	8/9/12	4/9/13 [Insert citation of publication].	As of 4/9/13 EPA is approving a revision to 391–3–1–.02(7) to incorporate by reference the version of 40 CFR 52.21 as of July 20, 2011. *See* [Insert citation of publication] with the exception of the $PM_{2.5}$ SMC and SILs thresholds and provisions promulgated in the October 20, 2010 $PM_{2.5}$ PSD Increment-SILs-SMC Rule at 40 CFR 52.21(i)(5) and (k)(2) respectively. September 9, 2011(76 FR 55572)—Georgia's PSD Rule 391–3–1–.02(7) incorporates by reference the regulations found at 40 CFR 52.21 as of June 3, 2010, with changes. This EPA action is approving the incorporation by reference with the exception of the following provisions: (1) The provisions amended in the Ethanol Rule (72 FR 24060) which exclude facilities that produce ethanol through a natural fermentation process from the definition of "chemical process plants" in the major NSR source permitting program found at 40 CFR 52.21(b)(1)(i)(*a*) and (b)(1(iii)(*f*); and (2) the administrative regulations amended in the Fugitive Emissions Rule (73 FR 77882). Additionally, this EPA action is not approving the "automatic rescission clause" provision at 391–3–1.02(7)(a)2.(iv). This rule contains NO_X as a precursor to ozone for PSD and NSR.
* *	*	*	*	*
391–3–1–.03	Permits	8/9/12	4/9/13 [Insert citation of publication].	Changes specifically to (8)—Permit Requirements.
* *	*	*	*	*

* * * * *

[FR Doc. 2013–07978 Filed 4–8–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907301205–0289–02]

RIN 0648–XC500

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub-ACL (Annual Catch Limit) Harvested for Management Area 2

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the directed herring fishery in Management Area 2, because over 95 percent of the catch limit for that area has been caught. Effective 0001 hr, April 7, 2013, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring (herring) per trip or calendar day in or from Management Area 2 until January 1, 2014, when the 2014 allocation for Area 2 becomes available. Also effective 0001 hr, April 7, 2013, federally permitted dealers may not receive more than 2,000 lb (907.2 kg) of herring caught within Management Area 2 per trip or calendar day.

DATES: Effective 0001 hr local time, April 7, 2013, through December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Katherine Richardson, Policy Analyst, (978) 675–2125.

SUPPLEMENTARY INFORMATION: The reader can find regulations governing the herring fishery at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch, annual catch limit (ACL), optimum yield, domestic harvest and processing, U.S. at-sea processing, border transfer, and sub-ACLs for each management area. The 2013 Domestic Annual Harvest is 91,200 metric tons (mt); the 2013 sub-ACL allocated to Area 2 is 22,146 mt, and 0 mt of the sub-ACL is set aside for research (75 FR 48874, August 12, 2010).

The regulations at § 648.201 require the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor the herring fishery in each of the four management areas designated in the Fishery Management Plan (FMP) for the herring fishery and, based upon dealer reports, state data, and other available information, to determine when the harvest of Atlantic herring is projected to reach 95-percent of the management area sub-ACL. When such a determination is made, NMFS must publish notification in the **Federal Register** and prohibit herring vessel permit holders from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring per calendar day in or from the specified management area for the remainder of the closure period. Vessels may transit Area 2 with more than 2,000 lb (907.2 kg) of herring on board only under the conditions specified below.

The Regional Administrator has determined, based upon dealer reports and other available information, that the herring fleet has caught over 95 percent of the total herring sub-ACL allocated to Area 2 for 2013. Therefore, effective 0001 hr local time, April 7, 2013, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of herring per trip or calendar day in, or from Area 2 per calendar day through December 31, 2013. A vessel may transit through Area 2 with more than 2,000 lb (907.2 kg) of herring on board, provided the vessel did not catch the herring in Area 2 and stows all fishing gear aboard, making it unavailable for immediate use as required by § 648.23(b). Effective 0001 hr, April 7, 2013, federally permitted dealers are also advised that they may not receive herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 2 through 2400 hr local time, December 31, 2013.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. This action closes the herring fishery for Management Area 2 until January 1, 2014, under current regulations. The regulations at § 648.201(a) require such action to ensure that herring vessels do not exceed the 2013 sub-ACL allocated to Area 2. The herring fishery opened for the 2013 fishing year on January 1, 2013. Data indicating the herring fleet will have landed at least 95 percent of the 2013 sub-ACL allocated to Area 2 have only recently become available. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Area 2 for this fishing year can be exceeded, thereby undermining the conservation objectives of the FMP.

If sub-ACLs are exceeded, the excess must also be deducted from a future sub-ACL. NMFS further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: April 4, 2013.

Kara Meckley,

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

[FR Doc. 2013–08220 Filed 4–4–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 78, No. 68

Tuesday, April 9, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0314; Directorate Identifier 2013–CE–004–AD]

RIN 2120–AA64

Airworthiness Directives; B–N Group Ltd. Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for B–N Group Ltd. Models BN–2, BN–2A, BN2A MK. III, BN2A MK. III–2, BN2A MK. III–3, BN–2A–2, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN–2T, and BN–2T–4R airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as inadequate sealing of the fuel filler cap (fuel tank cap) and the fuel filler receptacle (fuel tank opening), which could lead to contaminated fuel and result in in-flight shutdown of the engine. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 24, 2013.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact Britten-Norman Aircraft Ltd, Commodore House, Mountbatten Business Centre, Millbrook Road East, Southampton SO15 1HY, United Kingdom; telephone: +44 01983 872511; fax: +44 01983 873246; email: *info@bnaircraft.com;* Internet: *www.britten-norman.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0314; Directorate Identifier 2013–CE–004–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2012–0270, December 20, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Preliminary investigations into a recent engine failure on a BN2 aeroplane have attributed the event to water contaminated fuel. The contamination is suspected to have occurred due to inadequate sealing between a post-mod NB–M–477 fuel filler cap and a pre-mod NB–M–477 fuel filler receptacle. This condition, if not detected and corrected, could lead to fuel water contamination, possibly resulting in in-flight shut down of the engine.
> For the reasons described above, this AD requires a one-time inspection of the fuel filler cap and fuel filler receptacle to determine whether they are at the same modification state and, depending on findings, accomplishment of applicable corrective action(s). To mitigate the risk of water contamination pending the installation of matching fuel filler cap and receptacle, this AD also requires daily pre-flight water contamination checks.

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

Relevant Service Information

B–N Group Limited has issued Service Bulletin Number SB 332, Issue 1, dated December 6, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information

referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 114 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $9,690, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing $400, for a cost of $485 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

B–N Group Ltd.: Docket No. FAA–2013–0314; Directorate Identifier 2013–CE–004–AD.

(a) Comments Due Date

We must receive comments by May 24, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to B–N Group Ltd. Models BN–2, BN–2A, BN2A MK. III, BN2A MK. III–2, BN2A MK. III–3, BN–2A–2, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN–2T, and BN–2T–4R airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 28: Fuel.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. We are issuing this proposed AD to prevent, detect, and correct inadequate sealing of the fuel filler cap (fuel tank cap) and the fuel filler receptacle (fuel tank opening), which could lead to contaminated fuel and result in in-flight shutdown of the engine.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within next 30 days after the effective date of this AD, inspect the aircraft fuel replenishment points on the top surface of the wings to determine that the fuel filler cap (fuel tank cap) matches the fuel filler receptacle (fuel tank opening) following the instructions of paragraph 6 of Britten-Norman Service Bulletin Number SB 332, Issue 1, dated December 6, 2012.

(2) If a mismatch of the fuel filler cap and the fuel filler receptacle is found during the inspection required by paragraph (f)(1) of this AD, within 3 months after the effective date of this AD, install the correct fuel filler cap to match the fuel filler receptacle installed on the airplane following the instructions of paragraph 6 of Britten-Norman Service Bulletin Number SB 332, Issue 1, dated December 6, 2012.

(3) If a mismatch of the fuel filler cap and the fuel filler receptacle is found during the inspection required by paragraph (f)(1) of this AD, before further flight and thereafter during each daily pre-flight check, do water contamination checks of the gascolators and fuel tank sump drains, including those of the wing tip tanks if installed. This check is in addition to the normal daily checks already required.

(4) The modification required by paragraph (f)(2) of this AD terminates the daily pre-flight water contamination checks as specified in paragraph (f)(3) of this AD.

(5) After the effective date of this AD, do not install on any airplane a fuel filler cap that does not match the fuel filler receptacle and has the correct seal.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information

collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2012–0270, December 20, 2012; and Britten-Norman Service Bulletin Number SB 332, Issue 1, dated December 6, 2012, for related information. For service information related to this AD, contact Britten-Norman Aircraft Ltd, Commodore House, Mountbatten Business Centre, Millbrook Road East, Southampton SO15 1HY, United Kingdom; telephone: +44 01983 872511; fax: +44 01983 873246; email: *info@bnaircraft.com;* Internet: *www.britten-norman.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on April 2, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08194 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0296; Directorate Identifier 2012–NM–102–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The existing AD currently requires revising the airworthiness limitations section of the Instructions for Continued Airworthiness of the maintenance requirements manual (MRM) by incorporating procedures for repetitive functional tests of the pilot input lever of the pitch feel simulator (PFS) units and new repetitive functional tests of the pilot input lever of the PFS unit, and corrective actions if necessary; and, after initiating the new tests, removing of the existing procedures for the repetitive functional tests from the MRM. The existing AD was prompted by a report that the shear pin located in the input lever of two PFS units failed due to fatigue. Since we issued that AD, a new re-designed PFS unit has been developed, which eliminates the need for repetitive inspections. This proposed AD would require replacing certain PFS units with the new redesigned PFS unit. This proposed AD would also remove certain airplanes from the applicability and add certain airplanes to the applicability. We are proposing this AD to prevent undetected failure of the shear pins of both PFS units simultaneously, which could result in loss of pitch feel forces and consequent reduced control of the airplane.

DATES: We must receive comments on this proposed AD by May 24, 2013.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0296; Directorate Identifier 2012–NM–102–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On March 31, 2008, we issued AD 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008), Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2005–41R1, dated May 10, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The shear pin in the input lever of several Pitch Feel Simulators (PFS) units has failed due to fatigue. The shear pin failure is not always detectable by the flight crew in normal operation. Failure of the shear pins in both PFS units on an aeroplane could result in loss of pitch feel forces and reduced controllability of the aeroplane.
> Recently, Transport Canada has certified the new design of the PFS unit—part number (P/N) 601R92300–7 as a terminating action.

Revision 1 of this [TCCA] AD mandates the retrofit of all in-service CL–600–2B19 aeroplanes with the redesigned PFS unit.

Required actions include replacing the PFS units having part number (P/N) 601R92300–3 or 601R92300–5 with PFS units having P/N 601R92300–7, which would terminate the actions required by AD 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008). This proposed AD also adds airplanes having serial numbers (S/Ns) 7991 through 7999 inclusive, and removes airplanes having S/Ns 8112 and subsequent. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier, Inc. has issued Alert Service Bulletin A601R–27–144, Revision E, dated October 2, 2012, including Appendix A, Revision A, dated December 20, 2006; and Service Bulletin 601R–27–139, Revision A, dated May 28, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 574 products of U.S. registry.

The actions that are required by AD 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008), and retained in this proposed AD take about 2 work-hours per product, at an average labor rate of $85 per work hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the currently required actions is $170 per product.

We estimate that it would take about 8 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $2,500 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $1,825,320, or $3,180 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008), and adding the following new AD:

Bombardier, Inc.: Docket No. FAA–2013–0296; Directorate Identifier 2012–NM–102–AD.

(a) Comments Due Date

We must receive comments by May 24, 2013.

(b) Affected ADs

This AD supersedes AD 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008).

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers (S/Ns) 7003 through 8111 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by a report that the shear pin located in the input lever of two pitch feel simulator (PFS) units failed due to fatigue. We are issuing this AD to prevent undetected failure of the shear pins of both PFS units simultaneously, which could result in loss of pitch feel forces and consequent reduced control of the airplane.

(f) Compliance

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

(g) Retained Revision of Airworthiness Limitations (AWL) Section of Maintenance Requirements Manual

This paragraph restates the requirements of paragraph (f) of AD 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008). For airplanes having S/Ns 7003 through 7990 inclusive: Within 14 days after February 13, 2004 (the effective date of AD 2004–02–07, Amendment 39–13442 (69 FR 4234, January 29, 2004), which was superseded by AD 2006–05–11 R1, Amendment 39–14528 (71 FR 15323, March 28, 2006)), revise the AWL section of the Instructions for Continued Airworthiness of the maintenance requirements manual by incorporating the

functional check of the PFS pilot input lever, Task R27–31–A024–01, as specified in Bombardier Temporary Revision (TR) 2B–1784, dated October 24, 2003, to the CL–600–2B19 Canadair Regional Jet Maintenance Requirements Manual, Part 2, Appendix B, ''Airworthiness Limitations,'' into the AWL section.

(h) Retained Functional Test of Input Lever With Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008), with revised service information. For airplanes having S/Ns 7003 through 7990 inclusive, and S/Ns 8000 through 8111 inclusive: Before the accumulation of 4,000 total flight hours, or within 100 flight hours after March 27, 2006 (the effective date of AD 2006–05–11 R1, Amendment 39–14528 (71 FR 15323, March 28, 2006), whichever occurs later, do a functional test of the pilot input lever of the PFS units to determine if the lever is disconnected, in accordance with the Accomplishment Instructions of a service bulletin specified in paragraph (h)(1), (h)(2), or (h)(3) of this AD. Repeat the test at intervals not to exceed 100 flight hours. Accomplishing the initial functional test terminates the requirements of paragraph (g) of this AD and the repetitive functional check of the PFS pilot input lever, Task R27–31–A024–01, as specified in the AWL section of the Instructions for Continued Airworthiness of CL–600–2B19 Canadair Regional Jet Maintenance Requirements Manual. As of the effective date of this AD, only Bombardier Alert Service Bulletin A601R–27–144, Revision E, dated October 2, 2012, including Appendix A, Revision A, dated December 20, 2006, may be used to accomplish the actions required by this paragraph.

(1) Bombardier Alert Service Bulletin A601R–27–144, Revision A, dated February 14, 2006, including Appendix A, dated September 15, 2005.

(2) Bombardier Alert Service Bulletin A601R–27–144, Revision B, dated December 20, 2006, including Appendix A, Revision A, dated December 20, 2006.

(3) Bombardier Alert Service Bulletin A601R–27–144, Revision E, dated October 2, 2012, including Appendix A, Revision A, dated December 20, 2006.

(i) Retained Replacement With Revised Service Information

This paragraph restates the requirements of paragraph (h) of AD 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008), with revised service information. If any lever is found to be disconnected during any functional test required by paragraph (h) of this AD, before further flight, replace the defective PFS unit with a serviceable PFS unit, in accordance with the Accomplishment Instructions of a service bulletin specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD. As of the effective date of this AD, only Bombardier Alert Service Bulletin A601R–27–144, Revision E, dated October 2, 2012, including Appendix A, Revision A, dated December 20, 2006, may be used to accomplish the actions required by this paragraph.

(1) Bombardier Alert Service Bulletin A601R–27–144, Revision A, dated February 14, 2006, including Appendix A, dated September 15, 2005.

(2) Bombardier Alert Service Bulletin A601R–27–144, Revision B, dated December 20, 2006, including Appendix A, Revision A, dated December 20, 2006.

(3) Bombardier Alert Service Bulletin A601R–27–144, Revision E, dated October 2, 2012, including Appendix A, Revision A, dated December 20, 2006.

(j) New Functional Test of Input Lever

For airplanes having S/Ns 7991 through 7999 inclusive: At the later of the times specified in paragraphs (j)(1) and (j)(2) of this AD, do a functional test of the pilot input lever of the PFS units to determine if the lever is disconnected, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–27–144, Revision E, dated October 2, 2012, including Appendix A, Revision A, dated December 20, 2006. Repeat the test thereafter at intervals not to exceed 100 flight hours. Accomplishing the initial functional test specified in this paragraph terminates the requirements of paragraph (g) of this AD and the repetitive functional check of the PFS pilot input lever, Task R27–31–A024–01, as specified in the AWL section of the Instructions for Continued Airworthiness of CL–600–2B19 Canadair Regional Jet Maintenance Requirements Manual.

(1) Before the accumulation of 4,000 total flight hours.

(2) Within 100 flight hours from the effective date of this AD.

(k) New Replacement of Defective Pitch Feel Simulator Unit

For airplanes having S/Ns 7991 through 7999 inclusive: If any disconnected lever is found to be detected during any functional test required by paragraph (j) of this AD, before further flight, replace the defective PFS unit with a serviceable PFS unit, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–27–144, Revision E, dated October 2, 2012, including Appendix A, Revision A, dated December 20, 2006.

(l) New Replacement of Pitch Feel Simulator Units

At the applicable time specified in paragraph (l)(1), (l)(2), (l)(3), or (l)(4) of this AD: Replace PFS units having part number (P/N) 601R92300–3 or 601R92300–5, with PFS units having P/N 601R92300–7, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–27–139, Revision A, dated May 28, 2012. Accomplishment of the replacement required by this paragraph terminates the requirements of paragraphs (g), (h), (i), (j), and (k) of this AD, and does not alter the approved maintenance program for the new redesigned PFS unit P/N 601R92300–7.

(1) For PFS units having P/N 601R92300–3 or 601R92300–5 that have accumulated less than 18,000 total flight hours as of the effective date of this AD: Within 6,000 flight hours after the effective date of this AD, but not to exceed 23,000 total flight hours on the PFS unit, or within 36 months after the effective date of this AD, whichever occurs first.

(2) For PFS units having P/N 601R92300–3 or 601R92300–5 that have accumulated more than or equal to 18,000 total flight hours but less than 19,000 total flight hours as of the effective date of this AD: Within 5,000 flight hours after the effective date of this AD, but not to exceed 23,000 total flight hours on the PFS unit, or within 30 months after the effective date of this AD, whichever occurs first.

(3) For PFS units having P/N 601R92300–3 or 601R92300–5 that have accumulated more than or equal to 19,000 total flight hours but less than 20,000 total flight hours as of the effective date of this AD: Within 4,000 flight hours after the effective date of this AD, but not to exceed 23,000 total flight hours on the PFS unit, or within 24 months after the effective date of this AD, whichever occurs first.

(4) For PFS units having P/N 601R92300–3 or 601R92300–5 that have accumulated more than or equal to 20,000 total flight hours as of the effective date of this AD: Within 3,000 flight hours or 18 months, after the effective date of this AD, whichever occurs first.

(m) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraphs (h) and (i) of this AD, if those actions were performed before the effective date of this AD using a service bulletin identified in paragraph (m)(1)(i) or (m)(1)(ii) of this AD.

(i) Bombardier Alert Service Bulletin A601R–27–144, Revision C, dated July 21, 2008, including Appendix A, dated December 20, 2006, which is not incorporated by reference in this AD.

(ii) Bombardier Alert Service Bulletin A601R–27–144, Revision D, dated December 22, 2011, including Appendix A, dated December 20, 2006, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for replacement of the PFS units required by paragraph (l) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 601R–27–139, dated December 22, 2011, which is not incorporated by reference in this AD.

(3) This paragraph provides credit for the actions required by paragraph (h) of this AD, if those actions were performed before March 27, 2006 (the effective date of AD 2006–05–11 R1, Amendment 39–14528 (71 FR 15323, March 28, 2006)), using Bombardier Alert Service Bulletin A601R–27–144, Revision B, dated December 20, 2006, including Appendix A, Revision A, dated December 20, 2006.

(4) This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before May 19, 2008 (the effective date of AD 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008)), using Bombardier Alert Service Bulletin A601R–27–144, Revision B, dated December 20, 2006, including Appendix A, Revision A, dated December 20, 2006.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. Send information to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD. AMOCs approved previously in accordance with AD 2008–08–09, Amendment 39–15461 (73 FR 19979, April 14, 2008), are approved as AMOCs for the corresponding provisions of paragraphs (g), (h), and (i) of this AD.

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

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2005–41R1, dated May 10, 2012, and the service bulletins specified in paragraphs (o)(1)(i) through (o)(1)(v) of this AD, for related information.

(i) Bombardier Alert Service Bulletin A601R–27–144, Revision A, dated February 14, 2006, including Appendix A, dated September 15, 2005.

(ii) Bombardier Alert Service Bulletin A601R–27–144, Revision B, dated December 20, 2006, including Appendix A, Revision A, dated December 20, 2006.

(iii) Bombardier Alert Service Bulletin A601R–27–144, Revision E, dated October 2, 2012, including Appendix A, Revision A, dated December 20, 2006.

(iv) Bombardier Service Bulletin 601R–27–139, Revision A, dated May 28, 2012.

(v) Bombardier Temporary Revision (TR) 2B–1784, dated October 24, 2003, to the CL–600–2B19 Canadair Regional Jet Maintenance Requirements Manual, Part 2, Appendix B, ''Airworthiness Limitations.''

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

Issued in Renton, Washington, on March 28, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08204 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1003; Directorate Identifier 2012–NM–064–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

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

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. That NPRM proposed replacing all three advance pneumatic detectors (APDs) with new detector assemblies. That NPRM was prompted by reports of ADPs for engine fire/overheat detector assemblies failing to reset after activation due to permanent deformation of the detector switch diaphragm after being exposed to high temperatures. This action revises that NPRM by adding airplanes to the applicability. We are proposing this AD to prevent a continued engine fire indication in the cockpit after the actual fire has been extinguished, which is misleading and might influence the pilot to conduct a potentially hazardous ''off-airport'' landing. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this proposed AD by May 24, 2013.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mazdak Hobbi, Aerospace Engineer, Propulsion and Services Branch, ANE–173, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7330; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1003; Directorate Identifier 2012–NM–064–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on October 2, 2012 (77 FR 60060). That earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since that NPRM (77 FR 60060, October 2, 2012) was issued, we determined that airplanes having serial numbers 4374 through 4399 are also affected by the identified unsafe condition, and that the actions specified in paragraph (g)(3) of that NPRM need to be accomplished on those airplanes in order to address the identified unsafe condition.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2012–07R1, effective December 21, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> There have been engine fires on DHC–8 Series 400 aeroplanes, where the ''ENGINE FIRE, CHECK FIRE DETECT'' warning and ''FUEL OFF'' handle lights failed to reset and remained illuminated after the fire was extinguished. An investigation has revealed that the existing engine fire/overheat detector assemblies ''Advance Pneumatic Detectors (APD)'' may fail to reset after activation due to permanent deformation of the detector switch diaphragm after being exposed to high temperatures.
>
> This abnormal condition of a continued engine fire indication in the cockpit, after the actual fire has been extinguished, is misleading and may influence the pilot's decision to conduct a potentially hazardous ''off-airport'' landing, which is considered an unsafe condition that warrants mitigating action.
>
> To mitigate this potentially hazardous condition, Bombardier has issued multiple service bulletins (SBs) [Bombardier Service Bulletins 84–26–08, Revision A, dated May 12, 2011; 84–26–09, Revision A, dated May 12, 2011; and 84–26–12, Revision B, dated October 12, 2012] to replace all three affected APDs with new detector assemblies that are not susceptible to the subject diaphragm deformation when exposed to excessive heat.
>
> * * *
>
> This revised [Canadian] AD is issued to include the additional 26 aeroplane S/Ns in the applicability section of the AD. The additional S/Ns, 4374 through 4399, only affect the compliance with Part III of this [Canadian] AD.

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

Relevant Service Information

Bombardier, Inc. has issued Service Bulletins 84–26–08, Revision B, dated September 24, 2012; and 84–26–12, Revision B, dated October 12, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

Comments

We gave the public the opportunity to comment on the original NPRM (77 FR 60060, October 2, 2012). We received no comments on that NPRM or on the determination of the cost to the public.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Certain changes described above expand the scope of the earlier NPRM (77 FR 60060, October 2, 2012). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 399 products of U.S. registry. We also estimate that it would take about 63 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $5,700 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $4,410,945, or $11,055 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2012–1003; Directorate Identifier 2012–NM–064–AD.

(a) Comments Due Date

We must receive comments by May 24, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers (S/Ns) 4001 through 4399 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection.

(e) Reason

This AD was prompted by reports of advance pneumatic detectors (APDs) for engine fire/overheat detector assemblies failing to reset after activation due to permanent deformation of the detector switch diaphragm after being exposed to high temperatures. We are issuing this AD to prevent a continued engine fire indication in the cockpit after the actual fire has been extinguished, which is misleading and might influence the pilot to conduct a potentially hazardous ''off-airport'' landing.

(f) Compliance

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

(g) Installation

Within 6,000 flight hours or 30 months after the effective date of this AD, whichever occurs first, replace the APDs as specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, as applicable.

(1) For airplanes having S/Ns 4001 through 4373 inclusive: For the nacelle of the engine primary zone, remove any APD having part number (P/N) 10–1098 and install a new APD having P/N 10–1098–01, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–26–08, Revision B, dated September 24, 2012.

(2) For airplanes having S/Ns 4001 through 4373 inclusive: For the nacelle of the landing gear primary zone, remove any APD having P/N 10–1097 or 10–1097–01 and install a new APD having P/N 10–1097–02, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–26–09, Revision A, dated May 12, 2011.

(3) For all airplanes: For the propeller engine controller, remove any APD having P/N 10–1096, 10–1096–01, or 10–1096–02 (serial number is all numeric characters), and install a new APD having P/N 10–1096–02 (serial number is three alpha and four numeric characters), in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–26–12, Revision B, dated October 12, 2012.

(h) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g)(1) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (h)(1)(i) or (h)(1)(ii) of this AD, which are not incorporated by reference in this AD.

(i) Bombardier Service Bulletin 84–26–08, dated March 11, 2011.

(ii) Bombardier Service Bulletin 84–26–08, Revision A, dated May 12, 2011.

(2) This paragraph provides credit for actions required by paragraph (g)(2) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–26–09, dated March 11, 2011, which is not incorporated by reference in this AD.

(3) This paragraph provides credit for actions required by paragraph (g)(3) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (h)(3)(i) or (h)(3)(ii) of this AD, which are not incorporated by reference in this AD.

(i) Bombardier Service Bulletin 84–26–12, dated October 12, 2011.

(ii) Bombardier Service Bulletin 84–26–12, Revision A, dated December 13, 2011.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(j) Related Information

(1) Refer to MCAI Canadian Airworthiness Directive CF–2012–07R1, effective December 21, 2012; and the service information identified in paragraphs (j)(1)(i), (j)(1)(ii), and (j)(1)(iii) of this AD; for related information.

(i) Bombardier Service Bulletin 84–26–08, Revision B, dated September 24, 2012.

(ii) Bombardier Service Bulletin 84–26–09, Revision A, dated May 12, 2011.

(iii) Bombardier Service Bulletin 84–26–12, Revision B, dated October 12, 2012.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* 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.

Issued in Renton, Washington, on March 28, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08203 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0297; Directorate Identifier 2012–NM–205–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–102, –103, and –106 airplanes. This proposed AD was prompted by a report of cracking in a lower longeron in a nacelle. This proposed AD would require repetitive inspections for cracking of the lower longerons in the nacelles and replacement with new longerons or repair if necessary. Additionally, this proposed AD specifies an optional terminating action. We are proposing this AD to detect and correct such cracking, which could result in degradation of the structural integrity of the nacelle and possible collapse of the main landing gear (MLG).

DATES: We must receive comments on this proposed AD by May 24, 2013.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jeffrey Zimmer, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7306; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0297; Directorate Identifier 2012–NM–205–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2012–27, dated November 2, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> There has been one in-service report where a nacelle lower longeron was found to be cracked during a routine maintenance inspection. The investigation determined that the crack initiated from the right-hand side (RHS) drain hole. Fatigue testing has indicated that both the RHS and left-hand side (LHS) longerons are vulnerable to fatigue cracking. Failure of the nacelle lower longeron would result in a degradation of the structural integrity of the nacelle and could potentially lead to collapse of the main landing gear (MLG).
>
> This [Canadian] AD mandates initial and repeat inspections [for cracking] of the RHS and LHS nacelle lower longerons until the terminating action is accomplished.

The initial inspection may be either a detailed inspection or a bolt-hole eddy current (BHEC) inspection. The repetitive inspection is a BHEC inspection. The corrective action is replacement of the longeron with a new longeron or repair. The optional terminating action is replacement of the nacelle lower longerons, and cold working of the drain holes. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier, Inc., has issued Service Bulletin 8–54–39, Revision A, dated August 2, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

Although the MCAI and Bombardier Service Bulletin 8–54–39, Revision A, dated August 2, 2012, specify to contact the manufacturer for instructions to repair certain conditions, this proposed AD would require repairing those conditions using a method approved by either the Manager, New York Aircraft Certification Office (ACO), ANE–170, Transport Airplane Directorate, FAA; or TCCA (or its delegated agent).

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 51 products of U.S. registry. We also estimate that it would take about 21 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $37,485, or $1,785 per product.

In addition, we estimate that any necessary follow-on actions would take about 100 work-hours and require parts costing $23,849, for a cost of $32,349 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2013–0297; Directorate Identifier 2012–NM–205–AD.

(a) Comments Due Date

We must receive comments by May 24, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–102, –103 airplanes, and airplanes converted to Model DHC–8–106 in accordance with Bombardier Service Bulletin 8–92–07 or Bombardier Service Bulletin 8–92–08, serial numbers 003 through 287 inclusive, with pre-modification 8/1593 nacelle lower longeron installed, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

(e) Reason

This AD was prompted by a report of cracking in a lower longeron in a nacelle. We are issuing this AD to detect and prevent such cracking, which could result in degradation of the structural integrity of the nacelle and possible collapse of the main landing gear (MLG).

(f) Compliance

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

(g) Initial Inspection

At the applicable time specified in paragraph (g)(1), (g)(2), (g)(3) or (g)(4) of this AD: Do a detailed visual inspection or a bolt-hole eddy current (BHEC) test for cracking of each nacelle lower longeron, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–54–39, Revision A, dated August 2, 2012.

(1) For Model DHC–8–102 and –103 airplanes that have accumulated 35,000 total flight cycles or less as of the effective date of this AD: Within 5,000 flight cycles after the effective date of this AD, but not to exceed 36,000 total flight cycles.

(2) For Model DHC–8–102 and –103 airplanes that have accumulated more than 35,000 total flight cycles as of the effective date of this AD: Within 1,000 flight cycles after the effective date of this AD.

(3) For Model DHC–8–106 airplanes with the Pre-Modification 8/1641 configuration, within 500 flight cycles after the effective date of this AD.

(4) For Model DHC–8–106 airplanes with the Post-Modification 8/1641 configuration, within 5,000 flight cycles after the effective date of this AD.

(h) Repetitive BHEC Testing

After accomplishment of the actions required by paragraph (g) of this AD, at the applicable time specified in paragraph (h)(1) or (h)(2) of this AD: Do repetitive BHEC testing for cracking of each nacelle lower longeron, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–54–39, Revision A, dated August 2, 2012, until the terminating action specified in paragraph (j) of this AD is done.

(1) For Model DHC–8–102 and 103 airplanes, at intervals not to exceed 2,500 flight cycles.

(2) For Model DHC–8–106 airplanes, at intervals not to exceed 1,854 flight cycles.

(i) Replacement or Repair of Crack Longeron

If any cracking is found during any inspection required by paragraph (g) or (h) of this AD: Before further flight, replace any cracked nacelle lower longeron with a new longeron, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–54–39, Revision A, dated August 2, 2012; or repair the longeron using a method approved by either the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(j) Optional Terminating Action

Accomplishment of the actions specified in paragraphs (j)(1) and (j)(2) of this AD constitutes terminating action for the repetitive BHEC testing specified in paragraph (h) of this AD for that longeron only.

(1) Replacement of the nacelle lower longeron, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–54–39, Revision A, dated August 2, 2012.

(2) Cold working of the drain holes, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–54–39, Revision A, dated August 2, 2012.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–54–39, dated March 14, 2012, which is not incorporated by reference in this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2012–27, dated November 2, 2012; and Bombardier Service Bulletin 8–54–39, Revision A, dated August 2, 2012; for related information.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* 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.

Issued in Renton, Washington, on March 28, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08205 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0315; Directorate Identifier 2013–CE–006–AD]

RIN 2120–AA64

Airworthiness Directives; GROB–WERKE Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for GROB–WERKE GMBH & CO KG Model G 115E airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as incorrect cable routing causing electrical shorting behind the left-hand (LH) cockpit instrument panel. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 24, 2013.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact Grob Aircraft AG, Customer Service, Lettenbachstrasse 9, 86874 Tussenhausen-Mattsies, Germany, telephone: + 49 (0) 8268–998–105; fax; + 49 (0) 8268–998–200; email: *productsupport@grob-aircraft.com;* Internet: *grob-aircraft.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0315; Directorate Identifier 2013–CE–006–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2013–0017, dated January 17, 2013 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Occurrences were reported of finding an electrical shorting of main cable loom behind the left-hand (LH) instrument panel of some Grob G115E aeroplanes. In one case, the main cable loom arcing caused an Electronic Horizontal Situation Indicator failure. During the fleet checks, additional cases of main cable loom routing and consequent rubbing with Omni Bearing Selector behind the cockpit instrument panel were identified, while the cable routing was not in conformity with the approved type design.
>
> The investigation results concluded that the instrument panels of affected aeroplanes were removed and subsequently re-installed, in service, during embodiment of various optional modifications.
>
> This condition, if not detected and corrected, could lead to smoke in the cockpit and/or functional loss of navigation equipment and instruments.
>
> To address this potential unsafe condition, Grob Aircraft AG published Mandatory Service Bulletin (MSB) MSB1078–191/1, providing instructions to inspect and correct the cable routing behind the cockpit instrument panel.
>
> For the reason described above, this AD requires accomplishment of a one- time inspection to verify correct cable routing behind the LH cockpit instrument panel and, depending on findings, correction and replacement of damaged parts.

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

Relevant Service Information

GROB–WERKE has issued Service Bulletin No. MSB1078–191/1, dated January 15, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 0 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $10 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $0 per product.

In addition, we estimate that any necessary follow-on actions would take about 8 work-hours and require parts costing $100, for a cost of $780 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

GROB–WERKE: Docket No. FAA–2013–0315; Directorate Identifier 2013–CE–006–AD.

(a) Comments Due Date

We must receive comments by May 24, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to GROB–WERKE Model G 115E airplanes, serial numbers 82086/E through 82184/E, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 31: Instruments.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as incorrect cable routing causing electrical shorting behind the left-hand (LH) cockpit instrument panel. We are issuing this proposed AD to detect and correct incorrect cable routing, which could result in smoke in the cockpit and/or functional loss of navigation equipment and instruments.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within the next 25 hours time-in-service (TIS) after the effective date of this AD or within the next 30 days after the effective date of this AD, whichever occurs first, inspect the main cable routing behind the LH instrument panel following the Accomplishment Instructions section of GROB Aircraft Service Bulletin No. MSB1078–191/1, dated January 15, 2013.

(2) If incorrect cable loom routing is detected during the inspection required by paragraph (f)(1) of this AD, before further flight, correct the cable loom routing following the Accomplishment Instructions section of GROB Aircraft Service Bulletin No. MSB1078–191/1, dated January 15, 2013.

(3) If damaged (by fretting or burns) cables or instruments are detected during the inspection required by paragraph (f)(1) of this AD, before further flight, replace the damaged cables or instruments, as applicable, with serviceable parts following the Accomplishment Instructions section of GROB Aircraft Service Bulletin No. MSB1078–191/1, dated January 15, 2013.

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

This paragraph provides credit for the actions required in paragraphs (f)(1), (f)(2), and (f)(3) of this AD if already done before the effective date of this AD following the Accomplishment Instructions section of GROB Aircraft Service Bulletin No. MSB1078–191, dated December 6, 2012.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

(i) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0017, dated January 17, 2013; GROB Aircraft Service Bulletin No. MSB1078–191/1, dated January 15, 2013; and GROB Aircraft Service Bulletin No. MSB1078–191, dated December 6, 2012, for related information. For service information related to this AD, contact Grob

Aircraft AG, Customer Service, Lettenbachstrasse 9, 86874 Tussenhausen-Mattsies, Germany, telephone: + 49 (0) 8268–998–105; fax; + 49 (0) 8268–998–200; email: *productsupport@grob-aircraft.com;* Internet: *grob-aircraft.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on April 2, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08188 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0038; Airspace Docket No. 13–AEA–2]

Proposed Amendment of Class D and E Airspace, and Establishment of Class E Airspace; Oceana NAS, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D and Class E Airspace operating hours, and establish Class E Airspace at Oceana Naval Air Station, (NAS), VA, due to the Air Traffic Control Tower at Oceana NAS (Apollo Soucek Field) operating on a part time basis. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport. This action also would update the airport's geographic coordinates.

DATES: Comments must be received on or before May 24, 2013.

ADDRESSES: Send comments on this rule to: U. S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2013–0038; Airspace Docket No. 13–AEA–2, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P. O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2013–0038; Airspace Docket No. 13–AEA–2) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0038; Airspace Docket No. 13–AEA–2.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:30 a.m. and 5:00 p.m. Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend the hours of operation for Class D airspace and Class E airspace designated as an extension to Class D surface airspace, and establish Class E airspace extending upward from the surface at Oceana NAS (Apollo Soucek Field), VA. The Air Traffic Control Tower at Oceana NAS is transitioning from a full time facility to part time. The geographic coordinates of the airport also would be adjusted to coincide with the FAA's aeronautical database.

Class D airspace and Class E airspace designations are published in Paragraph 5000, 6002 and 6004, respectively, of FAA Order 7400.9W, dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This proposed

rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class D and Class E airspace at Oceana NAS (Apollo Soucek Field), VA.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment:

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, signed August 8, 2012, effective September 15, 2012, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

AEA VA D Oceana NAS, VA [Amended]

Oceana NAS (Apollo Soucek Field), VA
(lat. 36°49′22″ N., long. 76°01′55″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of Oceana NAS (Apollo Soucek Field). This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

AEA VA E2 Oceana NAS, VA [New]

Oceana NAS (Apollo Soucek Field), VA
(lat. 36°49′22″ N., long. 76°01′55″ W.)
Navy Oceana TACAN
(lat. 36°49′27″ N., long. 76°02′13″ W)
NALF Fentress, VA
(lat. 36°41′43″ N., long. 76°08′08″ W.)

That airspace extending upward from the surface within a 4.3-mile radius of Oceana NAS (Apollo Soucek Field), and within 1.8 miles each side of the Navy Oceana TACAN 213° radial extending from the 4.3-mile radius of Oceana NAS (Apollo Soucek Field) to 9.3 miles southwest of the TACAN and within a 2.7-mile radius of NALF Fentress. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E airspace designated as an extension to a Class D surface area.

* * * * *

AEA VA E4 Oceana NAS, VA [Amended]

Oceana NAS (Apollo Soucek Field)
(lat. 36°49′22″ N., long. 76°01′55″ W.)
Navy Oceana TACAN
(lat. 36°49′27″ N., long. 76°02′13″ W.)
NALF Fentress, VA
(lat. 36°41′43″ N., long. 76°08′08″ W.)

That airspace extending upward from the surface within 1.8 miles each side of the Navy Oceana TACAN 213° radial extending from the 4.3-mile radius of Oceana NAS (Apollo Soucek Field) to 9.3 miles southwest of the TACAN and within a 2.7-mile radius of NALF Fentress. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in College Park, Georgia, on March 29, 2013.

Barry A. Knight,

Manager, Operations Support Manager, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2013–08210 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter I

[Docket No. FDA–2013–N–0365]

Establishment of a Public Docket for Administrative Detention Under the Food and Drug Administration Safety and Innovation Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Establishment of docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment of a public docket for comments pertaining to the implementation of its administrative detention authority with respect to drugs under the Food and Drug Administration Safety and Innovation Act (FDASIA). This document is intended to solicit input from all relevant stakeholders before FDA issues regulations to implement its administrative detention authority with respect to drugs and to announce that such information submitted to FDA is available to all interested persons in a timely fashion.

DATES: Submit electronic or written comments by May 9, 2013.

ADDRESSES: Submit electronic comments 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. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Charlotte Hinkle, Office of Regulatory Affairs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 4345, Silver Spring, MD 20993–0002, 301–796–5300, *FDASIA ImplementationORA@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 2012, President Obama signed FDASIA (Pub. L. 112–144) into law. Section 709 of FDASIA amends section 304(g) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 334(g)) to provide FDA administrative detention authority with respect to drugs. Section 304(g) of the FD&C Act, as amended by FDASIA, provides FDA the same authority to detain drugs that section 304(g) had already provided FDA with respect to devices and tobacco products.

Section 709 of FDASIA requires the Secretary to ''consult with stakeholders, including manufacturers of drugs'' before issuing implementing regulations. Section 709 also provides that FDA must issue a final rule to implement its administrative detention authority with respect to drugs before the amendments to section 304(g) of the FD&C Act take effect.

FDA is opening a docket for 30 days to solicit input from all relevant stakeholders regarding FDA's issuance of a regulation for the administrative detention of drugs. This docket is intended to ensure that stakeholders have an opportunity to provide comments before FDA issues regulations on administrative detention with

respect to drugs and that such information submitted to FDA is available to all interested persons in a timely fashion.

II. 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 will be posted to the docket at *http://www.regulations.gov* and may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 3, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–08120 Filed 4–8–13; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0034; 4500030114]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List Two Populations of Black-Backed Woodpecker as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

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

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Oregon Cascades-California population and Black Hills population of the black-backed woodpecker (*Picoides arcticus*) under the Endangered Species Act of 1973, as amended (Act), as subspecies or distinct population segments (DPSs) that are endangered or threatened, and to designate critical habitat concurrent with listing. Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing the Oregon Cascades-California and Black Hills populations of the black-backed woodpecker as subspecies or DPSs may be warranted. Therefore, with the publication of this notice, we are notifying the public that, when funds become available, we will be initiating a review of the status of the two populations to determine if listing either or both the Oregon Cascades-California population and the Black Hills population as either subspecies or DPSs is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding these two populations. Based on the status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: We request that we receive information on or before June 10, 2013. The deadline for submitting an electronic comment using the Federal eRulemaking Portal (see **ADDRESSES** section, below) is 11:59 p.m. Eastern Time on this date. After June 10, 2013, you must submit information directly to the Division of Policy and Directives Management (see **ADDRESSES** section, below). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for Docket No. FWS–R8–ES–2013–0034, which is the docket number for this action. Then click on the Search button. You may submit information for consideration in our status review by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2013–0034; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will not accept emails or faxes. We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Request for Information section below for more details).

FOR FURTHER INFORMATION CONTACT: Karen Leyse, Listing Coordinator, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825; by telephone at 916–414–6600; or by facsimile at 916–414–6712. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to initiate review of the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on the Oregon Cascades-California population and the Black Hills population of the black-backed woodpecker from governmental agencies, Native American tribes, the scientific community, industry, and any other interested parties. We seek information on:

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

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

(b) Genetics and taxonomy of the Oregon Cascades-California and the Black Hills populations of the black-backed woodpecker, including information that would pertain to whether either, or both, populations can be listed under the Act (16 U.S.C. 1531 *et seq.*) as either subspecies or DPSs;

(c) Historical and current range including distribution patterns, and presence or absence of physical, physiological, or behavioral barriers to movement between populations;

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

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

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act, which are:

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

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

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

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

If, after the status review, we determine that listing either an Oregon Cascades-California population or a Black Hills population of the black-backed woodpecker is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act) under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, we also request data and information on:

(1) What may constitute ''physical or biological features essential to the conservation of the species,'' within the geographical range currently occupied by the species;

(2) Where these features are currently found;

(3) Whether any of these features may require special management considerations or protection;

(4) Any areas outside the geographical area occupied by the species that are ''essential for the conservation of the species'' and why; and

(5) What, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

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

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

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

Background

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

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

Petition History

On May 8, 2012, we received a petition dated May 2, 2012, from the John Muir Project of the Earth Island Institute, the Center for Biological Diversity, the Blue Mountains Biodiversity Project, and the Biodiversity Conservation Alliance (EII *et al.* 2012, pp. 1–16) (petitioners), requesting that the Oregon Cascades-California population and the Black Hills population of the black-backed woodpecker each be listed as an endangered or threatened subspecies, and that critical habitat be designated concurrent with listing under the Act. The petition also requested that, should we not recognize either population as subspecies, we consider listing each population as an endangered or threatened distinct population segment (DPS). The petition clearly identified itself as such and included the requisite identification information for the petitioners, required at 50 CFR 424.14(a). In a June 29, 2012, letter to the John Muir Project of the Earth Island Institute, we responded that our initial review of the information presented in the petition did not indicate that an emergency regulation temporarily listing the species under section 4(b)(7) of the Act was warranted. We also stated that we were required to complete a significant number of listing and critical habitat actions pursuant to court orders, judicially approved settlement agreements, and other statutory deadlines, in Fiscal Year 2012, but that we secured funding for Fiscal Year 2012 to allow us to initiate our response to the petition in Fiscal Year 2012. In addition, we stated that we anticipated making an initial finding in Fiscal Year 2013 as to whether the petition contains substantial information indicating that the petitioned action may be warranted. This finding addresses the petition.

Previous Federal Actions

There are no previous Federal actions involving the black-backed woodpecker, or any subspecies or populations of black-backed woodpecker.

Species Information

The black-backed woodpecker is similar in size to the more common American robin (*Turdus migratorius*) and is heavily barred with black and white sides. Its flanks have nearly solid black upper parts, and it has a white throat (Dawson 1923, pp. 1007–1008). Males and young have a yellow crown patch, while the female crown is entirely black. Its sooty-black dorsal plumage camouflages it against the black, charred bark of the burned trees upon which it preferentially forages (Murphy and Lehnhausen 1998, p. 1366; Dixon and Saab 2000, p. 1). The black-backed woodpecker has only three toes on each foot instead of the usual four. This is one of several adaptations, including skull modifications, that makes it among the most specialized of birds for delivering hard blows to dig out wood-boring insect larvae, although at the expense of reducing their tree-climbing ability (Bock and Bock 1974, p. 397; Goggans *et al.* 1989, p. 2).

Diet and Foraging

Black-backed woodpeckers have a narrow diet, consisting mainly of larvae of wood-boring beetles and bark beetles (Cerambycidae, Buprestidae, and Scolytidae) (Goggans *et al.* 1989, pp. 20, 34; Villard and Beninger 1993, p. 73; Murphy and Lehnhausen 1998, pp. 1366–1367; Powell 2000, p. 31; Dudley and Saab 2007, p. 593), which are available following large-scale disturbances, especially high-severity fire (Nappi and Drapeau 2009, p. 1382). In burned forests, black-backed woodpeckers feed primarily on wood-boring beetle larvae (Villard and Beninger 1993, p. 73; Murphy and Lehnhausen 1998, pp. 1366–1368; Powell 2000, p. 31). Most wood-boring beetles are unable to attack living trees, and concentrate heavily in fire-killed wood (reviewed in Powell 2000, p. 78), although they also are found in other recently killed trees (Bull *et al.* 1986, p. 13; Bonnot *et al.* 2009, pp. 220–225). Wood-boring beetles lay eggs soon after disturbance; larvae live inside the sapwood and emerge as adults approximately 4 years later. Wood-boring beetles are an efficient food

source for the woodpecker because, where habitat is appropriate, they are abundant in small areas and can be exploited with hard blows, but little climbing (Goggins *et al.* 1989, p. 2; Nappi and Drapeau 2009, p. 1387). The black-backed woodpecker consumes bark beetle larvae from trees during beetle infestations (Goggans *et al.* 1989, pp. 20, 34; Powell 2000, pp. 77–79). Utilization of live or dead trees for foraging may differ, depending on site or disturbance type. In a bark-beetle infestation in Oregon, Bull *et al.* (1986, p. 13) found that black-backed woodpeckers used live and dead trees for foraging in approximately equal proportions. In the Sierra Nevada Range, black-backed woodpeckers have been found to forage preferentially on large trunks of snags in burned forests (Hanson and North 2008, p. 780). Although they forage on several species of live trees, they use snags (dead trees) more than expected based on snag availability (Raphael and White 1984, pp. 33–36).

Breeding

The black-backed woodpecker is a cavity-nesting bird. It nests in late spring, with nest excavation generally occurring from April to June, depending on location and year. Clutch size averages three to four eggs. Both parents incubate the eggs and brood the young; adults collect insect prey for the young within several hundred meters of the nest. The black-backed woodpecker nests in live and dead trees of various species (including Douglas-fir (*Pseudotsuga menziesii*), lodgepole pine (*Pinus contorta*), ponderosa pine (*Pinus ponderosa*), red fir (*Abies magnifica*), and quaking aspen (*Populus tremuloides*)), depending upon local forest type and condition (see review in Dixon and Saab 2000, pp. 11–14). Bull *et al.* (1986, p. 9) conclude that the black-backed woodpecker prefers to nest in dead pines because pines have a thicker layer of sapwood, which decays more quickly than heartwood and thus should be more suitable for excavation. They also conclude that trees less than 50 centimeters (cm) (20 inches (in)) diameter at breast height are preferred because they contain a higher percentage of sapwood than do larger trees. In the Sierra Nevada Range, nests are found primarily in dead trees and secondarily nests are found in the dead portions of live trees (Raphael and White 1984, p. 19). Black-backed woodpeckers select nest sites in stands where tree densities are greater than average (Vierling *et al.* 2008, pp. 423–425), and select, unlogged burned forests over logged, burned forests for nesting (Saab *et al.* 2007, pp. 100–101, 103). Nest sites in burned forests are positively correlated with areas of high pre-fire canopy cover and high wood-boring insect abundance (Raphael and White 1984, pp. 55–57; Russell *et al.* 2007, p. 2603–2604; Bonnot *et al.* 2009, pp. 225–227).

Range

The black-backed woodpecker occurs across dense, closed-canopy boreal and montane coniferous forests of North America (Winkler *et al.* 1995, p. 296; Dixon and Saab 2000, p. 4). They are resident from western Alaska to northern Saskatchewan and central Labrador, south to southeastern British Columbia, central northwestern Wyoming, southwestern South Dakota, central Saskatchewan, northern Minnesota, southeastern Ontario, and northern New England (Dixon and Saab 2000, pp. 2–3; NatureServe 2008, pp. 5–6). In the Rocky Mountains and to the east, the species reaches its southernmost distribution in northwest Wyoming and the Black Hills, and is apparently absent from the central and southern Rocky Mountains, where the pine forests may be too poorly developed to attract the species (Bock and Bock 1974, p. 397; Dixon and Saab 2000, pp. 2–3).

In Washington State, the black-backed woodpecker occurs mainly on the eastern side of the Cascade Range and in the Blue Mountains (Dixon and Saab 2000, p. 2), although range maps also place them in the Rocky Mountains where the range transects the northeastern portion of the State (NatureServe 2008). In Oregon, the species is found mainly on the eastern side of the Cascade Range, throughout the Blue Mountains and Wallowa Mountains in northeastern Oregon, and the Siskiyou Mountains in southwestern Oregon. From Oregon, the range continues south into California along the higher elevation eastern slopes of the Cascade and Sierra Mountains to eastern Tulare County; the California range also extends west through the Siskiyou and Klamath Mountains and east to the Warner Mountains (Dawson 1923, p. 1007; Grinnell and Miller 1944, p. 248; Dixon and Saab 2000, p. 2).

The black-backed woodpecker's breeding range generally corresponds with the location of boreal and montane coniferous forests throughout its range. East of the Rocky Mountains, the species breeds south to central Alberta, Saskatchewan, and Manitoba to the northern portions of Minnesota, Wisconsin, and Michigan (Dixon and Saab 2000, p. 2). In Oregon, the breeding range predominantly occurs in montane lodgepole pine and lodgepole pine-dominated mixed-conifer forest, but also includes burned and unburned ponderosa pine forest (Dixon and Saab 2000, p. 4). The breeding habitat of the black-backed woodpecker in the Black Hills is predominantly ponderosa pine forest (Vierling *et al.* 2008, p. 422).

The black-backed woodpecker is mainly sedentary (does not leave the range where resident) during the winter and does not have a regular latitudinal migration. However, the species is subject to periodic irruptions southward from the boreal forest into southern Ontario and the northern United States (from Minnesota to New England) during the fall and winter months. These irruptions can vary in magnitude from a few wandering birds to very irregular irruptions involving large numbers of individual birds. During winter irruptions, birds move to areas south of the eastern boreal breeding range to opportunistically forage on outbreaks of wood-boring beetles. Winter records have occurred south to midwestern States, Pennsylvania, and New Jersey (Dixon and Saab 2000, pp. 2–4), with some individuals remaining in the southern locations for up to 193 days (Yunick 1985, p. 139; Winkler *et al.* 1995, p. 296; Dixon and Saab 2000, pp. 3–4). Such irruptions demonstrate the species' ability to move long distances over unforested habitats. In the Sierra Nevada Range, some sources suggest that black-backed woodpeckers may move downslope in winter (Siegel *et al.* 2010, p. 7).

Habitat

At the landscape scale, while not tied to any particular tree species, the black-backed woodpecker generally is found in older conifer forests comprised of high densities of larger snags (Bock and Bock 1973, p. 400; Russell *et al.* 2007, p. 2604; Nappi and Drapeau 2009, p. 1388; Siegel *et al.* 2012, pp. 34–42). The species is closely associated with standing dead timber that contains an abundance of snags (Dixon and Saab 2000, pp. 1–7, 15). Black-backed woodpeckers appear to be most abundant in stands of trees recently killed by fire (Hutto 1995, pp. 1047, 1050; Smucker *et al.* 2005, pp. 1540–1543) and in areas where beetle infestations have resulted in high tree mortality (Bonnot *et al.* 2009, p. 220). In the western United States, black-backed woodpeckers show a strong association with burned forest conditions (Siegel et al. 2010, p. 8; Hutto 2008, p. 1831); in the northern Rockies, they are 16 times more likely to be found in burned forest than in the next most commonly occupied vegetation type (Hutto 2008, p.

1831). Suitable habitat is thus unpredictable and ephemeral, and may remain suitable for only 6 to 10 years, and often less following disturbance, depending upon local conditions (Murphy and Lehnhausen 1998, pp. 1368–1369; Hoyt and Hannon 2002, pp. 1886–1887; Saab *et al.* 2004, pp. 28, 34; Saab *et al.* 2007, p. 99; Hutto 2008, p. 1831). Recently killed trees only support wood-boring beetles and bark beetles for several years before numbers of beetle larvae begin to steeply decline (Dixon and Saab 2000, p. 6), although the length of time that an area remains suitable after a fire varies in a site-specific way, depending on the size, intensity, and landscape patterns of the fire (Saab *et al.* 2004, pp. 28–34; Saab *et al.* 2007, p. 106). Some studies suggest that optimal habitat for the species appears to be mature and old forest (with high pre-fire canopy cover and high densities of trees of all sizes) that has burned at a high intensity within the previous 1 to 4 years (Dixon and Saab 2000, pp. 4–7; Siegel *et al.* 2010, pp. 10–46; EII *et al.* 2012, p. 99). Hutto (1995, p. 1050) has proposed that the black-backed woodpecker is basically restricted to early post-fire coniferous forests, noting that although it is possible that populations of the species are maintained by low numbers of birds that persist in unburned forests, it is equally likely that their populations are maintained by a patchwork of recently burned forests.

Taxonomy

The black-backed woodpecker is in the order Piciformes, family Picidae, and subfamily Picinae (DeSante and Pyle 1986, p. 219), and is also known as the Arctic three-toed woodpecker and the black-backed three-toed woodpecker. First described by Swainson and Richardson in 1832 (American Ornithologists' Union (AOU) 1983, p. 392), the black-backed woodpecker probably evolved in North America from an ancestor in common with the three-toed woodpecker, *Picoides tridactylus* (Bock and Bock 1974, pp. 402–403). The scientific community recognizes the black-backed woodpecker as a species (AOU 1983, pp. 392–393), and no subspecies of the black-backed woodpecker were included at the time that AOU last published subspecies names in 1957 (AOU 1957, p. 330), although earlier literature does contain limited references to different taxonomy. Dixon and Saab (2000, p. 3) have reported that in 1900, Bangs described a more slender-billed form (*tenuirostris*) in the Cascades and the Sierra Nevada. In their *Distribution of the Birds of California,* Grinnell and Miller (1944, p. 248) note the names black-backed three-toed woodpecker and Sierra three-toed woodpecker (*Picoides arcticus tenuirostris* and *Picoides tenuirostris*) as synonyms for the species, but do not provide additional information on taxonomy. They describe the species' range as being of small extent and interrupted nature, chiefly in the Cascade Mountains and the high northern and central Sierra Nevada Range.

The petition (EII *et al.* 2012, pp. 12–15) included as supporting information a recent genetic study (Pierson *et al.* 2010) that identifies three distinct genetic groupings of the black-backed woodpecker: A large, genetically continuous population that spans the northern continuous forest (boreal forest) from the northern Rocky Mountains and Alberta, Canada, to Quebec (''boreal'' population hereafter); a small and isolated population in the Black Hills of southwestern South Dakota and northeastern Wyoming; and a population in the Cascade Range of Oregon (Pierson *et al.* 2010, pp. 1, 3, 6–13). The Washington Cascades are mapped as part of the boreal population (Pierson *et al.* 2010, pp. 3, 8; see also NatureServe 2008, p. 5). The petitioners have relied on the Pierson *et al.* (2010) study results to propose that this new information may warrant a revised interpretation of the taxonomic description of the species (EII *et al.* 2012, pp. 13–16). The findings by Pierson *et al.* (2010, entire) are discussed in the ''Evaluation of Listable Entities'' section below.

Population Status and Trend

No systematic, long-term, rangewide surveys have been conducted for the black-backed woodpecker. However, despite its widespread breeding distribution, the black-backed woodpecker is considered locally rare (Dixon and Saab 2000, p. 1), with low densities and large home ranges (Dudley and Saab 2007, p. 593). Some indication of population trend is based on anecdotal observations that indicate the species was at least locally ''common'' over 100 years ago (Cooper 1870, p. 385), but is considered ''rare'' by more current sources (Dixon and Saab 2000, p. 1; EII *et al.* 2012, pp. 38–39, 41). However, despite its rarity, the information provided by the petitioners does not indicate a clear decrease in the species' current range compared to its historical range, although patterns of genetic structure may suggest some changes within the range of the species over time (Pierson *et al.* 2010, pp. 10, 12). References provided by the petitioners also suggest that intensive human impacts to habitat within the species' range may have reduced suitable habitat within the mountain ranges of the Oregon Cascades-California and Black Hills populations (Shinneman and Baker 1997, pp. 1278–1286; Vierling *et al.* 2008, pp. 422, 423; Cahall and Hayes 2009, p. 1127). In the Black Hills, for example, nearly every acre is reported to have been logged or thinned at least twice since the late 1800s, with widespread logging and human-caused fires having occurred in the Black Hills by 1891 (Shinneman and Baker 1997, pp. 1278–1279).

Black-backed woodpeckers are opportunistic in response to changes in forest structure and composition that are created by fire and insect outbreaks, and that provide the specialized food and nesting resources utilized by the species (Dixon and Saab 2000, p. 15). Thus, black-backed woodpecker populations are subject to significant fluctuations. Their numbers may be low in unburned or undisturbed forests, but increase rapidly following fire or other disturbance, in response to increased populations of wood-boring beetles and bark beetles (Dixon and Saab 2000, p. 15). Abundance of black-backed woodpeckers is thus thought to be strongly influenced by the extent of fires and insect outbreaks (Dixon and Saab 2000, p. 15).

In the Sierra Nevada Range, two large-scale, annual bird monitoring programs, the Breeding Bird Survey and the Monitoring Avian Productivity and Survivorship Program, have detected black-backed woodpeckers throughout the region in small numbers, but data are too sparse for estimating regional populations (see Siegel *et al.* 2008, p. 4). Siegel *et al.* (2010, pp. 1–3, 44–45) have found that black-backed woodpeckers are relatively rare, yet widely distributed over the 10 national forests in the Sierra Nevada. In their study of 51 fire areas between 1 and 10 years after fire occurred on the 10 national forests, they used survey results combined with modeling to estimate that approximately 81,814 ha (202,167 ac) of the 323,358 ha (799,035 ac) of burned forest were occupied by the woodpecker, and found that results indicating that the species is most common within a few years after high-severity fire were in general agreement with published studies from elsewhere within the species' range. They provide preliminary estimates that this occupied habitat could contain 470, 538, or 1,341 pairs, based on varying home-range size estimates reported elsewhere within the species' range, but they caution that estimates are not reliable until home

range sizes are determined for the Sierras.

In the Black Hills, the black-backed woodpecker population is thought to be quite small. Bonnot *et al.* (2008, p. 450) report that the South Dakota Department of Game, Fish, and Parks lists the species as locally rare and vulnerable to extinction. A baseline population study in 2000 estimated approximately 1,200 black-backed woodpeckers in the Black Hills at that time (USDA 2005a, p. III–241). Small population size is supported by the findings of Pierson *et al.* (2010, p. 12) that the population has a small genetically effective population size.

Evaluation of Listable Entities

Under section 3(16) of the Act, we may consider for listing any species, including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). Such entities are considered eligible for listing under the Act (and, therefore, are referred to as listable entities) if we determine that they meet the definition of an endangered or threatened species. The petitioners have requested that the Oregon Cascades-California population and the Black Hills population of the black-backed woodpecker each be listed under the Act as either a subspecies or as a distinct population segment.

Evaluation of Information Provided in the Petition and Available in our Files Regarding Subspecies Status for the Oregon Cascades-California and Black Hills Populations

The petitioners have requested that we consider each population as a separate subspecies based on the results of Pierson *et al.* (2010, p. 11) indicating that genetic samples from black-backed woodpeckers in the Oregon Cascades and in the Black Hills display a degree of genetic differentiation from the boreal population, and from each other, that is similar to the genetic differentiation found between subspecies or clades of other birds occupying similar ranges. Additionally, Pierson *et al.* (2010, p. 10) suggested low genetic diversity patterns within the Oregon Cascades and Black Hills populations indicate that each population has a shared ancestry with the boreal population, without much current gene flow. According to Pierson *et al.* (2010, pp. 2, 3), the eastern Cascade Range of Oregon and the Sierra Nevada Range of California are geographically separated from the remainder of the species' range, but not from each other, suggesting that further resolution of populations in California, Oregon, and Washington is needed. Pierson *et al.* (2010), however, did not propose subspecies status for any populations.

The AOU, the recognized authority for taxonomy of North American birds, has not listed subspecies since 1957, stating space limitations, and also noting that the validity (in the sense of their distinguishability) of many described avian subspecies still needs to be evaluated, as does the potential for unrecognized subspecies (AOU 1983, p. 284; AOU 1998, pp. 1–19). The 1957 AOU checklist did not list subspecies of black-backed woodpecker (p. 330), and neither the Oregon Cascades-California nor the Black Hills population of the black-backed woodpecker has since been proposed or recognized as a subspecies. Given the recent genetic information published by Pierson *et al.* (2010, p. 11), the information available to us at this stage is not clear as to whether these populations may qualify as subspecies. We request further information should it become available, and will revisit this question when conducting our status review.

Evaluation of Information Provided in the Petition and Available in our Files Regarding Distinct Population Segment Status for the Oregon Cascades-California and Black Hills Populations

In determining whether an entity constitutes a DPS, and is therefore a listable entity under the Act, we follow the *Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act* (DPS Policy) (61 FR 4722; February 7, 1996). Under our DPS Policy, we analyze three elements prior to making a decision to establish and classify a possible DPS: (1) The discreteness of the population segment in relation to the remainder of the taxon; (2) the significance of the population segment to the taxon to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (i.e., is the population segment, when treated as if it were a species, endangered or threatened?) (61 FR 4722). This finding considers whether the petitioned Oregon Cascades-California population or the Black Hills population of the black-backed woodpecker may be considered a DPS under our 1996 DPS policy.

Under our DPS Policy, a population segment of a vertebrate species may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) It is delimited by international governmental boundaries within which significant differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist (61 FR 4722).

If a population segment is considered discrete under either of the conditions described in our DPS policy, we then consider its biological and ecological significance to the taxon to which it belongs. This consideration may include, but is not limited to, the following: (1) Persistence of the discrete population segment in an ecological setting that is unusual or unique for the taxon; (2) Evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon; (3) Evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; or (4) Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics (61 FR 4722).

Oregon Cascades-California Population

Discreteness—The petitioners provide recent genetic information (Pierson *et al.* 2010, pp. 1–16) to support their presentation of the Oregon Cascades-California population as markedly separated, or discrete, from the boreal and Black Hills populations of the black-backed woodpecker. They rely on the conclusions of Pierson *et al.* 2010 (pp. 10–13) that genetic results indicate that large gaps among forested sites apparently act as behavioral barriers to movement of females, and create a higher resistance to movement for males. Pierson *et al.* (2010, pp. 6–11) conclude that the geographic locations of sharp discontinuities in gene flow match breaks in the large forested areas between the Rocky Mountains and Oregon, and also conclude that a barrier likely exists between Oregon and the boreal forest to the north. However, they further note that, for conservation planning purposes, it will be important to determine if the Oregon population is connected to the California or Washington populations (Pierson *et al.* 2010, pp. 11, 13). The authors note that irruptions indicate that the species is physiologically capable of long-distance movements, but also note that because the irruptions occurred almost exclusively outside of the breeding season, they do not represent natal or breeding dispersal. The petitioners did

not present, nor do we have, additional information on the genetics of black-backed woodpecker populations that would provide additional evidence of marked separation of the Oregon Cascades-California population.

Various materials provided by the petitioners indicate gaps in forested habitat may support a potential behavioral or geographic separation between the eastern Oregon Cascades and the Washington populations (Winkler *et al.* 1996, p. 296; Pierson *et al.* 2010, p. 3; EII *et al.* 2012, p. 17). Ecotype and forest mapping (USDA 2008, pp. 4, 5) indicate that between the eastern Oregon Cascade Range and the Blue and Wallowa Mountains of northeastern Oregon, there may be gaps in dense, montane forest cover, which is the type of habitat in which the species typically occurs. Range maps provided by the petitioners show differing degrees of continuity in the species' range in Washington and Oregon, with more recent maps showing discontinuity in the species' range between the Washington and Oregon Cascades, where the Columbia Basin bisects the mountain range, and also between the Oregon Cascades and the Blue and Wallowa Mountains in the northeastern portion of the State (Bock and Bock 1974, p. 399; Winkler *et al.* 1995, p. 296; Dixon and Saab 2000, p. 1; National Geographic Society 2008, unpaginated; NatureServe 2009, unpaginated). These range maps show the distribution of the black-backed woodpecker in the Oregon Cascades as continuous with the species' range in California (Winkler *et al.* 1995, p. 296; Dixon and Saab 2000, p. 1; National Geographic Society 2008, unpaginated; NatureServe 2009, unpaginated).

In consideration of the information the petitioners presented indicating continuity of the Oregon Cascades and California portions of the species' range, and in the absence of contradictory information, we are including black-backed woodpeckers throughout their California range along with black-backed woodpeckers throughout their range in the Cascade Range of Oregon as one potential DPS. We conclude that the petitioners have presented substantial information to indicate that black-backed woodpecker population segment in the Oregon Cascades and California may be markedly separated from other populations of the species, due to a combination of physical and ecological factors. Genetic data are presented as quantitative evidence of this separation.

Significance—The petitioners state that the Oregon Cascades-California population meets two of the DPS significance criteria because (1) loss of the population would result in a significant gap in the range of the species, specifically at the periphery of the range of the black-backed woodpecker; and (2) the population differs markedly from other populations of the species in its genetic characteristics (EII *et al.* 2012, pp.14–16). The petitioners rely on Service documents (71 FR 56228, 56233; September 26, 2006; and 76 FR 63720, 63732; October 13, 2011), and the references cited therein, to note that there are several reasons why populations at the edge of a species' range may be important, and why a gap in the range would be significant: Peripheral populations maintain opportunities for speciation and future biodiversity, which allow adaptation to future environmental changes; they may represent refugia for a species as the species' range is reduced; and genetically divergent peripheral populations are often disproportionately important to the species in terms of maintaining genetic diversity and, therefore, the capacity for evolutionary adaptation (EII *et al.* 2012, p. 15).

Based on a review of the information in the petition and available in our files, the petitioners have presented substantial information to indicate that loss of the Oregon Cascades-California population may result in a significant gap in the range of the species. Loss of the population would result in the loss of that portion of the range west of the Rocky Mountain corridor and south of the Columbia River (the southwestern-most extent of the range), including the Sierra Nevada Range south to Tulare County, the southern-most portion of the species' entire range. Additionally, the petitioners cited genetic analyses by Pierson *et al.* (2010, pp. 1–16) that provide evidence that the Oregon Cascades-California population may differ markedly from other populations of the species in its genetic characteristics.

Black Hills Population

Discreteness—As with the Oregon Cascades-California population, the petitioners provide information that the Black Hills population is genetically distinct from other sampled black-backed woodpecker populations, relying on the recent genetic information in Pierson *et al.* (2010, pp. 1–16) to support their statement that the Black Hills population is markedly separated, or discrete, from the boreal and Oregon Cascades-California populations because large gaps between forested sites act as behavioral barriers to birds' movements (Pierson *et al.* 2010, pp. 10–13). Pierson *et al.* (2010, p. 11) conclude that, because the black-backed woodpecker's distribution closely follows the distribution of the boreal forest, gaps in forested habitat are likely to be the ultimate cause of the limited gene flow between geographic regions.

The petitioners state that the Black Hills population also meets the discreteness criterion based on geographic separation as a result of the large gap in forested habitat between the Black Hills and the nearest boreal population (Pierson *et al.* 2010, p. 3) (EII *et al.* 2012, pp. 14–16). Range maps consistently show the Black Hills as clearly separated from the boreal and northern Rocky Mountain portions of the range (Bock and Bock 1974, p. 399; Winkler *et al.* 1995, p. 296; Dixon and Saab 2000, p. 1; National Geographic Society 2008, unpaginated; NatureServe 2009, unpaginated). The Black Hills population is separated from the main range by approximately 200 miles (USDA 2005a, p. III–238). The Black Hills are an isolated, forested mountain range located within the Great Plains in western South Dakota and northeastern Wyoming (Shinneman and Baker 1997, p. 1278; Vierling *et al.* 2008, pp. 422, 425). The Black Hills portion of the black-backed woodpecker's range covers a relatively small area of approximately 15,500 square kilometers (5,984 square miles) (Pierson *et al.* 2010, p. 12). Thus, the petitioners have presented substantial information to indicate that the Black Hills population may be markedly separated from the other populations of the species, due to a combination of physical and ecological factors. Genetic data are presented to provide quantitative evidence of this separation.

Significance—The petitioners state that loss of the Black Hills population would be considered a significant gap at the periphery of the species' range (EII *et al.* 2012, pp. 14–16). The petitioners present information to indicate that loss of this population, which would occur at the southern edge of the center of its range, would result in the loss of a disjunct population that is located within the Great Plains. In addition, the Black Hills population may differ markedly from other sampled populations of the species in its genetic characteristics (Pierson *et al.* 2010, pp. 3–10). Consequently, the petitioners have provided substantial information to indicate that the Black Hills population may meet the significance element of the 1996 DPS policy.

Listable Entity Determination for the Oregon Cascades-California and Black Hills Populations

Based on current knowledge from genetic studies and distribution information presented in the petition and readily available in our files, we determine that the petitioners have presented substantial information indicating that the Oregon Cascades-California population of black-backed woodpecker and the Black Hills population of black-backed woodpecker may be listable entities under the Act either as subspecies or as DPSs.

We base the DPS findings on information indicating the Oregon Cascades-California and the Black Hills populations may meet both the discreteness and significance elements of the Service's 1996 DPS policy. The populations may meet the discreteness element of the DPS policy because information indicates that each population segment may be markedly separated from each other and from the boreal black-backed woodpecker population as a consequence of physical and ecological factors, and as indicated by genetic differences between black-backed woodpeckers in the Oregon Cascades, Black Hills, and boreal populations. The populations may meet the significance element of the DPS policy because loss of each population may result in a significant gap in the range of the black-backed woodpecker, and because each population segment may differ markedly from other populations of black-backed woodpeckers in its genetic characteristics.

We will further evaluate the weight of evidence available to support subspecies or DPS status for the Oregon Cascades-California and the Black Hills populations during the status review.

Evaluation of Information for this Finding

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

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

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

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

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

In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant a threat it is. If the threat is significant, it may drive or contribute to the risk of extinction of the species such that the species may warrant listing as endangered or threatened as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively may not be sufficient to compel a finding that listing may be warranted. The information shall contain evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of endangered or threatened under the Act.

In making this 90-day finding, we evaluated whether information regarding threats to either the Oregon Cascades-California population or the Black Hills population of the black-backed woodpecker, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

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

Information Provided in the Petition

The petitioners state that black-backed woodpecker habitat is directly eliminated, and indirectly reduced or degraded, by management actions that are widely conducted on public and private forests throughout the range of the species. They specify that habitat is systematically lost through post-disturbance salvage logging, active fire suppression, and pre-disturbance tree and brush thinning to reduce fire risk or beetle-induced tree mortality (EII *et al.* 2012, pp. 45–67). The petitioners provide literature addressing the species in the boreal range, the Black Hills, the eastern Oregon Cascades, and the Sierra Nevada Range to support the identified threats (Hutto 1995, pp. 1053–1054; Dixon and Saab 2000, p. 15; Hoyt and Hannon 2002, p. 1887; Vierling *et al.* 2008, pp. 426–427; Saab *et al.* 2007, p. 106; Hutto 2008, pp. 1931–1833; Hanson and North 2008, pp. 779–781; Bonnot *et al.* 2009, p. 227). References cited by the petitioners indicate that current management prescriptions in black-backed woodpecker habitat are likely insufficient to protect and prevent further declines of the species (Hutto 1995, p. 1054; Hanson and North 2008, pp. 780–781; Cahall and Hayes 2009, pp. 1125–1127). The petitioners also state that future climate change may further reduce habitat availability; this potential threat is evaluated in Factor E, below.

Salvage Logging—The petitioners state that salvage logging of fire- and beetle-killed trees is likely the most important and most well-documented threat to the persistence of black-backed woodpecker throughout its range. They add that every study conducted that has examined the effects of salvage logging on black-backed woodpeckers has documented significant declines in abundance, nest densities, and presence of foraging birds in salvage-logged forests, compared to unlogged post-disturbance forests (EII *et al.* 2012, pp. 57–60).

The petitioners provide a variety of study results showing that post-fire salvage logging results in lower black-backed woodpecker nest densities, lower foraging presence, and lower overall abundance, compared to levels of the same activities in unlogged burned areas (Hutto 1995, pp. 1047–1050; Caton 1996, pp. 96–111; Murphy and Lehnhausen 1998, pp. 1359, 1362–1368; Saab and Dudley 1998, pp. 6, 11; Hutto and Gallo 2006, p. 825; Saab *et al.* 2007, pp. 100–101; Cahall and Hayes 2009, pp. 1125–1127).

The petitioners provide information to indicate that salvage logging affects foraging habitat by removing snags that support wood-boring beetle larvae, and that management prescriptions leave insufficient numbers of snags to support adequate foraging resources (see Hanson and North 2008, pp. 780–781). Information provided by the petitioners indicates that black-backed woodpeckers were absent or nearly absent from salvage-logged areas of burned forests in California (Hanson and North 2008, pp. 779–781; Siegel *et al.* 2012 [see Fig. 10]). The petitioners present a study indicating that, in the eastern Oregon Cascades, salvage logging reduces abundance of black-backed woodpeckers (Cahall and Hayes 2009, pp. 1125–1127). Similarly, the

petitioners cite a study in which the authors found that in areas with high tree mortality due to beetle infestations in the eastern Oregon Cascades, 99 percent of all foraging observations were in beetle-killed forests that had not been salvage-logged, and that the black-backed woodpecker was nearly absent from areas subject to post-disturbance salvage logging (Goggans *et al.* 1989, Table 8, p. 26). The petitioners provide a number of U.S. Forest Service (USFS) documents that describe recent and planned salvage logging operations in recently burned or beetle-killed areas on national forests in California and Oregon (USDA 2005c, entire; USDA 2005d, entire; USDA 2005e, entire; USDA 2006a, entire; USDA 2009a, entire; USDA 2009b, entire; USDA 2010a, entire; EII *et al.* 2012, pp. 68–95).

For the Black Hills, the petitioners provide several studies that measure forest stand characteristics associated with nesting in recently burned habitat and in beetle-killed forests, but do not address effects of salvage logging itself, although they present study results that suggest that reductions in snags result in reduced densities of the species (Vierling *et al.* 2008, pp. 426, 427; Bonnot *et al.* 2008, p. 455, 456; Bonnot *et al.* 2009, pp. 224, 225).

The petitioners provide information to indicate that fires have occurred regularly and within the relatively recent past within the Black Hills (Shinneman and Baker 1997, pp. 1279–1281; Piva *et al.* 2005, p. 6; Bonnot *et al.* 2009, pp. 220, 221). The petitioners indicate that snag retention guidelines in the Black Hills National Forest Plan are not adequate to maintain a viable population of the black-backed woodpecker, based on research addressing effects of salvage logging on the species (Hutto 2006, pp. 988–989; Bonnot *et al.* 2009, p. 226; Hutto and Hanson 2009, unpaginated).

Changed Fire Regime Due to Fire Suppression—The petitioners state that black-backed woodpecker habitat is created by high-intensity fire and large-scale insect outbreaks that kill most of the trees across large areas of dense mature forest (EII *et al.* 2012, p. 69). They provide information to indicate that fire- and beetle-killed trees generally only support beetle larvae for about 5 years after the disturbance (Dixon and Saab 2000, pp. 4–14). The petitioners state that widespread fire suppression is a threat to the black-backed woodpecker because it has reduced fire frequency and intensity, and the annual extent of area burned. The petitioners present information on historical and current fire acreage, frequency, and severity from California and Oregon. They also provide references to support the information in the petition, and assert that historically there were 3 to 4 times more high-intensity fires within the Oregon and California range of the black-backed woodpecker than there are currently (EII *et al.* 2012, pp. 60–63).

The petitioners present literature to indicate that in the eastern Oregon Cascades and California, the amount of area burned by fire per year has decreased substantially, and the fire return interval has increased substantially since pre-European conditions, largely as a result of fire suppression (Bekker and Taylor 2001, pp. 23–26; Stephens *et al.* 2007, pp. 210–213; Hanson *et al.* 2009, pp. 1316–1317; Baker 2012, pp. 15–22). The petitioners estimate that current high-intensity fire rotation intervals in the Sierra Nevada Range, based on fires from 2002 to 2011, is over 700 years, compared to some studies from the Sierra Nevada that show a high-intensity fire rotation interval historically of 150–350 years (high-intensity fire rotation refers to how often a site would, on average, experience high-intensity fire) (EII *et al.* 2012, p. 62).

The petitioners conclude that the reduction in fire frequency and intensity is the result of fire suppression activities (EII *et al.* 2012, pp. 60–67), and this large decline in high-intensity fires since the 19th century likely can be expected to correspond with a similar decline in black-backed woodpecker populations within their range in Oregon and California (EII *et al.* 2012, pp. 62–65).

For the Black Hills, the petitioners assert that at the turn of the last century, large expanses of forests experiencing high beetle-induced tree mortality and high-intensity fire were a natural part of the ecology in the area that is now the Black Hills National Forest (Shinneman and Baker 1997, p. 1284; Bonnot *et al.* 2009, p. 220; EII *et al.* 2012, p. 65), with high-intensity fire typically occurring in intervals of less than 100 years in a given area (Shinneman and Baker 1997, pp. 1279–1281). The petitioners state that since 1980, 225,554 acres (91,278 ha) have burned in the Black Hills National Forest, and this represents a rotation interval for all fire intensities of about 90–100 years. The petitioners state, however, that a majority of the fire acreage has sustained only low-intensity and moderate-intensity fires, and they conclude that the high-intensity fire rotation interval is currently at least 300 years, which indicates that suitable burned habitat for black-backed woodpeckers has been greatly reduced (EII *et al.* 2012, p. 65).

Forest Thinning—The petitioners propose that forest thinning also not only prevents higher-intensity fire (or high levels of beetle-caused tree mortality) from occurring in the first place, but also greatly reduces or eliminates post-fire habitat suitability, even if a thinned area does burn (EII *et al.* 2012, pp. 65–66). They indicate that in addition to the extent to which the thinning reduces fire intensity (by reducing understory trees, and by removing mature trees, thereby increasing spacing between tree crowns) or significant beetle-caused tree mortality (by removing small and mature trees to reduce competition between trees, thereby reducing tree mortality), thinning also affects habitat by reducing pre-disturbance tree densities and canopy cover, forest stand characteristics that are correlated with higher post-disturbance occupancy rates and nest densities for the black-backed woodpecker (Russell *et al.* 2007, pp. 2603–2608; Vierling *et al.* 2008, pp. 424–426; Bonnot *et al.* 2009, p. 226; Saab *et al.* 2009, pp. 156–158; EII *et al.* 2012, pp. 65–67).

The petitioners describe several major forest thinning projects in the Oregon Cascades that they think threaten habitat of the black-backed woodpecker. These projects are described as targeting the few remaining dense, older forests on national forest lands, specifically to prevent moderate- and high-intensity fire and to reduce the potential for any significant tree mortality from beetles, which results in reducing suitable habitat for the black-backed woodpecker (EII *et al.* 2012, pp. 91–95). The petitioners provide numerous environmental and forest planning documents that provide information on planned forest thinning proposals within the range of the Oregon Cascades-California population (USDA 2001, pp. 34–54; USDA 2006b, entire; USDA 2007, entire; USDA 2009a, entire; USDA 2010b, entire; USDA 2011a, entire; USDA 2011b, entire; USDA 2012a, entire; USDA 2012b, entire).

The petitioners state that in the Black Hills, the scale and intensity of two proposed logging projects, the Mountain Pine Beetle Response Program and the Vestal Project, will largely eliminate suitable black-backed woodpecker habitat in the Black Hills National Forest (EII *et al.* 2012, pp. 96–98; see also Bonnot *et al.* 2009, pp. 220, 221). The petitioners provide information that the Black Hills National Forest proposes to remove insect-infested trees, as well as thin trees to reduce future beetle

outbreaks and to reduce fire frequency and severity.

Evaluation of Information Provided in the Petition and Available in Service Files

A review of the information provided by the petitioners supports the petitioners' description of the black-backed woodpecker as a habitat specialist that is most often associated with dense conifer stands that have been killed by high-intensity fire or large-scale insect outbreaks within the previous 5 years. Information provided by the petitioners also supports descriptions of declines in fire frequency and fire severity in Oregon, California, and the Black Hills since the 19th century. The petitioners have presented numerous studies that indicate a negative correlation between black-backed woodpecker nesting, foraging, and abundance, and reduced abundance of standing dead trees. The petitioners have provided a variety of USFS documents that indicate that salvage logging, fire suppression, and thinning activities are either planned or being implemented on multiple forests within the respective ranges of the populations. As noted above, the petitioners have provided studies from Oregon, California, and the Black Hills that support their arguments that the Oregon Cascades-California and Black Hills populations are negatively affected by these activities. The scope of these activities suggests that they have the potential to affect a large portion of the range of each of the two populations.

In summary, we conclude that the information provided in the petition or in our files present substantial scientific or commercial information indicating that the petitioned action may be warranted for the Oregon Cascades-California and Black Hills populations of the black-backed woodpecker due to the present or threatened destruction, modification, or curtailment of the populations' habitat or range as a result of salvage logging, tree thinning, and fire suppression activities throughout their respective ranges.

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

Information Provided in the Petition

The petitioners state that there are no specific regulations that prohibit the hunting or killing of the black-backed woodpecker in Oregon, in California, or in the Black Hills, and that there are no available records of the numbers of black-backed woodpeckers that are killed annually through hunting, research, or for other reasons (EII *et al.* 2012, p. 67); however, the petitioners provide no information to indicate that overutilization for commercial, recreational, scientific, or educational purposes threatens either the Oregon Cascades-California or the Black Hills population of the black-backed woodpecker.

Evaluation of Information Provided in the Petition and Available in Service Files

The materials provided in the petition or available in our files do not indicate that the black-backed woodpecker is hunted. Take is prohibited under the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703–712). Further, the petitioners did not provide, nor do we have in our files, any information on overutilization for scientific research, education, or any other purposes. We find that the information provided in the petition and available in our files does not present substantial scientific or commercial information indicating that the petitioned action may be warranted due to overutilization of the Oregon Cascades-California or Black Hills populations for commercial, recreational, scientific, or educational purposes. We are requesting additional information regarding overutilization of the Oregon Cascades-California and Black Hills populations, and will further evaluate Factor B during the status review for each population and present our findings in the subsequent 12-month finding on this petition.

C. Disease or Predation.

Information Provided in the Petition

The petitioners state that predation was a leading cause of nest failures in the Black Hills (EII *et al.* 2012, p. 67), citing two studies that documented nest failure rates in post-disturbance habitat there (Bonnot *et al.* 2008, p. 453; Vierling *et al.* 2008, pp. 424–425). The petitioners also note that predation rates in newly burned areas tend to increase over time as burned areas recover. They provided limited additional information on the potential for predation by raptors (Dixon and Saab 2000, p. 11; EII *et al.* 2012, pp. 67–68). The petitioners also identified interspecific interactions with other avian species as a threat (EII *et al.* 2012, p. 68), which we address under Factor E.

The petitioners provide information to indicate that mortality due to nematode parasitism may be a potential threat (Siegel *et al.* 2012b, p. 421), but further note that more information is needed to determine the extent to which nematode parasitism occurs in black-backed woodpeckers, and the extent to which black-backed woodpeckers may be vulnerable to parasites (EII *et al.* 2012, p. 68). One bird was reported to have been lost due to nematode parasitism in the Oregon Cascades-California population (Siegel *et al.* 2012b, pp. 421–424), but no further information was presented regarding the incidence of disease or parasites in either population.

Evaluation of Information Provided in the Petition and Available in Service Files

Review of the information presented by the petitioners suggests that predation and parasitism may have individual-level effects, but no information was provided on what effects, if any, predation and parasitism have at the population level. We found no information in the petition or information readily available in our files to indicate that disease or predation (or parasitism) is negatively impacting the status of the Oregon Cascades-California or the Black Hills populations of the black-backed woodpecker. Therefore, we do not find that there is substantial information to indicate that the Oregon Cascades-California or the Black Hills populations of the black-backed woodpecker may warrant listing due to disease or predation. However, we are requesting any additional information available on the role that predation and parasitism may have on the status of the Oregon Cascades-California and Black Hills populations, and will further evaluate this factor during our status review for each population.

D. The Inadequacy of Existing Regulatory Mechanisms.

Information Provided in the Petition

The petitioners state that existing regulatory mechanisms are inadequate to protect the black-backed woodpecker on Federal and private lands in the Oregon Cascades-California and Black Hills populations. As discussed under Factor A, the petitioners explain that the black-backed woodpecker is a habitat specialist that is vulnerable to the impacts of salvage logging, as well as forest thinning and fire suppression activities, which are implemented to reduce occurrence of the high-intensity fire and beetle infestations that create the habitat upon which the species depends. The petitioners provide information on Federal regulatory mechanisms that address forest management, including the National Forest Management Act (NFMA; 16 U.S.C. 1600 *et seq.;* April 9, 2012 at 77 FR 21162), the 2012 National Forest

System Land Management Planning Rule (2012 planning rule), the Sierra Nevada Forest Plan Amendment (SNFPA) and its 2004 and 2010 amendments, the Northwest Forest Plan (NWFP), several national forest land and resource management plans (LRMPs) in Oregon, and the Black Hills National Forest LRMP Amendment. They also provide information on State regulatory mechanisms, including the California Forest Practices Rule and the Oregon Forest Practices Act (EII *et al.* 2012, pp. 68–98). They indicate that there are no regulations that prohibit hunting or killing the species in Oregon, California, and the Black Hills (EII *et al.* 2012, pp. 67).

The petitioners explain that the 2012 planning rule may threaten the black-backed woodpecker, because the rule eliminates the 1982 NFMA planning rule requirement that the USFS maintain viable populations of all native vertebrate species where those species are found on national forest lands (EII *et al.* 2012, pp. 68–71; *http://www.fs.usda.gov/planningrule*). The petitioners assert that these changes will affect the vast majority of the habitat in the range of each population, because the NFMA governs forest management activities on all national forests, including those in Oregon, California, and the Black Hills. They state that national forests support over half of the habitat for the Oregon Cascades-California population, and 98 percent of the habitat for the Black Hills population (EII *et al.* 2012, p. 69).

The petitioners assert that the 2004 and 2010 amendments to the 2001 SNFPA have eliminated or weakened standards and guidelines so that land and resource management plans (LRMPs) for national forests in the Sierra Nevada eco-region no longer require national forests to retain black-backed woodpecker habitat (USDA 2001, Appendix A, Standards and Guidelines; USDA 2004, pp. 1–72; USDA 2010c, pp. 1–56; EII *et al.* 2012, pp. 71–75). Similarly, the petitioners list standards and guidelines from the 1994 NWFP and from national forests in the eastern Cascades, concluding that standards and guidelines for snag retention, fire suppression, salvage logging, and clear-cutting are not adequate to conserve the species (EII *et al.* 2012, pp. 82–89). The petitioners further assert that the standards provided by the California Forest Practices Rule and the Oregon Forest Practices Act, which govern forest management on private lands in California and Oregon, respectively, are also inadequate to protect black-backed woodpecker habitat, because they do not provide for adequate snag retention (EII *et al.* 2012, pp. 75–77, 89–91).

Evaluation of Information Provided in the Petition and Available in Service Files

Federal Regulations—Information in our files documents that the Migratory Bird Treaty Act of 1918 (MBTA) (16 U.S.C. 703–712), (which prohibits hunting, taking, capturing, or killing, or attempting to do so, any migratory bird, part, nest, or eggs) provides protection for the black-backed woodpecker, including the Oregon Cascades-California and Black Hills populations. The black-backed woodpecker is included under the MBTA based on its inclusion in the 1916 convention between the United States and Canada, which prohibits hunting insectivorous birds (USFWS Digest of Federal Resource Laws, *http://www.fws.gov/laws/lawsdigest/treaties.htm*).

Information in our files also documents that the USFS published a final rule for the 2012 planning rule (77 FR 21162, April 9, 2012), which revises land management planning regulations for national forests. The planning rule provides new regulations to guide the development, amendment, and revision of management plans for all Forest System lands. These revised regulations, which became effective on May 9, 2012, replace the 1982 planning rule. The 1982 planning rule provided for the maintenance of viable populations of species, without providing for the discretion of regional foresters. The 2012 planning rule requires that the USFS maintain viable populations of species of conservation concern at the discretion of regional foresters. As individual forest plans are revised, the changed viability language in the 2012 planning rule might thereby affect viability-related guidance for the black-backed woodpecker on those national forests.

The petitioners provide a substantial number of regional, national forest, and project-specific planning documents that provide regulatory mechanisms that may apply to the black-backed woodpecker. Regional planning documents, such as the Sierra Nevada Forest Plan Amendment (SNFPA), amend existing LRMPs by establishing desired management direction and goals; land allocations; desired future conditions; standards and guidelines; and inventory, monitoring, and adaptive management strategies (USDA 2004, p. 15). The SNFPA provides management objectives for reducing fire intensity and acres burned, and reducing the risk of insect mortality by managing stand density. It provides standards and guidelines for canopy cover and snag retention (USDA 2004, pp. 40–51). Forest planning documents for national forests in the Oregon Cascades and Sierra Nevada Range that were provided by the petitioners establish the black-backed woodpecker as a management indicator species (USDA 2005e, p. 3–201) that is addressed in numerous plans to salvage fire-killed trees or reduce fuels (USDA 2005e, pp. EX 1–EX–12; USDA 2006a, pp. 1–3; USDA 2007, pp. 153, 187).

The petitioners provided an internet link to Black Hills National Forest planning documents. The Black Hills National Forest Land and Resource Management Plan (LRMP) lists the black-backed woodpecker as a management indicator species (USDA 2005a, pp. III–238–III–247). The 2005 Black Hills LRMP promotes a reduction of forest density in many areas, both to reduce the incidence of high-intensity wildfires and to reduce the likelihood of outbreaks of bark beetles (USDA 2005b pp. ROD 1–3).

Information provided by the petitioners provides recent research-driven concerns that salvage logging and snag retention guidelines may be inadequate, although newer guidelines that are appropriate for snag-dependent species exist (Hutto 2006, pp. 987–990; Hutto and Hanson 2009, unpaginated). Study results from the Sierra Nevada indicate that current USFS salvage prescriptions there do not provide for sufficient snag retention and may adversely impact foraging for the species (Hanson 2007, p. 12). Likewise, in the Black Hills, Bonnot *et al.* (2009, pp. 220, 226) note that regulation of insect populations via salvage logging will reduce key food resources for the black-backed woodpecker and that snag retention guidelines for salvage logging may need to be revisited.

State Regulations—Information in our files indicates that California Forest Practices Rules generally provide protections for wildlife during timber harvest through such measures as snag retention, although the rules permit immediate harvest of fire-killed or damaged timber, or insect-infester timber upon application through an emergency notice (Cal Pub. Res. Code 4592; 14 CCR 919, 919.1. 939.1, 959.1). Information provided by the petitioners indicates that the Oregon Forest Practices Act provides for retention of two snags per acre (Oregon Forest Practices Act 527.676).

The petitioners have provided a substantial literature of planning documents for national forests comprising the majority of the populations' ranges. We will carefully

evaluate all information regarding the adequacy of existing regulatory mechanisms, and make a determination on whether this factor may pose a threat to the Oregon Cascades-California or Black Hills populations. We will make this determination in the 12-month finding on this petition.

E. Other Natural or Manmade Factors Affecting Its Continued Existence.

Information Provided in the Petition

The petitioners indicate that small population size, interspecific competitive interactions, and climate change may also threaten the Oregon Cascades-California and Black Hills populations of the black-backed woodpecker. The petitioners include the ephemeral nature of black-backed woodpecker habitat as a threat under this factor; however, the nature of the woodpecker's association with habitats having short duration is discussed in the context of loss of that habitat under Factor A and will not be discussed further here.

Evaluation of Information Provided in the Petition and Available in Service Files

The petitioners state that within the black-backed woodpecker's range in Oregon and California, less than 2 percent of the area is existing suitable habitat for the species, and that less than 1 percent of that area supports current moderate-to-high-quality habitat (areas with less than 5 years since disturbance), providing maps to demonstrate the fragmented nature of likely habitat (EII *et al.* 2012, pp. 47–56, 69–70). They also indicate that in the Black Hills, such existing suitable habitat is likely only 5 to 8 percent of the area within the population's range (EII *et al.* 2012, p. 70). Given estimates of current suitable habitat, the petitioners estimate that approximately 700 to 1,000 pairs of black-backed woodpeckers occur in the Oregon Cascades-California population and approximately 411 pairs occur in the Black Hills population (EII *et al.* 2012, p. 43). Their estimates are based on information on black-backed woodpecker home range size, utilization of available habitat, and nest-density estimates, along with estimates of the amount of current acreage of burned, beetle-killed, and unburned habitat in the range of each population (Dudley and Saab 2007, pp. 597–598; Siegel *et al.* 2008, pp. 9–15; Siegel *et al.* 2010, pp. 19–46; EII *et al.* 2012, pp. 42–45).

The petitioners state that both populations are inherently vulnerable to extinction because the two population sizes are below the threshold at which there is a significant risk of extinction in the near future, based on modeled minimum viable populations for several hundred species (Reed *et al.* 2003, pp. 23–34; Traill *et al.* 2007, pp. 163–165; Traill *et al.* 2010, pp. 30–33; EII *et al.* 2012, pp. 98–100). Information provided by the petitioners indicates that, based on analyses for 48 bird species, minimum viable populations for bird species range between 2,544 and 5,244 individuals (Traill *et al.* 2007, pp. 163–165).

As noted under Population Status and Trend above, black-backed woodpeckers within the Sierra Nevada Range are detected in small numbers, but not frequently enough for regional population estimates (Siegel *et al.* 2008, p. 4). However, the estimate given by the petitioners for the Oregon Cascades-California population is roughly consistent with preliminary breeding pair estimates of 470, 538, or 1,341 given by Siegel *et al.* (2010, pp. 1–3, 44–45) for occupied habitat on the 10 national forests in the Sierra Nevada Range, although it may underestimate the number for the population as a whole.

In the Black Hills, the South Dakota Department of Game, Fish, and Parks has the black-backed woodpecker listed as locally rare and vulnerable to extinction (see Bonnot *et al.* 2008, p. 450). In addition, Pierson *et al.* (2010, p. 12) find that the population is likely quite small based on a small genetically effective population size (see Traill *et al.* 2010, p. 30), and the relatively small area of the Black Hills, coupled with the bird's occupancy of large territories. The final environmental impact statement for the revised Black Hills National Forest Land and Resource Management Plan indicates that a baseline population study by Mohren in 2000 provided an estimate of approximately 1,200 black-backed woodpeckers in the Black Hills in that year (USDA 2005a, p. III–241). Several large burns and beetle outbreaks occurred between 2000 and 2005, which led to increased densities, although no forest-wide estimates are given. Populations were thought to be doing well at the time of the plan, and were expected to decline to numbers similar to those in 2002 during periods of low fire and insect activity (USDA 2005a, pp. III–241—III–245).

The petitioners present information indicating that competitive interactions with other cavity-nesting birds sometimes cause the displacement of black-backed woodpeckers as a result of aggressive behavior by the other species (Villard and Benninger 1993, p. 75; Dixon and Saab 2000, pp. 10–11; EII *et al.* 2012, p. 68). However, the petitioners provide no further information, nor do we have information in our files, to indicate that such competitive interactions negatively affect reproduction and recruitment, or have population-level effects on either the Oregon Cascades-California or the Black Hills populations.

The petitioners also briefly address climate change, noting that with climate change the incidence of wildfire will likely decrease at higher elevations in the forests of the Sierra Nevada and the eastern Cascades, rather than increase (EII *et al.* 2012, pp. 101–102). In part this decrease in fire activity is expected to be due to vegetation changes that will reduce the abundance of fire-prone vegetation and lead to reduced fire activity in the forests of the Sierra Nevada and the eastern Cascades (EII *et al.* 2012, p. 101).

Information presented by the petitioners appears to conflict with a study of wildfire in the western United States available in our files, which documents a positive correlation between wildfire frequency and regional spring and summer temperature, and finds that the average number of large wildfires between 1987 and 2003 was four times the average between 1970 and 1986, with 60 percent of that increase occurring in the Rocky Mountains, and 18 percent occurring in the Sierra Nevada, Cascades, and coast ranges of Oregon and California (Westerling *et al.* 2006, p. 941; see also Spracklen *et al.* 2009, p. 14). Other literature provided by the petitioners suggests that over the period since 1880, high-severity fire intervals have not become shorter in the last three decades than they were historically (Williams and Baker 2012, p. 8). However, predictions by Spracklen *et al.* (2009, p. 14) also indicate that in western forests area burned will increase by 54 percent by 2055, as compared to the 10-year period ending in 2005. The largest increases in area burned are projected for the Pacific Northwest (78 percent) and Rocky Mountain (175 percent) eco-regions, while little change is predicted for the eastern Rocky Mountains and Great Plains region because there increases in precipitation are expected to compensate for increases in temperature (Spracklen *et al.* 2009, p. 14).

Information in our files on climate change modeling for the Sierra Nevada eco-region also suggests that climate change is likely to favor larger and more intense fires in a number of vegetation types in the Sierra Nevada Range, but that over the long term these conditions may lead to vegetation changes that

support less severe fire regimes, with projected threats to wildlife from loss of conifer-dominated vegetation (red fir, lodgepole pine, and subalpine conifer), especially at the higher elevations (PRBO Conservation Science 2011, pp. 24, 25). Global climate change models suggest that fires may decrease in these forests before the end of this century, and the authors caution that current perceived increases in fire throughout many parts of western North America may be too simplistic (Krawchuk *et al.* 2009, pp. 7–9). Modeling of vegetation response to climate change indicates that total area burned in all of California may increase from 9 to 15 percent above the historic norm before the end of the century. However, while annual biomass consumption may initially be greater, it will be at or below the historic norm by the end of the century, and both conifer forest, and in the Sierra Nevada Range, alpine and subalpine forest cover, will likely decline significantly by 2070–2099, while grassland and mixed conifer will increase (Lenihan *et al.* 2008, pp. S220–S227; see also PRBO Conservation Science 2011, p. 25).

In summary, we conclude that the information provided in the petition and available in our files provides substantial scientific or commercial information indicating that the petitioned action may be warranted due to small population sizes for the Oregon Cascades-California and Black Hills populations, and due to climate change for the Oregon Cascades-California population. However, neither the petition nor information in our files presents information on the effect of interspecific competitive interactions on the Oregon Cascades-California and Black Hills populations, or on the effect of climate change on the Black Hills population. The petitioners did not mention the Black Hills when discussing climate change, and we do not have literature in our files that addresses climate change effects on black-backed woodpecker habitat in the Black Hills. Spracken *et al.* (2009, p. 14) suggest that climate change may not result in increased wildfires within that region. We request any available information on these issues and will thoroughly evaluate this information during our status review.

Finding

On the basis of our determination under section 4(b)(3)(A) of the Act, we find that information in the petition and readily available in our files presents substantial scientific or commercial information indicating that listing the Oregon Cascades-California population and the Black Hills population of the black-backed woodpecker may be warranted. This finding is based on information provided in the petition, in addition to information readily available in our files, on the possible loss of black-backed woodpecker habitat due to salvage logging, fire suppression, and forest thinning, and on the possible negative population effects due to small population size and climate change. We will initiate a status review to determine whether listing each population as endangered or threatened under the Act is warranted.

The ''substantial information'' standard for a 90-day finding, under section 4(b)(3)(A) of the Act and 50 CFR 424.14(b) of our regulations, differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. We will report our finding on whether a petitioned action is warranted in a 12-month finding, after we have completed a thorough status review of the species. The status review is conducted following a substantial 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff members of the Sacramento Fish and Wildlife Office.

Authority

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

Dated: March 26, 2013.

David Cottingham,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2013–07897 Filed 4–8–13; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 78, No. 68

Tuesday, April 9, 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

Black Hills National Forest Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board (Board) will meet in Rapid City South Dakota. The Board is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. II) (FACA); and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. sec. 1600 et.seq.) (RPA); the National Forest Management Act of 1976 (16 U.S.C. sec. 1612) (NFMA), and the Federal Public Lands Recreation Enhancement Act (Pub. L. 108–447) (REA). The purpose of the Board is to provide advice and recommendations on a broad range of forest issues such as forest plan revisions or amendments, forest health including fire and mountain pine beetle epidemics, travel management, forest monitoring and evaluation, recreation fees, and site-specific projects having forest-wide implications. The meeting is open to the public. The purpose of the meeting is: (1) to provide information to, and receive recommendations from, the Board regarding future range and grazing management actions; (2) to provide an update to, and receive comments and recommendations from, the Board about White-Nose Syndrome and the Cave Management Environmental Impact Statement.

DATES: The meeting will be held April 17, 2013 at 1:00 p.m.

ADDRESSES: The meeting will be held at the Forest Service Mystic Ranger District Office, 8221 South Highway 16, Rapid City SD 57702. Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Supervisor's Office, Black Hills National Forest, 1019 North Fifth Street, Custer SD 57730. Please call ahead to Scott Jacobson, Committee Management Officer, at 605–673–9216, to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Scott Jacobson, Committee Management Officer, Black Hills National Forest Supervisor's Office, 605–673–9324, *sjjacobson@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The following business will be conducted: (1) A discussion of Range Management issues; and, (2) an update on White-Nose Syndrome and the Cave Management Environmental Impact Statement. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 3, 2013 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Scott Jacobson, Supervisor's Office, Black Hills National Forest, 1019 North Fifth Street, Custer SD 57730, or by email to *sjjacobson@fs.fed.us*, or via facsimile to 605–673–9208. A summary of the meeting will be posted at *http://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees* within 45 days of the meeting.

Meeting Accommodations: If you require sign language interpreting, assistive listening devices or other reasonable accommodation please request this in advance of the meeting by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: April 2, 2013.

Dennis Jaeger,

Acting Forest Supervisor.

[FR Doc. 2013–08174 Filed 4–8–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Rural Utilities Service (RUS), in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended), invites comments on the following information collections for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by June 10, 2013.

FOR FURTHER INFORMATION CONTACT: Michele L. Brooks, Director, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, 1400 Independence Ave. SW., STOP 1522, Room 5162, South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078. Fax: (202) 720- 8435. Email: *michele.brooks@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies information collections that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) ways to enhance

the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments may be sent to Michele L. Brooks, Director, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, STOP 1522, 1400 Independence Ave. SW., Washington, DC 20250–1522. Fax: (202) 720–8435. Email: *michele.brooks@wdc.usda.gov.*

Title: 7 CFR Part 1794, Environmental Policies and Procedures.

OMB Control Number: 0572–0117.

Type of Request: Extension of a currently approved collection.

Abstract: The information collections contained in this rule are requirements prescribed by the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4346), the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), and Executive Orders.

USDA Rural Development administers rural utilities programs through the Rural Utilities Service (Agency). Agency applicants provide environmental documentation, as prescribed by the rule, to assure that policy contained in NEPA is followed. The burden varies depending on the type, size, and location of each project, which then prescribes the type of information collection involved. The collection of information is only that information that is essential for the Agency to provide environmental safeguards and to comply with NEPA as implemented by the CEQ regulations.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 146 hours per response.

Respondents: Business or other for-profit and non-for-profit institutions.

Estimated Number of Respondents: 1,339.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 486,440 hours.

Copies of this information collection can be obtained from Rebecca Hunt, Program Development and Regulatory Analysis, United States Department of Agriculture, Rural Utilities Service, at (202) 205–3660. FAX: (202) 720–8435 or email *rebecca.hunt@wdc.usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: April 2, 2013.

John Charles Padalino,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2013–08170 Filed 4–8–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Economic Expenditure Survey of Wreckfish (EESW) in the U.S. South Atlantic Region.

OMB Control Number: None.

Form Number(s): NA.

Type of Request: Regular submission (request for a new information collection).

Number of Respondents: 9.

Average Hours Per Response: 1 hour.

Burden Hours: 9.

Needs and Uses: This request is for a new information collection.

The National Marine Fisheries Service (NMFS) proposes to collect economic information from wreckfish landing commercial fishermen in the United States (U.S.) South Atlantic region. The data gathered will be used to evaluate the likely economic impacts of management proposals. In addition, the information will be used to satisfy legal mandates under Executive Order 12898, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act, and other pertinent statutes.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: April 3, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–08165 Filed 4–8–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1895]

Grant of Authority for Subzone Status, Hemlock Semiconductor, L.L.C., (Polysilicon), Clarksville, TN

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's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Metropolitan Government of Nashville and Davidson County, grantee of Foreign-Trade Zone 78, has made application to the Board for authority to establish a special-purpose subzone with certain manufacturing authority at the polysilicon manufacturing facility of Hemlock Semiconductor, L.L.C., located in Clarksville, Tennessee (FTZ Docket 62–2011, filed 10–5–2011);

Whereas, notice inviting public comment has been given in the **Federal Register** (76 FR 63281–63282, 10–12–2011; 76 FR 76934, 12–9–2011; 76 FR 81475, 12–28–2011; 77 FR 21082, 4–9–2012; 77 FR 30500, 5–23–2012) 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 would be satisfied, and that the proposal would be in the public interest if subject to the restriction and condition below;

Now, therefore, the Board hereby grants authority for subzone status for activity related to the manufacturing of polysilicon at the facility of Hemlock Semiconductor, L.L.C., located in Clarksville, Tennessee (Subzone 78J), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to a restriction prohibiting admission of foreign status silicon metal subject to an antidumping or countervailing duty order and to a condition that the company shall submit supplemental reporting data, as specified by the Executive Secretary, for the purpose of monitoring by the FTZ staff.

Signed at Washington, DC, this 2nd day of April 2013.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration Alternate Chairman, Foreign-Trade Zones Board.

Attest: _____

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–08231 Filed 4–8–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1893]

Grant of Authority for Subzone Status; Dow Corning Corporation (Silicon-Based Products); Midland, MI

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's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the City of Flint, grantee of Foreign-Trade Zone 140, has made application to the Board for authority to establish a special-purpose subzone with certain manufacturing authority at the silicon-based products manufacturing facility of Dow Corning Corporation, located in Midland, Michigan (FTZ Docket 60–2011, filed 10–5–2011);

Whereas, notice inviting public comment has been given in the **Federal Register** (76 FR 63282–63283, 10–12–2011; 76 FR 76934, 12–9–2011; 76 FR 81475, 12–28–2011; 77 FR 21082, 4–9–2012; 77 FR 30500, 5–23–2012) 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 would be satisfied, and that the proposal would be in the public interest if subject to the restriction and condition below;

Now, therefore, the Board hereby grants authority for subzone status for activity related to the manufacturing of silicon-based products at the facility of Dow Corning Corporation, located in Midland, Michigan (Subzone 140B), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to a restriction prohibiting admission of foreign status silicon metal subject to an antidumping or countervailing duty order and to a condition that the company shall submit supplemental reporting data, as specified by the Executive Secretary, for the purpose of monitoring by the FTZ staff.

Signed at Washington, DC, this 2nd day of April 2013.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

ATTEST: _____

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–08228 Filed 4–8–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–818]

Low Enriched Uranium From France: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* April 9, 2013.

SUMMARY: On December 1, 2012, the Department of Commerce (''Department'') initiated the second sunset review of the antidumping duty order on low enriched uranium (''LEU'') from France. The Department finds that revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping at the rates identified in the ''Final Results of Review'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Hilary Sadler or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4340 or (202) 482–1391, respectively.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty order on LEU from France was published on February 13, 2002. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Low Enriched Uranium From France,* 67 FR 6680 (February 13, 2002).

On December 1, 2012, the Department initiated the second sunset review of this order pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-Year (''Sunset'') Review,* 77 FR 71684 (December 3, 2012). The Department received a notice of intent to participate from USEC, Inc. and its subsidiary United States Enrichment Corporation (collectively, ''USEC'' or ''domestic interested party''), within the deadline specified in 19 CFR 351.218(d)(1)(i). USEC is a manufacturer of a domestic like product in the United States and, accordingly, is a domestic interested party pursuant to section 771(9)(C) of the Act.

On January 3, 2013, the Department received an adequate substantive response to the notice of initiation from the domestic interested party within the 30-day deadline specified in 19 CFR

351.218(d)(3)(i). The Department received no response from the respondent interested parties, *i.e.,* French uranium producers and exporters. On the basis of the notice of intent to participate and adequate substantive response filed by the domestic interested party and the inadequate response from the respondent interested parties, the Department has conducted an expedited sunset review of this order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C). As a result of this expedited sunset review, the Department finds that revocation of the antidumping duty order is likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

Scope of the Order

The product covered by the order is all low enriched uranium (''LEU''). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the downblending of highly enriched uranium).

Certain merchandise is outside the scope of the order. Specifically, the order does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of the order. For purposes of the order, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of the order.

Also excluded from the order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are reexported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Edward C. Yang, Senior Director, China/Non-Market Economy Unit, to Paul Piquado, Assistant Secretary for Import Administration, dated April 2, 2013, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum are the likelihood of continuation or recurrence of dumping, and the magnitude of the margins of dumping likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit in room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/ia/.* The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping duty order on uranium from France would be likely to lead to continuation or recurrence of dumping. Further, we determine that the magnitude of the margins of dumping likely to prevail are as follows:

Exporter or producer	Margin (percent)
Eurodif S.A. and its affiliate AREVA NC (formerly known as Companie Générale des Matières Nucléaires—COGEMA)	19.95
All Others	19.95

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: April 2, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–08239 Filed 4–8–13; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–932]

Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from interested parties, the Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on certain steel threaded rod from the People's Republic of China (''PRC'') for the period of review (''POR'') April 1, 2011, through March 31, 2012. The Department has preliminarily determined that RMB Fasteners Ltd., IFI & Morgan Ltd., and Jiaxing Brother Standard Part Co., Ltd. (collectively ''the RMB/IFI Group'') sold subject merchandise in the United States at prices below normal value (''NV'').

DATES: *Effective Date:* April 9, 2013.

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Jerry Huang, AD/CVD

Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1394 or (202) 482–4047, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order includes steel threaded rod. The subject merchandise is currently classifiable under subheading 7318.15.5050, 7318.15.5090, and 7318.15.2095 of the United States Harmonized Tariff Schedule (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.[1]

Preliminary Determination of No Reviewable Transactions

Certified Products International, Inc. (''CPI'') filed a timely no-shipment certification indicating that it had no shipments of subject merchandise to the United States during the POR. Subsequent to receiving CPI's no-shipment certification, the Department examined entry statistics obtained from U.S. Customs and Border Protection (''CBP''). The Department also issued no-shipment inquiries to CBP, asking it to respond only if it had information that the above-identified company may have shipped entries of subject merchandise during the POR. We did not receive any response from CBP, thus indicating that there were no entries of subject merchandise into the United States exported by CPI. After reviewing CPI's submission and the CBP information, we preliminarily determine that CPI did not have any reviewable transactions during the POR.

Additionally, Jiangxi Xinyue Standard Part Co., Ltd. (''Jiaxing Xinyue'') submitted a separate rate certification for this administrative review. However, the CBP data used for respondent selection indicate no entries of the subject merchandise were made by the Jiaxing Xinyue during the POR. Additionally, the CBP 7501 Forms provided by Jiaxing Xinyue's importer indicate that the entries of the merchandise that Jiaxing Xinyue claims were subject to the *Order* were not subject to antidumping duty liability. Because the entry data obtained from CBP show that Jiaxing Xinyue had no entries subject to antidumping duties during the POR, which is consistent with the information placed on the record by Jiaxing Xinyue, we preliminarily determine that Jiaxing Xinyue had no reviewable entries of subject merchandise during the POR.[2] Additionally, we intend to refer this matter to CBP to investigate whether Jiaxing Xinyue's entries were entered improperly.

Moreover, with respect to both CPI and Jiaxing Xinyue, the Department finds that consistent with its recently announced refinement to its assessment practice in non-market economy (''NME'') cases, as further discussed below, it is appropriate not to rescind the review, in part, in these circumstances but, rather, to complete the review with respect to these companies and issue appropriate instructions to CBP based on the final results of the review.[3]

PRC-Wide Entity

In these preliminary results, 64 companies are not eligible for separate rate status or rescission, as they did not submit separate rate applications or certifications.[4] As a result, these 64 companies are under review as part of the PRC-wide entity. For our determination with respect to the PRC-wide entity, *see* the Preliminary Decision Memorandum.

On July 26, 2012, Vulcan Threaded Products Inc. (''Petitioner'') timely withdrew its request for review for five companies: (1) Autocraft Industry Ltd.; (2) Autocraft Industry (Shanghai) Ltd.; (3) Fuda Xiongzhen Machinery Co., Ltd.; (4) Shanghai Furen International Trading; and (5) Shanghai Printing and Packaging Machinery Corp. No other party requested a review on these five companies.

For those five companies for which a review was initiated, for which all review requests have been withdrawn, and which previously received separate rate status in a prior segment of this case, it is the Department's practice to rescind the administrative review, in accordance with 19 CFR 351.213(d)(1). However, none of these five companies have a separate rate. While the requests for review of these companies were timely withdrawn, those companies remain a part of the PRC-wide entity. The PRC-wide entity is under review for these preliminary results. Thus, we are not rescinding this review with respect to these companies at this time, but the Department will make a determination with respect to the PRC-wide entity at the conclusion of these preliminary results and final results.[5]

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(A) of the Act. Constructed export prices (''CEP'') have been calculated in accordance with section 772 of the Act. Because the PRC is an NME within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act. Specifically, the RMB/IFI Group's factors of production (''FOPs'') have been valued in Thai surrogate value data. Thailand is economically comparable to the PRC and is a significant producer of comparable merchandise. To determine the appropriate comparison method, the Department applied a ''differential pricing'' analysis and has preliminarily determined to use the average-to-average method in making comparisons of export price or CEP and NV for the RMB/IFI Group. For a full description of the methodology underlying our

[1] *See Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order,* 74 FR 17154 (April 14, 2009) (''*Order*''). For a full description of the scope of the *Order, see* Memorandum from Edward C. Yang, Senior Director, China/Non-Market Economy Unit, to Paul Piquado, Assistant Secretary for Import Administration, ''Decision Memorandum for Preliminary Results of Third Antidumping Duty Administrative Review: Certain Steel Threaded Rod from the People's Republic of China,'' (''Preliminary Decision Memorandum''), dated April 2, 2013.

[2] Citing *Hubbell Power Systems, Inc.* v. *United States,* Court No. 11–00474, Slip Op. 12–123 (Ct. Int'l Trade 2012) (''*Hubbell*''), Jiaxing Xinyue contends that its lack of suspended entries of subject merchandise during the POR should not affect the Department's evaluation of its separate rate certification. *See* Jiaxing Xinyue's October 26, 2012 Submission: Steel Threaded Rod from the PRC (October 26, 2012) at 1. However, unlike the respondent in *Hubbell,* Jiaxing Xinyue has previously established its eligibility for a separate rate. *See Certain Steel Threaded Rod From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 68400, 68402 (November 4, 2011). Moreover, the requirement for reviewable transactions is consistent with the retrospective nature of duty assessment under U.S. law and the stated purpose of administrative reviews to ''review, and determine * * * the amount of any antidumping duty'' to be assessed upon imports of subject merchandise entered during the applicable period of review. *See* section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''the Act''); *see also Dofasco Inc.* v. *United States,* 390 F.3d 1370, 1372 (Fed. Cir. 2004) (stating that the purpose of the administrative review is to determine the duty liability for the review period).

[3] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011); *see also* ''Assessment Rates'' section below.

[4] *See* Appendix II for the list of these companies.

[5] *See, e.g., Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review,* 77 FR 47363, 47365 (August 8, 2012), unchanged in *Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011,* 78 FR 10130 (February 13, 2013).

conclusions, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Intent Not To Revoke Order in Part

We preliminarily find that the RMB/IFI Group has not satisfied the requirements of 19 CFR 351.222(b).[6] Thus, under section 751 of the Act, we preliminarily determine not to revoke in part the order with respect to the RMB/IFI Group.[7]

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist.

Exporter	Weighted average dumping margin
Jiaxing Brother Standard Part Co., Ltd., IFI & Morgan Ltd. and RMB Fasteners Ltd. (collectively ''RMB/IFI Group'')	20.05
Zhejiang New Oriental Fastener Co., Ltd.	*20.05
Certified Products International, Inc.	**
Jiangxi Xinyue Standard Part Co. Ltd.	**
PRC-wide Entity	206.00

* This company applied for or demonstrated eligibility for a separate rate in this administrative review. *See* Preliminary Decision Memorandum. The rate for this company is the calculated antidumping duty rate for the RMB/IFI Group.

** No reviewable shipments or sales subject to this review. The firms have either an individual rate or a separate rate from the last segment of the proceeding in which they had reviewable shipments or sales.

Disclosure and Public Comment

The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[8] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing. Interested parties are invited to comment on the preliminary results of this review.

The Department will consider case briefs filed by interested parties within 30 days after the date of publication of this notice in the **Federal Register**.[9] Interested parties may file rebuttal briefs, limited to issues raised in the case briefs.[10] The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities cited. The Department intends to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3)(ii), the deadline for submission of publicly available information to value FOPs under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department generally will not accept in the rebuttal submission additional or alternative surrogate value information not previously on the record, if the deadline for submission of surrogate value information has passed.[11] Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.[12]

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[13] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For any individually examined respondent whose weighted average dumping

[6] The Department recently published a final rule amending this section of its regulations concerning the revocation of antidumping and countervailing duty order in whole or in part, but that final rule does not apply to this administrative review. *See Modification to Regulation Concerning the Revocation of Antidumping and Countervailing Duty Order,* 77 FR 29875 (May 21, 2012). Reference to 19 CFR 351.222(b) thus refers to the Department's regulations in effect prior to June 20, 2012.

[7] *See* Preliminary Decision Memorandum.

[8] *See* 19 CFR 351.310(c).

[9] *See* 19 CFR 351.309(c)(1)(ii).

[10] *See* 19 CFR 351.309(d).

[11] *See e.g., Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission,* in Part, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

[12] *See* 19 CFR 351.301(c)(3).

[13] *See* 19 CFR 351.212(b).

margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales, in accordance with 19 CFR 351.212(b)(1).[14] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. For those companies not assigned a separate rate from a prior segment of the proceeding, the Department has stated that they are not separate from the PRC-wide entity and that the administrative review will continue for these companies.[15]

The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[16]

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: April 2, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Exporter

Billion Land Ltd.
China Brother Holding Group Co. Ltd.
China Jiangsu International Economic Technical
Dongxiang Accuracy Hardware Co., Ltd.
EC International (Nantong) Co. Ltd.
Fastwell Industry Co. Ltd.
Fuller Shanghai Co. Ltd.
Gem-Year Industrial Co. Ltd.
Haiyan Dayu Fasteners Co., Ltd.
Haiyan Hurras Import & Export Co. Ltd.
Haiyan Hurras Import Export Co. Ltd.
Haiyan Jianhe Hardware Co. Ltd.
Haiyan Julong Standard Part Co. Ltd.
Hangzhou Grand Imp. & Exp. Co., Ltd.
Jiangsu Dainan Zhenya Import & Export Co. Ltd.
Jiangsu Zhenya Special Screw Co., Ltd.
Jiashan Zhongsheng Metal Products Co., Ltd.
Jiaxing China Industrial Imp & Exp Co. a/k/a Jiaxing Cnindustrial Imp. & Exp. Co., Ltd.
Jiaxing SINI Fastener Co., Ltd.
Jiaxing Wonper Imp. & Exp. Co. Ltd.
Nanjing Prosper Import & Export Corporation Ltd.
Ningbiao Bolts & Nuts Manufacturing Co.
Ningbo Baoli Machinery Manufacture Co., Ltd.
Ningbo Beilun Milfast Metalworks Co. Ltd.
Ningbo Dexin Fastener Co. Ltd.
Ningbo Dongxin High-Strength Nut Co., Ltd.
Ningbo Fastener Factory.
Ningbo Grand Asia Import & Export Co., Ltd.
Ningbo Healthy East Import & Export.
Ningbo Jinding Fastening Piece Co., Ltd.
Ningbo Pal International Trading Co.
Ningbo Qunli Fastener Manufacture Co., Ltd.
Ningbo Shuanglin Auto Parts Co., Ltd.
Ningbo Shuanglin Industry Manufacturing Ltd.
Ningbo Xiangxiang Large Fasteners.
Ningbo XinXing Fasteners Manufacture Co., Ltd.
Ningbo Yinzhou Foreign Trade Co., Ltd.
Ningbo Yinzhou JH Machinery Co.
Ningbo Zhenghai Youngding Fastener Co., Ltd.
Ningbo Zhongjiang Petroleum Pipes & Machinery Co., Ltd.
Panther T&H Industry Co. Ltd.
PSGT Trading Jingjiang Ltd.
Qingdao Free Trade Zone Health Intl.
Shanghai East Best Foreign Trade Co.
Shanghai East Best International Business Development
Shanghai Fortune International Co. Ltd.
Shanghai Nanshi Foreign Economic Co.
Shanghai Overseas International Trading Co. Ltd.
Shanghai P&J International Trading Co., Ltd.
Shanghai Prime Machinery Co. Ltd.
Shanghai Printing & Dyeing and Knitting Mill.
Shanghai Recky International Trading Co., Ltd.
Suntec Industries Co., Ltd.
T and C Fastener Co. Ltd.
Tandem Industrial Co., Ltd.
Tong Ming Enterprise.
Wisechain Trading Ltd.
Xingtai City Xinxing Fasteners Co.
Zhejiang Artex Arts and Crafts.
Zhejiang Guangtai Industry and Trade.
Zhejiang Heiter Industries Co., Ltd.
Zhejiang Heiter MFG & Trade Co. Ltd.
Zhejiang Morgan Brother Technology Co. Ltd.

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[14] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[15] *See* Appendix I.

[16] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Circular Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand. This review covers two producers/exporters of the subject merchandise, Saha Thai Steel Pipe (Public) Company, Ltd. (Saha Thai), and Pacific Pipe Company Limited (Pacific Pipe). The period of review (POR) is March 1, 2011, through February 29, 2012. The Department preliminarily determines that Saha Thai has not sold subject merchandise at less than normal value (NV), and that Pacific Pipe had no shipments of subject merchandise during the POR. The preliminary results are listed below in the section titled ''Preliminary Results of Review.'' Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* April 9, 2013.

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao or Mark Hoadley, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1396 or (202) 482–3148, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by the antidumping order are certain circular welded carbon steel pipes and tubes from Thailand.[1] The merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090. Although the HTSUS subheadings are provided for convenience and purposes of U.S. Customs and Border Protection (CBP), the written description of the merchandise subject to the order, available in *Antidumping Duty Order: Circular Welded Carbon Steel Pipes and Tubes from Thailand,* 51 FR 8341 (March 11, 1986) (*Order*), is dispositive.

Preliminary Determination of No Shipments

Pacific Pipe, in a letter dated May 31, 2012, reported that it made no shipments or sales of subject merchandise during the POR. On September 12, 2012, the Department issued a ''No Shipment Inquiry'' to CBP to confirm that there were no shipments or entries of circular welded carbon steel pipes and tubes from Thailand exported by Pacific Pipe during the POR. In addition, we obtained other documentation from CBP to evaluate the accuracy of Pacific Pipe's no shipment claim.

Based on the certification of Pacific Pipe and our analysis of CBP information, we preliminarily determine that Pacific Pipe had no shipments during the POR. However, the Department finds that it is not appropriate to rescind the review with respect to Pacific Pipe, but rather to complete the review with respect to Pacific Pipe and issue appropriate instructions to CBP based on the final results of this review.[2]

Methodology

The Department has conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. In accordance with section 773(b) of the Act, we disregarded certain sales by Saha Thai in the home market which were made at below-cost prices and which were otherwise outside of the ordinary course of trade. To determine the appropriate comparison method, the Department applied a ''differential pricing'' analysis and has preliminarily determined to use the average-to-average method in making comparisons of export price and NV for Saha Thai.

For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

As a result of our review, we preliminarily determine the following weighted-average dumping margins exist for the period March 1, 2011, through February 29, 2012.

Producer/Exporter	Weighted-average dumping margin (percent)
Saha Thai Steel Pipe (Public) Company, Ltd	0.00
Pacific Pipe Company Limited	*

* No shipments or sales subject to this review. The firm has an individual rate from the last segment of the proceeding in which the firm had shipments or sales.

Assessment Rates

Upon completion of this administrative review, the Department shall determine and CBP shall assess antidumping duties on all appropriate entries. If Saha Thai's weighted-average dumping margin is not zero or *de minimis* in the final results of this review, we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for an importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1). Where Saha Thai did not report the entered value for its sales, we will calculate importer-specific (or customer-specific) per unit duty assessment rates. Where an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2). If Saha Thai's weighted-average dumping margin continues to be zero or *de minimis* in the final results of this review, we will instruct CBP not to

[1] *See* Memorandum to Paul Piquado, Assistant Secretary for Import Administration, from Edward C. Yang, Senior Director, China/Non-Market Economy Unit, entitled ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Circular Welded Carbon Steel Pipes and Tubes from Thailand: 2011–2012 Administrative Review,'' dated concurrently with this notice (Preliminary Decision Memorandum), for a complete description of the scope of the order.

[2] *See, e.g., Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

liquidate the appropriate entries without regard to antidumping duties in accordance with the *Final Modification for Reviews, i.e.,* ''{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis,* no antidumping duties will be assessed.'' [3]

The Department clarified its ''automatic assessment'' regulation on May 6, 2003.[4] This clarification applies to entries of subject merchandise during the POR produced by Saha Thai for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Consistent with the *Assessment Policy Notice,* if we continue to find that Pacific Pipe had no shipments of subject merchandise to the United States in the final results of this review, we intend to instruct CBP to liquidate all existing entries of merchandise produced by Pacific Pipe and exported by other parties at the all-others rate.

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of circular welded carbon steel pipes and tubes from Thailand entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the company under review will be the rate established in the final results of this review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, then no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less than fair value (LTFV) investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation, then the cash deposit rate will be the ''all-others'' rate of 15.67 percent established in the LTFV investigation. *See Order.* These deposit rates, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**.[5] If a hearing is requested, the Department will notify interested parties of the hearing schedule.

Interested parties are invited to comment on the preliminary results of this review. Unless extended by the Department, interested parties must submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed not later than five days after the time limit for filing case briefs. *See* 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Executive summaries should be limited to five pages total, including footnotes.[6]

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**, unless otherwise extended. *See* section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 2, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum:

1. Scope of the Order
2. Preliminary Determination of No Shipments
3. Comparisons to Normal Value
4. Product Comparisons
5. Date of Sale
6. Export Price
7. Normal Value
8. Currency Conversion

[FR Doc. 2013–08234 Filed 4–8–13; 8:45 am]

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[3] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[4] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

[5] Parties submitting written comments must submit them pursuant to the Department's e-filing regulations. *See https://iaaccess.trade.gov/help/IA%20ACCESS%20User%20Guide.pdf* or *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[6] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–988]

Silica Bricks and Shapes From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: April 9, 2013.

FOR FURTHER INFORMATION CONTACT: Rebecca Pandolph, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–3627.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determination

On December 12, 2012, the Department of Commerce (''Department'') published a notice of initiation of an antidumping duty investigation of silica bricks and shapes from the People's Republic of China.[1] The period of investigation is April 1, 2012, through September 30, 2012. The notice of initiation stated that, unless

[1] *See Silica Bricks and Shapes From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 77 FR 73982 (December 12, 2012).

postponed, the Department would issue its preliminary determination for this investigation no later than 140 days after the date of the initiation in accordance with section 773(b)(1)(A) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.205(b)(1). The preliminary determination of the antidumping duty investigation is currently due no later than April 24, 2013.

On March 27, 2013, Utah Refractories Corporation (''Petitioner'') made a timely request pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(b)(2) and (e) for postponement of the preliminary determination in this investigation.[2] Petitioner requested a 50-day postponement of the preliminary determination in order to provide sufficient time for review of the questionnaire responses, comment on the responses, issuance of appropriate requests for clarification and/or additional information, and consideration of the surrogate value information for properly valuing the critical factors of production of subject merchandise.

For the reasons stated above and because there are no compelling reasons to deny the request, the Department, in accordance with section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), is postponing the deadline for the preliminary determination to no later than 190 days after the date on which the Department initiated this investigation. Therefore, the new deadline for issuing the preliminary determination is June 13, 2013.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: April 2, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–08233 Filed 4–8–13; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See* Letter from Petitioner to the Honorable Rebecca Blank, Secretary of Commerce, regarding ''Petition for the Imposition of Antidumping Duties: Silica Bricks and Shapes from the People's Republic of China,'' dated March 27, 2013.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–502]

Circular Welded Carbon Steel Pipes and Tubes from Turkey: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on circular welded carbon steel pipes and tubes from Turkey (pipes and tubes from Turkey) for the period of review (POR) of January 1, 2011, through December 31, 2011. The review covers the following three producers/exporters of subject merchandise: Borusan Group, Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (BMB), and Borusan Istikbal Ticaret T.A.S. (Istikbal), (collectively, Borusan); Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan) and Erbosan Erciyas Pipe Industry and Trade Co. Kayseri Free Zone Branch (Erbosan FZB), (collectively Erbosan); and Tosyali dis Ticaret A.S. (Tosyali) and Toscelik Profil ve Sac Endustrisi A.S. (Toscelik Profil), (collectively, Toscelik). We preliminarily determine that Borusan, Erbosan, and Toscelik received countervailable subsidies during the POR but that the companies' respective total net subsidy rates are less than 0.5 percent *ad valorem* and, therefore, are *de minimis.*

DATES: *Effective Date:* April 9, 2013.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska at 202–482–8362 (for Borusan and Erbosan) at 202–482–8362 and John Conniff at 202–482–1009 (for Toscelik), AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Scope of the Order

The products covered by this order are certain welded carbon steel pipe and tube with an outside diameter of 0.375 inch or more, but not over 16 inches, of any wall thickness (pipe and tube) from Turkey. These products are currently provided for under the Harmonized Tariff Schedule of the United States (HTSUS) as item numbers 7306.30.10, 7306.30.50, and 7306.90.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific. *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and, section 771(5A) of the Act regarding specificity. For a full description of the methodology underlying our conclusions, please *see* Decision Memorandum for Preliminary Results of Countervailing Duty (CVD) Administrative Review: Circular Welded Carbon Steel Pipes and Tubes from Turkey (Preliminary Decision Memorandum) from Edward C. Yang, Senior Director China/Non-Market Economy Unit, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with these results and hereby adopted by this notice.

In making these findings, we have relied, in part, on an adverse inference in selecting from among the facts otherwise available because one of our respondents, Erbosan, did not act to the best of its ability to respond to the Department's requests for information as it pertains to the ''Deduction from Taxable Income for Export Revenue'' program. *See* section 776(a) and (b) of the Act.

The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/*. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department has determined that the following preliminary net subsidy

rates exist for the period January 1, 2011, through, December 31, 2011:

Company	Net subsidy rate
Borusan Group, Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan)	0.24 percent *ad valorem* (*de minimis*).
Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan)	0.30 percent *ad valorem* (*de minimis*).
Toscelik Profil ve Sac Endustrisi A.S. (Toscelik)	0.29 percent *ad valorem* (*de minimis*).

Assessment and Cash Deposit Requirements

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of the final results of this review. If the final results remain the same as these preliminary results, the Department will instruct CBP to liquidate without regard to countervailing duties all shipments of subject merchandise produced by Borusan, Erbosan, and Toscelik, entered, or withdrawn from warehouse, for consumption from January 1, 2011, through December 31, 2011. The Department will also instruct CBP to collect cash deposits of zero percent on shipments of the subject merchandise produced by Borusan, Erbosan, and Toscelik entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

We will instruct CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed administrative proceeding for each company. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

Disclosure and Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.[1] Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.[2] Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. All briefs must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, using Import Administration's IA ACCESS system.[3] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined.[4] Parties should confirm by telephone the date, time, and location of the hearing.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: April 2, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

Analysis of Programs

I. *Programs Preliminarily Determined to be Countervailable*
- A. Deduction from Taxable Income for Export Revenue
- B. Short Term Pre-Shipment Rediscount Program
- C. Law 5084: Withholding of Income Tax on Wages and Salaries
- D. Law 5084: Incentive for Employers' Share in Insurance Premiums
- E. Law 5084: Allocation of Free Land and Purchase of Land for less than Adequate Remuneration (LTAR)
- F. Law 5084: Energy Support
- G. Organized Industrial Zone (OIZ): Exemption from Property Tax
- H. Corporate Income Tax Exemption under the Free Zones Law

II. *Programs Preliminarily Determined To Not Confer Countervailable Benefits During the POR*
- A. Inward Processing Certificate Exemption
- B. Investment Encouragement Program (IEP): Customs Duty Exemptions
- C. Provision of Buildings and Land Use Rights for LTAR under the Free Zones Law

III. *Programs Preliminarily Found Not Countervailable*
- A. Deductions on Social Security Payments Program under Law 5510
- B. Deductions on Social Security Payments Program under Law 5921
- C. Customs Duties and Value-Added Tax (VAT) Exemptions under the Free Zones Law

IV. *Programs Preliminarily Determined to Not Be Used*
- A. Stamp Duties and Fees Exemptions under the Free Zones Law
- B. Other Programs Not Used
- • Post-Shipment Export Loans
- • Export Credit Bank of Turkey Buyer Credits
- • Subsidized Turkish Lira Credit Facilities
- • Subsidized Credit for Proportion of Fixed Expenditures
- • Subsidized Credit in Foreign Currency
- • Regional Subsidies
- • VAT Support Program (Incentive Premium on Domestically Obtained Goods)
- • IEP: VAT Exemptions
- • IEP: Reductions in Corporate Taxes
- • IEP: Interest Support
- • IEP: Social Security Premium Support
- • IEP: Land Allocation
- • National Restructuring Program
- • Regional Incentive Scheme: Reduced Corporate Tax Rates
- • Regional Incentive Scheme: Social Security Premium Contribution for Employees
- • Regional Incentive Scheme: Allocation of State Land
- • Regional Incentive Scheme: Interest Support
- • OIZ: Waste Water Charges

[1] *See* 19 CFR 351.224(b).

[2] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1).

[3] *See* 19 CFR 351.310(c).

[4] *See* 19 CFR 351.310.

- OIZ: Exemptions from Customs Duties, VAT, and Payments for Public Housing Fund, for Investments for which an Income Certificate is Received
- OIZ: Credits for Research and Development Investments, Environmental Investments, Certain Technology Investments, Certain ''Regional Development'' Investments, and Investments Moved from Developed regions to ''Regions of Special Purpose''
- Foreign Trade Companies Short Term Export Credits
- Pre-Export Credits
- Pre-shipment Export Credits
- OIZ: Exemption from Building and Construction Charges
- OIZ: Exemption from Amalgamation and Allotment Transaction Charges

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket Number 130305199–3199–01]

Manufacturing Extension Partnership (MEP) Center for Nebraska; Availability of Funds

AGENCY: National Institute of Standards and Technology (NIST), United States Department of Commerce (DoC).

ACTION: Notice.

SUMMARY: NIST invites applications from eligible applicants for funding projects that provide manufacturing extension services to primarily small- and medium-sized manufacturers in the United States. Specifically, NIST seeks applications to re-establish an MEP center in Nebraska.

DATES: Electronic applications must be received no later than 11:59 p.m. Eastern Time on June 10, 2013. Paper applications must be received by NIST by 5:00 p.m. Eastern Time on June 10, 2013.

ADDRESSES: For applicants without Internet access, the standard application package may be obtained by contacting Diane Henderson, National Institute of Standards and Technology, Manufacturing Extension Partnership, 100 Bureau Drive, Stop 4800, Gaithersburg, MD 20899–4800, phone (301) 975–5105, or by downloading the application package through Grants.gov. Paper submissions should be sent to: Diane Henderson, National Institute of Standards and Technology, Manufacturing Extension Partnership, 100 Bureau Drive, Stop 4800, Gaithersburg, MD 20899–4800. Electronic submissions should be submitted to *www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Administrative, budget, cost-sharing, and eligibility questions and other programmatic questions should be directed to Diane Henderson at Tel: (301) 975–5105; Email: *diane.henderson@nist.gov;* Fax: (301) 963–6556. Grants Administration questions should be addressed to: Scott McNichol, Grants and Agreements Management Division, National Institute of Standards and Technology, 100 Bureau Drive, Stop 1650, Gaithersburg, MD 20899–1650; Tel: (301) 975–5603; Email: *scott.mcnichol@nist.gov;* Fax: (301) 926–6458. For assistance with using Grants.gov contact Christopher Hunton at Tel: (301) 975–5718; Email: *christopher.hunton@nist.gov;* Fax: (301) 840–5976. All questions and responses will be posted on the MEP Web site, *www.nist.gov/mep.*

SUPPLEMENTARY INFORMATION:

Electronic access: Applicants are strongly encouraged to read the corresponding Federal Funding Opportunity (FFO) announcement available at *www.grants.gov* for complete information about this program, including all program requirements and instructions for applying by paper or electronically. The FFO may be found by searching under the Catalog of Federal Domestic Assistance Name and Number provided below.

Authority: 15 U.S.C. 278k, as implemented in 15 CFR part 290

Catalog of Federal Domestic Assistance Name and Number: Manufacturing Extension Partnership—11.611

Webinar Information Session: NIST MEP will hold an information session for organizations considering applying to this opportunity. An information session in the form of a webinar will be held approximately 14 business days after publication of this notice. The exact date and time of the webinar will be posted on the MEP Web site at *www.nist.gov/mep.* Organizations wishing to participate in the webinar must sign up by contacting Diane Henderson at *diane.henderson@nist.gov.*

Program Description: NIST invites applications from eligible applicants for funding one (1) MEP center to provide manufacturing extension services to primarily small- and medium-sized manufacturers in the state of Nebraska. The MEP center will become part of the MEP national system of extension service providers, currently comprised of more than 400 centers and field offices located throughout the United States and Puerto Rico.

The objective of an MEP center is to provide manufacturing extension services that enhance productivity, innovative capacity, and technological performance, and strengthen the global competitiveness of primarily small- and medium-sized U.S.-based manufacturing firms in its service region. Manufacturing extension services are provided by utilizing the most cost effective, local, leveraged resources for those services through the coordinated efforts of a regionally-based MEP center and local technology resources. The management and operational structure of an MEP center is not prescribed, but should be based upon the characteristics of the manufacturers in the region and locally available resources with demonstrated experience working with manufacturers.

It is not the intent of this program that the centers perform research and development.

Information regarding MEP and these centers is available at *www.nist.gov/mep.*

Funding Availability: NIST anticipates funding one (1) application at the level of up to $600,000 for an MEP Center in the state of Nebraska. The project awarded under this notice and the corresponding FFO will have a budget and performance period of one (1) year. The award may be renewed on an annual basis subject to the review requirements described in 15 CFR 290.8.

Cost Share Requirements: This Program requires a non-Federal cost share of at least 50 percent of the total project cost for the first year of operation. Any renewal funding of an award will require non-Federal cost sharing as follows:

Year of center operation	Maximum NIST share	Minimum non-federal share
1–3	1/2	1/2
4	2/5	3/5
5 and beyond	1/3	2/3

Non-Federal cost sharing is that portion of the project costs not borne by the Federal Government. The applicant's share of the MEP center expenses may include cash, services, and third party in-kind contributions, as described at 15 CFR 14.23 or 24.24, as applicable, and the MEP program rule, 15 CFR 290.4(c). No more than 50% of the applicant's total non-Federal cost share may be third party in-kind contributions of part-time personnel, equipment, software, rental value of centrally located space, and related contributions, per 15 CFR. 290.4(c)(5). The source and detailed rationale of the cost share, including cash, full- and part-time personnel, and in-kind donations, must be documented in the budget submitted with the application and will be considered as part of the evaluation review under Section V.1(d)(4) of the FFO.

All non-Federal cost share contributions require a letter of commitment signed by an authorized official from each source.

Any cost sharing must be in accordance with the ''cost sharing or matching'' provisions of 15 CFR part 14, *Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations* or 15 CFR part 24, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,* as applicable.

As with the Federal share, any proposed costs included as non-Federal cost sharing must be an allowable/eligible cost under this Program and the following applicable Federal cost principles: (1) Institutions of Higher Education: 2 CFR part 220 (OMB Circular A–21); (2) Nonprofit Organizations: 2 CFR part 230 (OMB Circular A–122); and (3) State, Local and Indian Tribal Governments: 2 CFR part 225 (OMB Circular A–87).

As with the Federal share, any proposed non-Federal cost sharing will be made a part of the cooperative agreement award and will be subject to audit if the project receives MEP funding.

Eligibility: The eligibility requirements given in this section will be used in lieu of those published in the MEP regulations found at 15 CFR part 290, specifically 15 CFR 290.5(a)(1). Each award recipient must be a U.S.-based nonprofit institution or organization. For the purpose of this notice and the corresponding FFO, nonprofit organizations include universities and state and local governments. An eligible organization may work individually or include proposed subawards or contracts with others in a project application, effectively forming a team. Existing MEP centers are eligible. However, as discussed in Section III.3.b. of the FFO, NIST will generally not consider applications for funding that propose an organizational or operational structure that, in whole or in part, delegates or transfers to another person, institution, or organization the applicant's responsibility for core MEP management and oversight functions.

Application Requirements: Applications must be submitted in accordance with the requirements set forth in the corresponding FFO announcement.

Application/Review Information: The evaluation criteria, selection factors, and review and selection process provided in this section will be used for this competition in lieu of that provided in the MEP regulations found at 15 CFR part 290, specifically 15 CFR 290.6 and 290.7.

The applications will be evaluated based on the evaluation criteria described below, which are set in the context of the applicant's ability to align the application for accomplishing the objectives of NIST MEP's Next Generation Strategy: Continuous Improvement, Technology Acceleration, Supplier Development, Sustainability and Workforce. The NIST MEP Next Generation Strategy can be found at *www.nist.gov/mep.* As discussed further below, applications will be scored based on these factors, each of which will be given equal weight in the evaluation process, with a maximum score of 100.

The evaluation criteria that will be used in evaluating applications are as follows:

a. *Identification of Target Firms in Proposed Region. (20 pts)* Does the application clearly address the entire service region, providing for a large enough population of target firms of small- and medium-sized manufacturers that the applicant understands and can serve, and which is not presently served by an existing Center? Does the applicant describe the types of services and delivery approaches proposed for the region?

(1) *Market Analysis.* Demonstrated understanding of the service region's manufacturing base, including business size, industry types, product mix, and technology requirements. Explain how the understanding will inform resources and services to be offered to firms in the region.

(2) *Geographical Location.* Concentration of industry and economic significance of the service region's manufacturing base. Geographical diversity of the Center and its regional offices will be a factor in evaluation of applications. How does the applicant intend to reach manufacturing across the region?

b. *Technology Resources. (20 pts)* Does the application assure strength in technical personnel and programmatic resources, full-time staff, facilities, equipment, and linkages to external sources of technology to develop and transfer technologies related to NIST research results and expertise in the objectives outlined in 15 CFR 290.3 (b)(1–4) as well as the NIST MEP's Next Generation Strategies: Continuous Improvement, Technology Acceleration, Supplier Development (Supply Chain), Environmental Sustainability and Workforce? Does the application describe the partnership's contractual relationships and monitoring plans?

c. *Technology Delivery Mechanisms. (20 pts)* Does the application clearly and sharply define an effective methodology for delivering advanced manufacturing technology to small- and medium-sized manufacturers and mechanism(s) for accelerating the adoption of technologies for both process improvement and new product adoption? Does the application describe the center business model?

(1) *Linkages.* Development of effective partnerships or linkages to third parties such as industry, universities, nonprofit economic organizations, and state governments who will amplify the Center's technology delivery to reach a large number of clients in its service region.

(2) *Program Leverage.* Provision of an effective strategy to amplify the Center's technology delivery approaches to achieve the proposed objectives as described in 15 CFR 290.3(e).

d. *Management and Financial Plan. (20 pts)* Does the application define a management structure and assure management personnel to carry out development and operation of an effective Center? How do the management structure and personnel support achievements of the MEP mission and objectives?

(1) *Organizational Structure.* Completeness and appropriateness of the organizational structure, and its focus on the mission of the Center. Assurance of local full-time top management of the Center. This includes a clearly presented Oversight Board structure with a membership representing small- and medium- sized manufacturers in the region. MEP has determined that centers clearly benefit when a majority or more of its Board members/Trustees compose a

membership representing principally small- and medium-sized manufacturers, as well as committed partners, and do not have dual obligations to more than one Center. Two-thirds of the members of the Center's oversight board must not be members of any other MEP Center boards. Center board members should not include MEP extension service delivery organizations receiving financial payments from the center.

(2) *Program Management.* Effectiveness of the planned methodology of program management. This criterion includes the identification of committed local partners and demonstrated experience of the leadership team in manufacturing, outreach and partnership development.

(3) *Internal Evaluation.* Effectiveness of the planned continuous internal evaluation of program activities. The application must provide the methodology and periodic activity for continuous internal evaluation of the program activities and demonstrate the effectiveness of defined methodology.

(4) *Plans for Financial Cost Share.* Demonstrated stability and duration of the applicant's funding commitments. Identification of the sources of cost share and the general terms of funding commitments. The total level of cost share and detailed rationale of the cost share, including cash and in-kind, must be documented in the budget submitted with the application.

e. *Budget.(20 pts)* Suitability and focus of the applicant's detailed one-year budget and budget outline for years two (2) through five (5).

Selection Factors. The Selecting Official shall select applications for award based upon the rank order of the applications, and may select an application out of rank based on one or more of the following selection factors:

a. The availability of Federal funds.

b. The need to assure appropriate regional distribution.

c. Whether the project duplicates other projects funded by DoC or by other Federal agencies.

Review and Selection Process

a. *Initial Administrative Review of Applications.* An initial review of timely received applications will be conducted to determine eligibility, completeness, and responsiveness to this notice and the corresponding FFO and the scope of the stated program objectives. Applications determined to be ineligible, incomplete, and/or non-responsive may be eliminated from further review.

b. *Full Review of Eligible, Complete, and Responsive Applications.* Applications that are determined to be eligible, complete, and responsive will proceed for full reviews in accordance with the review and selection processes below:

(1) *Evaluation and Review.*

NIST will appoint an evaluation panel, consisting of at least three technically qualified reviewers to evaluate each application based on the evaluation criteria (see Section V.1. of the FFO) and assign a numeric score for each application. If more than one non-Federal employee reviewer is used on the panel, the panel member reviewers may discuss the applications with each other, but scores will be determined on an individual basis, not as a consensus. Panelists will assign each application a score, based on the application's responsiveness to the criteria above, with a maximum score of 100. Applications with an average score of 70 or higher out of 100 will be deemed finalists.

Finalists may receive written follow-up questions in order for the evaluation panel to gain a better understanding of the applicant's proposal. Once the evaluation panel has completed their review of the applicant's responses, a conference call or site visit may be deemed necessary. If deemed necessary, either all finalists will participate in a conference call or all finalists will receive site visits that will be conducted by the same evaluation panel reviewers referenced in the preceding paragraph. NIST may enter into negotiations with the finalists concerning any aspect of their application. Finalists will be reviewed and evaluated, and evaluation panel reviewers may revise their assigned numeric scores based on the evaluation criteria (see Section V.1. of the FFO) as a result of the conference call or site visit.

(2) *Ranking and Selection.*

Based on the panel member reviewers' final numeric scores, a rank order will be prepared and provided to the Selecting Official for further consideration. The Selecting Official, who is the Director of the NIST MEP Program, will then select funding recipients based upon the rank order and the selection factors (see Section V.2. of the FFO).

In accordance with the Federal appropriations law expected to be in effect at the time of project funding, NIST anticipates that the selected applicant will be provided a form and asked to make a representation regarding any unpaid delinquent tax liability or felony conviction under any Federal law.

NIST reserves the right to negotiate the budget costs with any applicant selected to receive an award, which may include requesting that the applicant remove certain costs. Additionally, NIST may request that the successful applicant modify objectives or work plans and provide supplemental information required by the agency prior to award. NIST also reserves the right to reject an application where information is uncovered that raises a reasonable doubt as to the responsibility of the applicant. NIST may select part, some, all, or none of the applications. The final approval of selected applications and issuance of awards will be by the NIST Grants Officer. The award decisions of the NIST Grants Officer are final.

Anticipated Announcement and Award Date. Review, selection, and award processing is expected to be completed in August 2013. The earliest anticipated start date for awards made under this notice and the corresponding FFO is expected to be December 1, 2013.

Additional Information

a. *Application Replacement Pages.* Applicants may not submit replacement pages and/or missing documents once an application has been submitted. Any revisions must be made by submission of a new application that must be received by NIST by the submission deadline.

b. *Notification to Unsuccessful Applicants.* Unsuccessful applicants will be notified in writing.

c. *Retention of Unsuccessful Applications.* One (1) copy of each non-selected application will be retained for three (3) years for record keeping purposes and the other two (2) copies will be destroyed. After three (3) years the remaining copy will be destroyed.

Administrative and National Policy Requirements

The Department of Commerce Pre-Award Notification Requirements: The DoC Pre-Award Notification Requirements for Grants and Cooperative Agreements, which are contained in the **Federal Register** notice of December 17, 2012 (77 FR 74634), are applicable to this notice and the corresponding FFO and are available at *http://www.osec.doc.gov/oam/grants_management/policy/documents/Department%20of%20Commerce%20Financial%20Assistance%20Pre%20Award%20Notice%20-%2077%20FR%2074634.pdf.*

Employer/Taxpayer Identification Number (EIN/TIN), Dun and Bradstreet Data Universal Numbering System (DUNS), and System for Award

Management (SAM): All applicants for Federal financial assistance are required to obtain a universal identifier in the form of DUNS number and maintain a current registration in the Federal government's primary registrant database, SAM. On the form SF–424 items 8.b. and 8.c., the applicant's 9-digit EIN/TIN and 9-digit DUNS number must be consistent with the information in SAM (*https://www.sam.gov/*) and the Automated Standard Application for Payment System (ASAP). For complex organizations with multiple EINs/TINs and DUNS numbers, the EIN/TIN and DUNS numbers MUST be the numbers for the applying organization. Organizations that provide incorrect/inconsistent EIN/TIN and DUNS numbers may experience significant delays in receiving funds if their application is selected for funding. Confirm that the EIN/TIN and DUNS number are consistent with the information on the SAM and ASAP.

Per 2 CFR part 25, each applicant must:

(1) Be registered in the Central Contractor Registration (CCR) before submitting an application, noting the CCR now resides in SAM;

(2) Maintain an active CCR registration, noting the CCR now resides in SAM, with current information at all times during which it has an active Federal award or an application under consideration by an agency; and

(3) Provide its DUNS number in each application or application it submits to the agency.

The applicant can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day. The CCR or SAM registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your CCR registration annually. This may take three or more business days to complete. Information about SAM is available at SAM.gov.

See also 2 CFR part 25 and the **Federal Register** notice published on September 14, 2010, at 75 FR 55671.

Paperwork Reduction Act: The standard forms in the application kit involve a collection of information subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, SF–LLL, and CD–346 have been approved by OMB under the respective Control Numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. MEP program-specific application requirements have been approved by OMB under Control Number 0693–0056.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any 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 currently valid OMB Control Number.

Funding Availability and Limitation of Liability: Funding for the program listed in this notice and the corresponding FFO is contingent upon the availability of appropriations. In no event will NIST or DoC be responsible for application preparation costs if this program fails to receive funding or is cancelled because of agency priorities. Publication of this notice and the corresponding FFO does not oblige NIST or DoC to award any specific project or to obligate any available funds.

Executive Order 12866: This funding notice was determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism): It has been determined that this notice does not contain policies with federalism implications as that term is defined in Executive Order 13132.

Executive Order 12372: Proposals under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Administrative Procedure Act/Regulatory Flexibility Act: Notice and comment are not required under the Administrative Procedure Act (5 U.S.C. 553) or any other law, for matters relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553 (a)). Moreover, because notice and comment are not required under 5 U.S.C. 553, or any other law, for matters relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice, 5 U.S.C. 601 et seq.

Dated: April 2, 2013.

Phillip Singerman,

Associate Director for Innovation & Industry Services.

[FR Doc. 2013–08232 Filed 4–8–13; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB161

Marine Mammals; File Nos. 16992 and 14535

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

ACTION: Notice; receipt of applications.

SUMMARY: Notice is hereby given that (1) Paul Nachtigall, Ph.D., Hawaii Institute of Marine Biology, University of Hawaii, P.O. Box 1106, Kailua, HI 96734, has applied in due form for a permit to conduct research on captive cetaceans; and (2) Colleen Reichmuth, Ph.D., Long Marine Laboratory, University of California at Santa Cruz, 100 Shaffer Road, Santa Cruz, CA 95060, has applied in due form for an amendment to Permit No. 14535–01 to conduct research on captive pinnipeds.

DATES: Written, telefaxed, or email comments must be received on or before May 9, 2013.

ADDRESSES: The applications and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File Nos. 16992 and 14535 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

File Nos. 16992 and 14535: Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376;

File No. 16992: Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Room 1110, Honolulu, HI 96814–4700; phone (808) 944–2200; fax (808) 973–2941; and

File No. 14535: Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

Written comments on the applications should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include ''File No. 16992'' or ''File No. 14535'' in the subject line of the email comment.

Individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on either of these applications would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore (File No. 16992) and Amy Sloan (File No. 14535) at 301–427–8401.

SUPPLEMENTARY INFORMATION: The subject permit and permit amendment are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

File No. 16992: The applicant has requested a five-year permit to continue research activities currently authorized under Permit No. 978–1857. The purpose of this research is to study basic hearing and echolocation in three bottlenose dolphins (*Tursiops truncatus*) and one false killer whale (*Pseudorca crassidens*) maintained in captivity at the Hawaii Institute of Marine Biology in Kaneohe, HI. Researchers would conduct hearing measurements using suction cup sensors to monitor electrical signals in the brain in response to sound and echolocation clicks. Temporary threshold shift (TTS) experiments would be conducted on one adult male bottlenose dolphin to provide basic measures of low frequency TTS necessary for establishing regulations for sound levels for navy sonars and geophysical oil exploration arrays. The research is accomplished using trained behaviors in which the animals voluntarily participate and can leave the testing area at any time.

File No. 14535: The applicant requests an amendment to Permit No. 14535–01 (75 FR 58352) to allow the addition of TTS studies to the currently approved research activities for captive pinnipeds held at Long Marine Laboratory in Santa Cruz, CA. This research may be conducted with up to two individuals from each of three species of ice seal: spotted (*Phoca largha*), ringed (*Phoca hispida*), and bearded (*Erignathus barbatus*) seals trained for participation in ongoing behavioral hearing studies. The proposed research will determine the onset of TTS as a result of voluntary exposure to single-pulse noise events similar to those that might be received by seals during seismic testing in arctic waters. This research will provide the first-ever direct information about the noise levels that cause a temporary, recoverable reduction in hearing sensitivity following exposure events in ice seals. Such information will help to fill data gaps on the issue of assessing potential adverse effects of industrial noise on arctic seals. The research is accomplished using trained behaviors in which the animals voluntarily participate and can leave the testing area at any time.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register,** NMFS is forwarding copies of these applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 3, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–08166 Filed 4–8–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC599

Marine Mammals; File No. 17845

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Rachel Cartwright, Keiki Kohola Project, 5277 West Wooley Rd., Oxnard, CA 93035, has applied in due form for a permit to conduct research on humpback whales (*Megaptera novaeangliae*).

DATES: Written, telefaxed, or email comments must be received on or before May 9, 2013.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 17845 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices: ''See **SUPPLEMENTARY INFORMATION**.''

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Kristy Beard or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The proposed five-year permit would authorize the level A and B harassment of humpback whales during photo-identification, behavioral follows, and surface and underwater observations in Hawaii, Alaska, and California. The applicant would approach up to 1,047 humpback whales in Hawaii, 630 in Alaska and 480 in California each year. Short-term, non-invasive, suction cup tagging of maternal females would be conducted within Hawaiian waters to document nocturnal behaviors and fine-scale movements and in Californian waters to better understand use of waters around the Santa Barbara Channel and Channel Islands (Anacapa, Santa Cruz and Santa Rosa Islands). Twelve tags would be deployed annually in both Hawaii and California; two attempts would be made to attach a tag to an individual. Surveys would be conducted between December and May each year within Hawaiian waters and for a four to six week period between April and November in Alaskan and Californian waters each year. The purpose of the proposed research is to identify and define critical habitat used by maternal female humpback whales and their calves, across the period from infancy to maturity and independence. Inherent in this goal is the understanding of the functionality of

behavior during this period, with regards to both the maternal female and her calf. This study would provide the information required to ensure that management practices in waters used by maternal females, their calves and maturing juvenile whales are effective and accurately targeted. Opportunistic research on Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), Risso's dolphins (*Grampus griseus*), Dall's porpoise (*Phocoenoides dalli*), blue whales (*Balaenoptera musculus*), killer whales (*Orcinus orca*), minke whales (*B. acutorostrata*), spinner dolphins (*Stenella longirostris*), bottlenose dolphins (*Tursiops truncatus*), and false killer whales (*Pseudorca crassidens*) would also be conducted. Incidental harassment of Steller (*Eumetopias jubatus*) and California sea lions (*Zalophus californianus*) would also occur.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents may be reviewed in the following locations:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808) 944–2200; fax (808) 973–2941.

Dated: April 3, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–08173 Filed 4–8–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC573

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. This Exempted Fishing Permit would exempt commercial fishing vessels from whiting possession limits to test an experimental trawl net as a means to reduce winter flounder bycatch in the small-mesh whiting and squid fisheries. The research is being conducted by Cornell University Cooperative Extension of Suffolk County, NY.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before April 24, 2013.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email: nero.efp@noaa.gov.* Include in the subject line ''Comments on CCE Winter Flounder EFP.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, NE Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on CCE Winter Flounder EFP.''
- *Fax:* (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, 978–281–9177.

SUPPLEMENTARY INFORMATION: The Cornell Cooperative Extension (CCE) submitted a complete application for an Exempted Fishing Permit (EFP) on March 13, 2013, to conduct commercial fishing activities that the regulations would otherwise restrict. The EFP would exempt two vessels from the Northeast multispecies whiting possession limit restrictions and would temporarily exempt the vessels from the winter flounder possession and size limits to conduct onboard sampling.

This project proposes to evaluate bottom trawl modifications as a means to reduce winter flounder bycatch in the small-mesh longfin squid and whiting fisheries. To accurately quantify both whiting and squid catch rates, the project coordinators propose to use a 2.125-in (5.4-cm) mesh codend. This project would build upon previous research that also utilized 2.125-in (5.4-cm) mesh, which is the industry standard for the squid fishery. The researchers propose to continue to use a 2.125-in (5.4-cm) mesh codend to maintain consistency in the data. However, due to the number of tows necessary to collect adequate data on the effectiveness of the gear, the catch rates for whiting are expected to be more than the 3,500-lb (1,588-kg) whiting possession limit for a 2.125-in (5.4-cm) mesh codend. To avoid wasteful discarding of whiting and to allow the continued use of 2.125-in (5.4-cm) mesh, the applicant requested an exemption from the whiting possession limit.

Researchers from CCE will work with two commercial fishing vessels to further test the performance of a 12-inch (30.5-cm) drop chain sweep and 7 ft (64.8 cm) of large-mesh belly panel to reduce winter flounder bycatch. The nets will be industry standard small-mesh nets, with the experimental net using a drop chain sweep and large-mesh belly panels. Both nets will use a 2.125-in (5.4-cm) mesh codend to account for any smaller whiting or longfin squid. Whiting, and other legally permitted species within applicable possession limits, will be landed and sold. Winter flounder will be possessed temporarily for scientific workup and will not be landed for commercial sale. Both winter flounder and whiting will be sampled onboard using standard NMFS catch sampling methods.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 3, 2013.

James P. Burgess,

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

[FR Doc. 2013–08128 Filed 4–8–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC551

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an exempted fishing permit application contains all of the required information and warrants further consideration. This exempted fishing permit would facilitate compensation fishing under the monkfish Research Set-Aside Program by exempting vessels from monkfish days-at-sea possession limits. The compensation fishing is in support of a 2012 Monkfish Research Set-Aside project that is attempting to determine if monkfish constitute one or more stocks over their coast-wide distribution. The project is being conducted by the Cornell Cooperative Extension of Suffolk County Marine Program.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permits.

DATES: Comments must be received on or before April 24, 2013.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email: nero.efp@noaa.gov.* Include in the subject line ''Comments on CCE Monkfish RSA EFP.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on CCE monkfish RSA EFP.''
- *Fax:* (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, 978–281–9177.

SUPPLEMENTARY INFORMATION: Cornell Cooperative Extension (CCE) is conducting a study that was selected under the 2012 Monkfish Research Set-Aside (RSA) Program. The primary goal of the study is to determine if monkfish constitute one or more stocks over their coast-wide distribution. CCE is using a genetic approach utilizing a microsatellite DNA analysis. Biological samples are being collected throughout the monkfish range. The vessels are using standard commercial gear and land monkfish for sale, but the sampling locations are determined by CCE.

To conduct compensation fishing in support of the project, CCE submitted an application for an exempted fishing permit (EFP) on April 17, 2012, requesting exemptions from the monkfish days-at-sea (DAS) possession limits. However, due to the complications resulting from the Endangered Species Act listing of Atlantic sturgeon, NMFS did not issue an EFP. The applicant has since modified the EFP application and submitted a revised application on March 5, 2013. The EFP would exempt vessels fishing in depths greater than 50 fathoms (91 m) in the Southern Monkfish Fishery Management Area (SFMA) from applicable monkfish possession limits. Seventeen vessels have been identified by the applicant to conduct monkfish compensation fishing under the requested EFP.

Monkfish EFPs that waive possession limits were first issued in 2007, and each year thereafter through 2011. The EFPs were approved to increase operational efficiency and to optimize research funds generated from RSA DAS. To ensure that the amount of monkfish harvested by vessels operating under the EFPs was similar to the amount of monkfish that was anticipated to be harvested under the 500 RSA DAS set-aside by the New England Fishery Management Council, NMFS has used 3,600 lb (1,633 kg) of whole monkfish per RSA DAS. This amount of monkfish was the equivalent of a double possession limit of Permit Category A and C vessels fishing in the SFMA. This was deemed a reasonable approximation because it was reflective of how the standard monkfish commercial fishery operates. Further, it is likely that RSA grant recipients would optimize their RSA DAS award by utilizing this possession limit.

Prior to the submission of CCE's RSA proposal, NMFS implemented Amendment 5 to the Monkfish FMP. Amendment 5 adjusted the tail-to-whole-weight conversion factor from 3.32 to 2.91, which essentially reduced the whole weight possession limits. However, CCE has noted that because its RSA proposal and budget were developed in a manner that was consistent with previously approved EFPs, the request is justified. Therefore, if approved, participating vessels could use up to 250 DAS, or up to 900,000 lb (408,233.3 kg) of whole monkfish, under the EFP, whichever comes first.

Waiving the possession limit is not expected to increase monkfish fishing effort, but could alter the time and place where fishing occurs. Consequently, there is some uncertainty as to how the waiver could influence fishing behavior, and if it could increase the likelihood of an Atlantic sturgeon interaction. To mitigate this uncertainty, the applicant has proposed that all vessels operating under the EFP would only fish seaward of 50 fathoms (91 m), where Atlantic sturgeon interactions are extremely rare.

When applicable or as required by the regulations, participating vessels may also concurrently use Northeast multispecies DAS while conducting monkfish compensation fishing. Northeast multispecies catch is not expected to be high within the defined area and would likely consist primarily of white hake and witch flounder, which would be landed for commercial sale. All catch of Northeast multispecies would be accounted for under applicable Northeast multispecies quotas.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 3, 2013.

James P. Burgess,

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

[FR Doc. 2013–08125 Filed 4–8–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2013–OS–0080]

Proposed Collection; Comment Request

AGENCY: Defense Security Service, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Defense Security Service (DSS) announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 10, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to: Defense Security Service, ISFO, ATTN: Ms. Sharon Bickmore, Russell-Knox Building, 27130 Telegraph Road, Quantico, VA 22134–2253, or call Defense Security Service at (571) 305–6620.

Title, Associated Form, and OMB Number: Voice of Industry Survey, OMB Control Number 0704–0472.

Needs and Uses: Executive Order 12829, ''National Industrial Security Program (NISP)'' Section 202(a) stipulates that the Secretary of Defense shall serve as the Executive Agent for inspecting and monitoring the contractors, licensees, and grantees who require or will require access to or who store or will store classified information; and for determining the eligibility for access to classified information of contractors, licensees, and grantees and their respective employees. The Executive Agent has the authority to issue, after consultation with affected agencies, standard forms or other standardization that will promote the implementation of the NISP. Department of Defense Directive 5105.42, ''Defense Security Service,'' dated August 3, 2010, delineates the mission, functions, and responsibilities of DSS. DSS functions and responsibilities include the administration and implementation of the Defense portion of the NISP.

This survey will provide feedback on how DSS is performing with respect to the administration and implementation of the NISP. Participation in the survey is strictly voluntary.

Affected Public: Contractors, licensees, and grantees in the NISP under DSS cognizance.

Annual Burden Hours: 6,119.

Number of Respondents: 12,238.

Responses per Respondent: 1.

Average Burden per Response: 30 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This collection of information requests the assistance of the facility security officer (FSO) or senior management official to provide feedback as to how DSS is doing with respect to the administration and implementation of the NISP. The survey will be distributed electronically via a web-based, commercial survey tool.

Dated: April 2, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–08185 Filed 4–8–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Superior Supplier Incentive Program

AGENCY: Department of the Navy, DoD.

ACTION: Notice of proposed policy letter.

SUMMARY: The Deputy Assistant Secretary of the Navy, Acquisition and Procurement (DASN (AP)), is soliciting comments that the Department of the Navy (DoN) may use in drafting a policy that will establish a Superior Supplier Incentive Program (SSIP). Under the SSIP, contractors that have demonstrated exemplary performance at the business unit level in the areas of cost, schedule, performance, quality, and business relations would be granted Superior Supplier Status (SSS). Contractors that achieve SSS could receive more favorable contract terms and conditions in DoN contracts. In addition to recognition of SSS at the business unit level, multi-business unit corporations, that have several business units which attain SSS, may receive additional recognition by the DoN at the corporate level. This additional corporate recognition will not result in the receipt of more favorable contract terms and conditions in DoN contracts, but may result in the use of more favorable business practices by the DoN in its relations at the corporate level. Upon approval of the policy by the Assistant Secretary of the Navy for Research, Development and Acquisition, DoN will initiate the pilot phase of the SSIP.

The SSIP pilot is a revision of DoN's previous initiative to recognize superior performance. This initiative was known as the Preferred Supplier Program (PSP). DoN published a previous notice of proposed policy letter on May 14, 2010.

DATES: DoN invites interested parties from both the public and private sectors to provide comments to be considered in the formulation of the final policy letter. In particular, DoN encourages respondents to offer their views as discussed below, in Section C, ''Solicitation of Public Comment.'' Interested parties should submit comments, in writing, to the address below, on or before May 3, 2013.

ADDRESSES: Comments may be submitted by any of the following methods:

Email: SSIP@navy.mil; Facsimile: 703–614–9394; Mail: DASN (AP), Attn: Clarence Belton, 1000 Navy Pentagon, Room BF992, Washington, DC 20350–1000.

Instructions: Please submit comments only and cite ''Proposed DoN SSIP Policy Letter'' in all correspondence. All comments received will be posted, without change or redaction, to *https://acquisition.navy.mil/rda/home/acquisition_one_source/business_opportunities/SSIP*, so commenters should not include information that they do not wish to be posted (for example, personal or business-confidential).

FOR FURTHER INFORMATION CONTACT: Clarence Belton, 703–693–4006 or *clarence.belton@navy.mil.*

SUPPLEMENTARY INFORMATION:

A. Background

Companies in the private sector that have implemented SSIPs have significantly improved performance. Cash flow, contract terms and conditions, and relief from non-statutory compliance requirements, either procedurally or with respect to timing, can reduce contractor costs and risk; and, as such, are powerful incentives that can be used to motivate contractors to perform at a high level. DoN and its contractors negotiate these key components of the business arrangement contract by contract. As a result of this decentralized and individualized approach, DoN fails to take advantage of an extremely important opportunity to motivate industry behavior. This policy would establish the SSIP to leverage that opportunity through the use of favorable contract terms and conditions and other changes in business process that would be available to Superior Suppliers (i.e., suppliers that have demonstrated exemplary performance, at the business unit or corporate level, in the areas of cost, schedule, performance, quality, and business relations).

The proposed policy has been revised from the original concept of the PSP. DoN is again considering comments to capture the public's views as it revises the concept of operations for SSIP. After consideration of the comments, DoN may publish a draft proposed policy letter for additional public comments.

B. Proposed Policy Letter Concepts

The general outline of the pilot phase of the SSIP, to be established under the proposed policy letter, is set forth below.

Assessment of contractors for designation as Superior Suppliers will be conducted by teams consisting of members from the DoN's Echelon II contracting activities. These contracting activities are identified in Defense Federal Acquisition Regulation Supplement 202.101. Contracting activities may be assigned as evaluation team leads, based on the volume of contracting activity between a contractor under evaluation and a particular contracting activity. DASN (AP) will oversee the assessment of contractors under the SSIP. DASN (AP) will make recommendations to a panel of senior DoN leaders as to which companies should be designated as Superior Suppliers. The panel will include the Assistant Secretary of the Navy for Research, Development and Acquisition and may include the Vice Chief of Naval Operations; the Assistant Commandant of the Marine Corps; and Commander, Fleet Forces Command; or their representatives.

DoN will use the Contractor Performance Assessment Reporting System (CPARS) as the baseline data during the pilot phase of the SSIP. In the course of the pilot phase, DoN may also identify other sources of data, including information available to DoN program offices and government contract administration organizations that the DoN may use to supplement CPARS data in implementing the SSIP. During the pilot phase, contractors will be assessed in the following CPARS areas:

- Technical (Quality of Product).
- Schedule.
- Cost Control.
- Management Responsiveness.
- Management of Key Personnel.
- Utilization of Small Business.
- Other CPARS Factors As Appropriate.

During the SSIP pilot phase, DoN will use a 5-star rating system based upon the 5-color ratings used in CPARS, as follows:

CPARS color rating	Number of stars
Red	0
Yellow	1
Green	2
Purple	3
Dark Blue	4

DoN will use the CPARS conversion table above, based upon CPARS data; and, as appropriate, may use other sources of information and may weight evaluation factors. Contractors must achieve at least a 3–Star rating to be designated as a Superior Supplier. A 5–Star rating can only be achieved if the contractor maintains an active Energy Efficiency Program, and otherwise has received a 4–Star rating. Failure to demonstrate an active Energy Efficiency Program will not diminish the contractor's SSIP rating. If a contractor provides documentation sufficient to establish that it has an Energy Efficiency Program, it will receive an additional star, up to a maximum rating of 5 Stars.

For the pilot, DoN intends to evaluate the top 15 DoN contractors that supply goods and the top 15 DoN contractors that supply services. The top 15 DoN contractors will be determined by the value of contract awards for the most recent fiscal year at the business unit level. A business unit can only be rated in either the goods or services category. In the event a contractor is within the top 15 suppliers of both goods and services, it will be evaluated in the category that represents the preponderance of sales to the DoN.

DoN plans to seek policy changes that will allow it to offer more favorable terms and conditions to its preferred suppliers. Once approved, DoN contracting officers will be authorized to offer some or all of the following more favorable contract terms and conditions:

- More favorable progress payments. Adjustments may be made to progress payment percentages or retention percentages.
- Priority for adjudication of final labor and indirect cost rates.
- Increase in the intervals between business system reviews.

C. Solicitation of Public Comment

DoN invites interested parties from both the public and private sectors to provide comments for consideration in the formulation of a policy letter establishing the SSIP. In particular, DoN seeks to better understand how to incentivize contractors, to achieve sustained superior performance in the areas of cost, schedule, performance, quality, and business relations. Accordingly, DoN welcomes feedback regarding the following questions.

1. What clauses are currently being used in government subcontracts, and commercial contracts and subcontracts, to incentivize superior performance, at the corporate level, in the areas of cost, schedule, performance, quality, and business relations?

2. What solicitation provisions, contract clauses, and performance incentives will provide contractors with the greatest motivation to achieve SSS?

3. What contract terms and conditions increase cost or impair performance and could be removed from contracts with

Superior Suppliers without significant risk to the Government?

4. Energy Efficiency is a critical DoN requirement significantly impacting the successful achievement of DoN's missions. How should a contractor's use of energy as it relates to the entire life-cycle of a product—design, manufacture, use, maintenance, and disposal—be considered in the designation of Superior Suppliers?

5. How long should SSS last?

6. What criteria, other than CPARS data elements, should DoN use to select companies for evaluation as superior suppliers?

7. Is there any other aspect of the proposed SSIP on which you wish to comment?

Dated: April 1, 2013.

C. K. Chiappetta,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–08190 Filed 4–8–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0009]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Private School Universe Survey 2013–16

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 9, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0009 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105,Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Private School Universe Survey 2013–16.

OMB Control Number: 1850–0641.

Type of Review: Revision of an existing collection of information.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 25,567.

Total Estimated Number of Annual Burden Hours: 6,410.

Abstract: The Private School Universe Survey (PSS) is the NCES collection of basic data from the universe of private elementary and secondary schools in the United States. The PSS is designed to gather biennial data on the total number of private schools, teachers, and students, along with a variety of related data, including: religious orientation; grade-levels taught and size of school; length of school year and of school day; total student enrollment by gender (K–12); number of high school graduates; whether a school is single-sexed or coeducational; number of teachers employed; program emphasis; and existence and type of its kindergarten program. The PSS includes all schools that are not supported primarily by public funds, that provide classroom instruction for one or more of grades K–12 or comparable ungraded levels, and that have one or more teachers. The PSS is also used to create a universe list of private schools that can be used as a sampling frame for NCES surveys of private schools. No substantive changes have been made to the survey or its procedures since its last approved PSS 2010–13. This clearance is for the 2013–14 and 2015–16 PSS data collections, and the 2015–16 PSS list- and area-frame building operations.

Dated: April 3, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–08248 Filed 4–8–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0042]

Agency Information Collection Activities; Comment Request; Streamlined Clearance Process for Discretionary Grants

AGENCY: Department of Education (ED), Office of the Secretary/Office of the Deputy Secretary (OS).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 10, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0042 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Streamlined Clearance Process for Discretionary Grants

OMB Control Number: 1894–0001

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments

Total Estimated Number of Annual Responses: 1

Total Estimated Number of Annual Burden Hours: 1

Abstract: Section 3505(a)(2) of the PRA of 1995 provides the OMB Director authority to approve the streamlined clearance process proposed in this information collection request. This information collection request was originally approved by OMB in January of 1997. This information collection streamlines the clearance process for all discretionary grant information collections which do not fit the generic application process. The streamlined clearance process continues to reduce the clearance time for the U.S. Department of Education's (ED's) discretionary grant information collections by two months or 60 days. This is desirable for two major reasons: it would allow ED to provide better customer service to grant applicants and help meet ED's goal for timely awards of discretionary grants.

Dated: April 3, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–08235 Filed 4–8–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0043]

Agency Information Collection Activities; Comment Request; Applications for Assistance Section 8002 Impact Aid Program

AGENCY: Department of Education (ED), Office of Elementary and Secondary Education (OESE).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction of 1995 (44 U.S.C. Chapter 3507(j)), ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a revision to an existing information collection.

DATES: Approval by the OMB has been requested by April 5, 2013. A regular clearance process is also hereby being initiated. Interested persons are invited to submit comments on or before June 10, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0043 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E115, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Applications for Assistance Section 8002 Impact Aid Program.

OMB Control Number: 1810–0036.

Type of Review: a revision to an existing information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 250.

Total Estimated Number of Annual Burden Hours: 1,125.

Abstract: The U.S. Department of Education is requesting an emergency clearance for a revision of the Application for Assistance under Section 8002 of Title VIII of the Elementary and Secondary Education Act. This application is for a grant program otherwise known as Impact Aid Payments for Federal Property. Local Educational Agencies (LEAs) that have lost taxable property due to Federal activities request financial assistance by completing an annual application. Regulations for Section 8002 of the Impact Aid Program are found at 34 CFR part 222, Subpart B; however, a change to the funding formula contained in Section 563 of the National Defense Appropriation Act for FY 2013 supersedes many of these regulations.

This expedited collection is a direct result of a statutory change included in Section 563 of the National Defense Appropriation Act of FY 2013 (Pub. L.

112–239, January 2, 2013). The revised statute simplifies the funding formula, and therefore decreases the data collection burden for Section 8002 applicants, with the goal of enabling the Department to make payments to LEAs more quickly. However, because the statutory change is retroactive to include payments for FY 2010, the Impact Aid Program (IAP) must recalculate its payments to all eligible LEAs for FYs 2010–2013. The applications previously submitted for those fiscal years' funds contain only part of the data required under the new formula. In order to collect the new data required by the formula, IAP requests approval of revised versions of Tables 3 and 4 of the application. For the FY 2014 grant application, LEAs have not yet submitted applications, thus IAP must collect all data needed under the new formula with a revised application package. The FY 2014 application package requires fewer data elements overall than the previous application.

Dated: April 4, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–08237 Filed 4–8–13; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9800–7]

Notice of Public Meeting of the Interagency Steering Committee on Radiation Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA) will host a meeting of the Interagency Steering Committee on Radiation Standards (ISCORS) on May 1, 2013 in Washington, DC. The purpose of ISCORS is to foster early resolution and coordination of regulatory issues associated with radiation standards. Member agencies include the EPA; Nuclear Regulatory Commission; Department of Energy; Department of Defense; Department of Transportation; Department of Homeland Security; Department of Labor's Occupational Safety and Health Administration; and the Department of Health and Human Services. Observer agencies include the Office of Science and Technology Policy; Office of Management and Budget; and the Defense Nuclear Facilities Safety Board, as well as representatives from the States of Arizona and Pennsylvania. ISCORS objectives are: (1) To facilitate a consensus on allowable levels of radiation risk to the public and workers; (2) to promote consistent and scientifically sound risk assessment and risk management approaches in setting and implementing standards for occupational and public protection from ionizing radiation; (3) to promote completeness and coherence of federal standards for radiation protection; and (4) to identify interagency radiation protection issues and coordinate their resolution. ISCORS meetings include presentations by the chairs of the subcommittees and discussions of current radiation protection issues. Committee meetings normally involve pre-decisional intra-governmental discussions and, as such, are normally not open for observation by members of the public or media. This is the one ISCORS meeting out of four held each year that is open to all interested members of the public. There will be time on the agenda for members of the public to provide comments. Summaries of previous ISCORS meetings are available at the ISCORS Web site, *www.iscors.org.* The final agenda for the May 1st meeting will be posted on the Web site shortly before the meeting.

DATES: The meeting will be held on May 1, 2013, from 1:00 pm to 4:00 pm.

ADDRESSES: The ISCORS meeting will be held in Room 152 at the EPA building located at 1310 L Street NW., in Washington, DC. Attendees are required to present a photo ID such as a government agency photo identification badge or valid driver's license. Visitors and their belongings will be screened by EPA security guards. Visitors must sign the visitors log at the security desk and will be issued a visitors badge by the security guards to gain access to the meeting.

FOR FURTHER INFORMATION CONTACT: Rafaela Ferguson, Radiation Protection Division, Office of Radiation and Indoor Air, Mailcode 6608J, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone 202–343–9362; fax 202–343–2304; email address *ferguson.rafaela@epa.gov.*

SUPPLEMENTARY INFORMATION: Pay parking is available for visitors at the Colonial parking lot next door in the garage of the Franklin Square building. Visitors can also ride metro to the McPherson Square (Blue and Orange Line) station and leave the station via the 17th Street exit. Walk two blocks north on 14th Street to L Street. Turn right at the corner of 14th and L Streets. EPA's 1310 L Street building is towards the end of the block on the right. Visit the ISCORS Web site, *www.iscors.org* for more detailed information.

Dated: April 2, 2013.

Michael P. Flynn,

Director, Office of Radiation and Indoor Air.

[FR Doc. 2013–08268 Filed 4–8–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0121; FRL–9383–6]

Registration Review; Pesticide Dockets Opened for Review and Comment and Other Docket Acts; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: EPA issued a notice in the **Federal Register** of Wednesday, March 27, 2013, concerning registration review, pesticide dockets opened for review and comment, and other docket acts. This document is being issued to correct a typographical error.

FOR FURTHER INFORMATION CONTACT: Margaret Hathaway, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–5076; email address: *hathaway.margaret@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

The Agency included in the notice a list of those who may be potentially affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0121, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP

Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What does this correction do?

FR Doc. 2013–07076 published in the **Federal Register** of Wednesday, March 27, 2013 (78 FR 18586) (FRL–9381–9) is corrected as follows:

On page 18587, in the table entitled ''Registration Review Dockets Opening,'' the docket number for Bromoxynil and esters (Case #2070), shown in the second column of the table, is corrected to read ''EPA–HQ–OPP–2012–0896.''

List of Subjects

Environmental protection; Pesticides and pests.

Dated: April 2, 2013.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division Office of Pesticide Programs.

[FR Doc. 2013–08253 Filed 4–8–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 10, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0261.

Title: Section 90.215, Transmitter Measurements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 174,661 respondents; 369,495 responses.

Estimated Time per Response: .033 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. section 303(f) of the Communications Act of 1934, as amended.

Total Annual Burden: 12,193 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for an extension (no change in the recordkeeping The Commission is reporting a 1,306 hour burden reduction adjustment. This is due to fewer recordkeepers and thus a reduction in the overall burden.

Section 90.215 requires station licensees to measure the carrier frequency, output power, and modulation of each transmitter authorized to operate with power in excess of two watts when the transmitter is initially installed and when any changes are made which would likely affect the modulation characteristics. Such measurements, which help ensure proper operation of transmitters, are to be made by a qualified engineering measurement service, and are required to be retained in the station records, along with the name and address of the engineering measurement service, and the name of the person making the measurements.

The information is normally used by the licensee to ensure that equipment is operating within prescribed tolerances. Prior technical operation of transmitters helps limit interference to other users and provides the licensee with the maximum possible utilization of equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–08138 Filed 4–8–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502 -3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 9, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, FCC, at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0816.

Title: Local Telephone Competition and Broadband Reporting (Report and Order, WC Docket No. 07–38, FCC 08–89; Order on Reconsideration, WC Docket No. 07–38, FCC 08–148.

Form Number: FCC Form 477.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 1,980 respondents; 3,960 responses.

Estimated Time per Response: 296 hours.

Frequency of Response: Semi-annual reporting requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 4(i), 201, 218–220, 251–252, 271, 303(r) and 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, as amended, codified in section 1302 of the Broadband Data Improvement Act, 47 U.S.C. 1302.

Total Annual Burden: 1,172,160 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission will continue to allow respondents to certify, on the first page of the each submission, that some data contained in that submission are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity making the submission. If the Commission receives a request for, or proposes to disclose the information, the respondent would be required to show, pursuant to Commission rules for withholding from public inspection information submitted to the Commission, that the information in question is entitled to confidential treatment. We will retain our current policies and procedures regarding the confidential treatment of submitted FCC Form 477 data, including use of the aggregated, non-company specific data in our published reports.

Needs and Uses: The Commission will submit this expiring information collection during this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for an extension (no change in the reporting requirements. There are changes to the Commission's previous burden estimates. The Commission has increased the estimated average time per response for this information collection from 289 hours to 296 hours. The adjustment is also due to the increased number of respondents and their types of operations, (e.g., interconnected VoIP service providers with multi-state operations.) There is no change to the FCC Form 477. FCC Form 477 gathers information on the development of local telephone competition including telephone services and interconnected Voice over Internet Protocol (VoIP) services, and on the deployment of broadband also known as advanced telecommunications services. The data are necessary to evaluate the status of competition in local telecommunications services markets and to evaluate the status of broadband deployment. The information is used by the FCC staff to advice the Commission about the efficacy of Commission rules and policies adopted to implement the Telecommunications Act of 1996.

OMB Control Number: 3060–1138.

Title: Sections 1.49 and 1.54, Forbearance Petition Filing Requirements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 10 respondents; 10 responses.

Estimated Time per Response: 640 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 10, 151, 154(i), 154(j), 155(c), 160, 201 and 303(r) of the Communications Act of 1934.

Total Annual Burden: 6,400 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit or disclose confidential information. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection during this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for an extension (no change in the reporting, recordkeeping and/or third party disclosure requirements). Under section 10 of the Communications Act of 1934, as amended, telecommunications carriers may petition the Commission to forbear from applying to a telecommunications carrier any statutory provision or Commission regulation. When a carrier petitions the Commission for forbearance, section 10 requires the Commission to make three determinations with regard to the need for the challenged provision or regulation. If the Commission fails to act within one year (extended by three additional months, if necessary) the petition is ''deemed granted'' by operation of law. These determinations require complex, fact-intensive analysis, e.g., ''whether forbearance from enforcing the provision or regulation will promote competitive market conditions.'' Under the new filing procedures, the Commission requires that petitions for forbearance must be ''complete as filed'' and explain in detail what must be included in the forbearance petition. The Commission also incorporates by reference its rule, 47 CFR 1.49, which states the Commission's standard ''specifications as to pleadings and documents.'' Precise filing requirements are necessary because of section 10's strict time limit for Commission action. Also, commenters must be able to understand clearly the scope of the petition in order

to comment on it. Finally, standard filing procedures inform petitioners precisely what the Commission expects from them in order to make the statutory determinations that the statute requires.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–08135 Filed 4–8–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 3:00 p.m. on Thursday, April 11, 2013, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Memorandum re: Update to the Statement of Policy on Development and Review of FDIC Regulations and Policies.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

DISCUSSION AGENDA: Memorandum re: Update of Projected Deposit Insurance Fund Losses, Income, and Reserve Ratios for the Restoration Plan.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit *http://www.vodium.com/goto/fdic/boardmeetings.asp* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html.*

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202–898–7043.

Dated: April 4, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–08333 Filed 4–5–13; 11:15 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 111 0034]

Charlotte Pipe and Foundry; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 2, 2013.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/charlottepipeconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Charlotte Pipe, File No. 111 0034'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/charlottepipeconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: William L. Lanning (202–326–3361), FTC, Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 2, 2013), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 2, 2013. Write ''Charlotte Pipe, File No. 111 0034'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which * * * is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR

4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/charlottepipeconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''Charlotte Pipe, File No. 111 0034'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 2, 2013. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'' or ''FTC'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from Charlotte Pipe and Foundry Company (hereinafter ''CP&F'') and its wholly-owned subsidiary, Randolph Holding Company, L.L.C. (hereinafter ''Randolph'') (hereinafter jointly referred to as ''Charlotte Pipe'' or ''Respondents''). The purpose of the Consent Agreement is to address the anticompetitive effects resulting from Charlotte Pipe's 2010 acquisition (the ''Acquisition'') of the cast iron soil pipe (''CISP'') business of Star Pipe Products, Ltd. (''Star Pipe''). The parties to that transaction also entered a ''Confidentiality and Non-Competition Agreement.'' The Acquisition was not reportable under the Hart-Scott-Rodino Antitrust Improvement Act of 1976, 15 U.S.C. 18a (''HSR Act''). The administrative complaint (''Complaint'') alleges that the Acquisition violated Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

Under the terms of the proposed Consent Agreement, Charlotte Pipe is: required to provide prior notification to the FTC, for a period of ten years, of an acquisition of any entity engaged in the manufacture and sale of CISP products in or into the United States; prohibited from enforcing the ''Confidentiality and Non-Competition Agreement'' against Star Pipe; and required to inform its customers and the public of the Acquisition and other transactions involving other CISP competitors.

The proposed Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested members of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will review the Consent Agreement again and the comments received, and will decide whether it should withdraw from the Consent Agreement or make final the accompanying Decision and Order.

The purpose of this Analysis to Aid Public Comment is to invite and facilitate public comment. It is not intended to constitute an official interpretation of the proposed Consent Agreement and the accompanying Decision and Order or in any way to modify their terms.

The Consent Agreement is for settlement purposes only and does not constitute an admission by Charlotte Pipe that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Complaint

The Complaint makes the following allegations.

A. The Respondents

CP&F is a privately-held corporation with its principal place of business located at 2109 Randolph Road, Charlotte, NC 28207. CP&F is one of the largest producers and sellers of CISP products in the United States.

Randolph is a wholly-owned subsidiary of CP&F. Randolph, acting on behalf of CP&F, executed both the Acquisition agreement as the ''Buyer'' of Star Pipe's CISP business and the ''Confidentiality and Non-Competition Agreement'' referenced herein.

B. The Product and Structure of the Market

CISP products are components of pipelines systems used in buildings to transport wastewater to the sewer system, to vent the plumbing system, and to transport rainwater to storm drains. The end-users of CISP products are construction firms, plumbers, or developers.

The relevant line of commerce within which to analyze the effects of the Acquisition is the market for the sale of CISP products for use in commercial, industrial, and multi-story residential buildings in the United States. Plastic products are not a viable substitute for CISP products because state and local building codes in the United States generally require the use of CISP products in commercial, industrial, and multi-story residential buildings.

The relevant geographic market within which to analyze the effects of the Acquisition is no broader than the United States, and may contain smaller geographic markets consisting of states, multi-state regions, or metropolitan areas.

The United States CISP products market is highly concentrated. At the time of the Acquisition, two firms, Charlotte Pipe and McWane Inc., sold in excess of ninety percent of the CISP products in the United States. Companies that sell imported CISP products, including Star Pipe, accounted for the remaining sales.

C. Star Pipe and the Acquisition

In 2007, Star Pipe entered the United States CISP products market. Between 2007 and 2010, Star Pipe expanded its sales base throughout the United States. In contested markets, Star Pipe acted as a disruptive force, competing on price and service to the benefit of consumers.

In July 2010, Charlotte Pipe executed an Asset Purchase Agreement with Star Pipe to acquire the assets of Star Pipe's CISP business for approximately $19 million. Pursuant to the agreement, Charlotte Pipe purchased, among other things, Star Pipe's inventory, its production equipment located in China, and its business records and customer list. The parties to the agreement also executed a ''Confidentiality and Non-Competition Agreement'' that prohibited Star Pipe and certain Star Pipe employees from competing with Charlotte Pipe in the United States, Mexico, and Canada for a period of six years. In addition, Star Pipe agreed to keep the Acquisition confidential and to

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

send to its customers a letter indicating that it had decided to the exit the CISP business. After the Acquisition, Charlotte Pipe destroyed the CISP production equipment that it acquired from Star Pipe.

D. Conditions of Entry

Entry into the relevant markets would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Acquisition.

E. Effects

The effects of Charlotte Pipe's acquisition of Star Pipe's CISP business have been a substantial lessening of competition in the relevant markets. Specifically, the Acquisition has: eliminated actual, direct, and substantial competition between Charlotte Pipe and Star Pipe in the relevant markets; substantially increased the level of concentration in the relevant markets; eliminated a maverick firm; increased the ability of Charlotte Pipe unilaterally to exercise market power; and prevented Star Pipe and certain Star Pipe employees from re-entering the CISP products market for a period of six years.

II. The Proposed Order

Paragraph II of the Proposed Order requires Charlotte Pipe to provide prior notification to the Commission of an acquisition of any entity engaged in the manufacture and sale of CISP products in or into the United States. This paragraph also requires Charlotte Pipe to comply with premerger notification procedures and waiting periods similar to those found in the HSR Act.

This provision is necessary because Charlotte Pipe has previously acquired several firms in the CISP products market in non-reportable transactions. The Proposed Order affords the Commission an appropriate mechanism to review all proposed acquisitions by Charlotte Pipe in the CISP products market to guard against future anticompetitive transactions.

Paragraph III of Proposed Order prevents Charlotte Pipe from enforcing the Confidentiality and Non-Competition Agreement. This frees Star Pipe, and its current and former employees, to enter and compete against Charlotte Pipe in the United States, Canada, or Mexico.

Paragraphs IV–VII impose reporting and other compliance requirements. In particular, Charlotte Pipe is required to send a letter to its customers and to maintain a link on its Web site relating to the Acquisition and Charlotte Pipe's other non-reportable transactions, including Matco-Norca in 2009, DWV Casting Company (''DWV'') in 2004, and Richmond Foundry, Inc. (''Richmond Foundry'') in 2002. This provision is appropriate because Charlotte Pipe's confidential acquisitions are not widely known in the CISP industry and have given rise to a perception among distributors and end-users that importers of CISP products are transient and unreliable operations. The proposed order serves to inform market participants about Charlotte Pipe's role in the exit of Star Pipe, Matco-Norca, DWV, and Richmond Foundry from the CISP industry.

The Proposed Order will expire in 10 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2013–08217 Filed 4–8–13; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Andrew Aprikyan, Ph.D., University of Washington: Based on the report of an investigation conducted by the University of Washington (UW), the UW School of Medicine Dean's Decision, the Decision of the Hearing Panel at UW, and additional analysis conducted by ORI, ORI found by a preponderance of the evidence that Dr. Andrew Aprikyan, former Research Assistant Professor, Division of Hematology, UW, engaged in research misconduct in research supported by National Cancer Institute (NCI), National Institutes of Health (NIH), grant CA89135 and National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), NIH, grant DK18951, and applies to the following publications and grant applications:

- *Blood* pre-published online on January 16, 2003 (''NEM'')
- *Experimental Hematology* 31:372–381, 2003 (''CMA'')
- *Blood* 97:147–153, 2001 (''ISB'')
- R01 CA89135–01A1
- R01 HL73063–01
- R01 HL79615–01

Blood pre-published online on January 16, 2003, has been retracted and *Experimental Hematology* 31:372–381, 2003, has been corrected.

Specifically, ORI finds that by a preponderance of the evidence, Respondent falsified and/or fabricated results relating to the above publications and grants. Specifically, Respondent:

1. Falsely reported sequencing data in the NEM manuscript to strengthen the hypothesis that NE mutations contributed to the phenotype observed in severe congenital neutropenia (SCN) patients. Specifically:

a. Respondent falsely reported in Figures 2A and 3 that patient 3 had the R191Q neutrophil elastase (NE) mutation, when the majority of the sequencing experiments showed that the mutation was not present.

b. Respondent fabricated text (p. 12) reporting that sequencing of RT–PCR products confirmed the expression of the NE mutants in the SCN patients and that no mutations were present in the granulocyte colony stimulating factor receptor (G–CSFR) gene and the Wiskott-Aldrich Syndrome (WAS) gene in SCN patients, when based on the lack of original records the experiments were not performed. The false claim for G–CSFR sequencing was also reported in CA89135–03.

2. Falsely reported a two-fold increase in apoptosis of human promyelocytic (HL–60) cells transfected with NE mutants compared to wild type NE in Figure 4A, NEM, Figure 6A, CMA, Figure 8, HL73063–01, and Figure 7, HL79615–01. Respondent used arbitrary flow cytometry data files to generate histograms with the desired result. The false results supported the hypothesis that the NE mutations were sufficient for impaired survival of human myeloid cells.

3. Falsified NE and ß-actin Western blots in Figure 4B *Blood,* pre-published online January 16, 2003, Figure 5B of the manuscript initially submitted to *Blood* April 2002, and Figure 6B *Experimental Hematology* 31:372–381, 2003, by falsely labeling lanes to support the hypothesis that accelerated apoptosis in mutant NE transfect HL–60 cells was due to the mutation and not the level of protein present. Specifically:

a. Respondent used portions of a single NE Wester blot to represent: Figure 4B as HL–60 cells transfected with L92H, R191Q, and wtNE, when the cells were transfected with R191Q, P110L, and D145–152; Figure 5B as HL–60 transfected with wtNE, mutNE, and EGFP when they were cells transfected with NE mutants, P110L, D145–152, and 194

b. Respondent used portions of a single ß-actin Western blot to represent: Figure 4B as HL–60 cells transfected

with L92H, R191Q, and wtNE, when they were cells transfected with I31T, P110L, and G185R mutants; Figure 5B as HL–60 cells transfected with wtNE, mutNE, and EGFP, when they were cells transfected with P110L, I31T, and INE; Figure 6B as HL–60 cells transfected with G185R, mock, D145–152, and P110L NE mutants, when they were cells transfected with I31T, P110L, G185R, and 32. The false ß-actin Western blot in Figure 6B was also included in HL73063–01, Figure 8 (where the I31Tlane was labeled correctly), and HL79615–01, Figure 7.

4. Falsified the reported methodology for flow cytometry experiments in Figure 4A, NEM, Figures 1 and 2, and Tables 2 and 3, CMA, and Figures 4, 5, and 6, ISB, to validate the key hypothesis showing accelerated apoptosis in SCN and CN patients. The methodology claimed that flow cytometry experiments were gated for GFP+ populations, or that cell purity was greater than 96%, when based on the available original records, the experiments were not performed as stated.

5. Falsified Figure 2, CMA, Figure 2, HL73063–01, Figure 3, HL79615–01, and Figure 5, CA89135–01A1, demonstrating that the overnight cultures of CD34+ and CD33+ bone marrow cells from SCN/AML patients showed normal cell survival, and only the CD15+ overnight cultures showed accelerated apoptosis, when the actual record available contradicted this result. Respondent used flow cytometry data files to generate histograms with the desired result to support the hypothesis that the progression from SCN to leukemia (AML) involves acquired G–CSFR mutations that override the pro-apoptotic effect of the NE mutations in primitive progenitor cells.

Dr. Aprikyan has entered into a Settlement Agreement in which he denied ORI's findings of research misconduct based on the UW Faculty Adjudication Hearing Panel decision. The settlement is not an admission of liability on the part of the Respondent. Respondent entered into the Agreement solely because contesting the findings would cause him undue financial hardship and stress, lead to lengthy and costly appellate proceedings, and he wished to seek finality. Respondent agreed not to appeal the ORI findings of research misconduct set forth above. He has agreed, beginning on March 12, 2013:

(1) If within two (2) years from the effective date of the Agreement, Respondent receives or applies for U.S. Public Health Service (PHS) support, Respondent agreed to have his research supervised for a period of two (2) years; Respondent agreed that prior to the submission of an application for PHS support for a research project on which his participation is proposed and prior to his participation in any capacity on PHS-supported research, Respondent shall ensure that a plan for supervision of his duties is submitted to ORI for approval; the supervision plan must be designed to ensure the scientific integrity of his research contribution; Respondent agreed that he shall not participate in any PHS-supported research until such a supervision plan is submitted to and approved by ORI; Respondent agreed to maintain responsibility for compliance with the agreed upon supervision plan;

(2) If within two (2) years from the effective date of the Agreement, Respondent receives PHS support, Respondent agreed that for two (2) years, any institution employing him shall submit, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract; and

(3) Respondent agreed not to serve in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of two (2) years beginning with the effective date of the Agreement.

FOR FURTHER INFORMATION CONTACT: Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

David E. Wright,

Director, Office of Research Integrity.

[FR Doc. 2013–08207 Filed 4–8–13; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–13–12MX]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Research to Inform the Prevention of Asthma in Healthcare—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Healthcare is the largest industry in the United States and performs a vital function in society. Evidence from both surveillance and epidemiologic research indicates that healthcare workers have an elevated risk for work-related asthma (WRA) associated with exposure to groups of agents such as cleaning products, latex, indoor air pollution, volatile organic compounds (VOCs) and bioaerosols. Recent epidemiologic studies of WRA among healthcare workers have utilized job exposure matrices (JEMs) based on probability of exposure, however, specific exposures/etiologic agents are not well characterized and quantitative exposure measurements are lacking. In this project, NIOSH will augment the existing JEM with quantitative exposure data, which will significantly enhance the existing JEMs and develop a survey questionnaire for asthma in healthcare.

Since asthma continues to be a problem among healthcare workers, the overall goal of this project is to prevent work-related asthma among healthcare workers. The primary objective is to identify modifiable occupational risk factors for asthma in healthcare that will inform strategies for prevention. Specific Aims that support the Primary Objective are:

Aim 1. Measure frequency of asthma onset, related symptoms, and exacerbation of asthma in selected healthcare occupations

Aim 2. Assess associations between asthma outcomes and exposures to identify modifiable risk factors

In order to accomplish the goal and aims of this project NIOSH has developed a survey designed to collect information about work history, workplace exposures and asthma health from workers in the healthcare industry. Aim 1 of this project will be completed using data exclusively from this survey. While aim 2 will be completed using asthma outcome data from the survey and exposure data from the JEM

developed from survey data and exposure data from previously environmental sampling at healthcare facilities.

Approximately 15,000 health care workers in the New York City area will be recruited for this study. The goal is to conduct a cross-sectional epidemiologic survey of approximately 5,000 healthcare workers who are members of Service Employees International Union (SEIU) Local 1199. Only health care workers whose job titles are in one of nine job titles will be recruited. These nine job titles include: certified nursing assistants (CNAs), central supply, environmental services, licensed practical nurses (LPNs), lab techs, operating room (OR) techs, registered nurses (RNs), respiratory therapists, and dental assistants. Furthermore, recruitment of health care workers will only be from hospitals and nursing homes.

Completion of the survey by SEIU1199 members will be done either online or over the telephone. After the initial recruitment period, SEIU1199 members will have approximately two weeks to complete the online survey. After this two week period, the SEIU1199 Communication Center will begin calling members who have not completed the online survey and attempt to complete the survey with them by telephone interview. NIOSH anticipates 20% of the responses to be made using the online survey and the remaining 80% to be by telephone interview.

There are no costs to respondents for this study. Summary results of this study will be made available to SEIU1199 members who completed the survey through a letter mailed to their homes. Summary results will also be published in the SEIU1199 newsletter for the remaining members. Results of this this study will also be disseminated to other industry stakeholders besides SEIU1199. These stakeholders and the desired consequences of the dissemination are:

1. Healthcare workers will learn about hazards in their work environment and become better prepared to participate in the development of strategies to minimize risk.

2. Health and safety staff at the facilities where participants are employed, who can potentially use the information for prevention.

3. Researchers can build on the findings to conduct additional research that will advance our understanding of asthma in healthcare and how to prevent it.

4. Clinicians will learn how occupational exposures can impact the respiratory health of their patients who work in healthcare, which should improve the care they provide.

5. Professional societies and government agencies will use findings from this and other studies to develop recommendations for preventing asthma and related symptoms in healthcare workers.

Finally, manuscripts of results and conclusions will be drafted and published in peer reviewed journals.

The target sample size for this study is 5,000. Based on the SEIU1199 membership data, the percentage of eligible union members that fall into the targeted nine job categories is known. Therefore, a participant job-category distribution estimate can be made.

Completion of either the online or telephone survey will take approximately 30 minutes. There is no cost to respondents other than their time. The total estimated annual burden hours are 1,255.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs)
Certified Nursing Assistants	Online	149	1	30/60
	Telephone	594	1	30/60
Central Supply Workers	Online	4	1	30/60
	Telephone	17	1	30/60
Dental Assistants	Online	9	1	30/60
	Telephone	36	1	30/60
Environmental Service Workers	Online	114	1	30/60
	Telephone	457	1	30/60
Licensed Practical Nurses	Online	70	1	30/60
	Telephone	280	1	30/60
Lab Technicians	Online	39	1	30/60
	Telephone	155	1	30/60
Operating Room Technicians	Online	14	1	30/60
	Telephone	55	1	30/60
Registered Nurses	Online	84	1	30/60
	Telephone	336	1	30/60
Respiratory Therapists	Online	18	1	30/60
	Telephone	72	1	30/60

Ron A. Otten,

Director, Office of Scientific Integrity, Office of the Associate Director for Science Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–08150 Filed 4–8–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0258]

Molecular Diagnostic Instruments With Combined Functions; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Molecular Diagnostic Instruments with Combined Functions.'' This draft guidance document provides industry and Agency staff with FDA's current thinking on regulation of molecular diagnostic instruments that have both device functions and non-device functions, and on the type of information that FDA recommends that applicants include in a submission for a molecular diagnostic instrument that measures or characterizes nucleic acid analytes and has combined functions. This draft guidance is not final nor is it in effect at this time.

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 comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by July 8, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Molecular Diagnostic Instruments with Combined Functions'' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the draft guidance 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. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Andrew Grove, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5515, Silver Spring, MD 20993–0002, 301–796–6198; or Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, RKWL Bldg., suite 601, 11400 Rockville Pike, Rockville, MD 20852, 1–800–835–4709.

SUPPLEMENTARY INFORMATION:

I. Background

Molecular diagnostic instruments, for example, real-time thermocyclers, are critical components of certain in vitro diagnostic devices. They are often used to perform multiple unrelated assays, such as those that detect methicillin-resistant *Staphylococcus aureus,* Hepatitis C virus, and genetic markers of cystic fibrosis. These types of instruments cannot generally be approved alone, *i.e.,* without an accompanying assay, because their safety and effectiveness cannot be evaluated without reference to the assays that they run and their defined performance parameters. However, the same instruments may also be used for additional purposes that do not require FDA approval or clearance, such as for basic scientific research. In the past, FDA has provided informal advice in response to individual inquiries regarding the permissibility of having such non-device functions on an instrument intended to be used with approved in vitro diagnostic assays. This draft guidance is meant to communicate FDA's policy regarding molecular diagnostic instruments with combined functions.

This draft guidance applies to molecular diagnostic instruments that are medical devices used with assays that measure or characterize nucleic acid analytes, human or microbial, and that combine both approved and non-approved functions in a single instrument. This draft guidance applies to the instrument itself (hardware) as well as to any firmware or software intended to operate on or to control the instrument. This draft guidance also addresses software that is distributed as a stand alone device for use with an approved molecular diagnostic assay.

The draft guidance does not apply to instruments approved for use with assays that are intended to screen donors of blood and blood components, human cells, tissues, and cellular and tissue-based products for communicable diseases.

The recommendations in this draft guidance are not intended to imply that assays/reagents that have not received FDA marketing authorization may be marketed by an instrument manufacturer for clinical use on a molecular diagnostic instrument with combined approved and non-approved functions. They are also not intended to change FDA's position regarding the marketing of Research Use Only and Investigational Use Only assays for clinical use.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on molecular diagnostic instruments with combined functions. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* To receive ''Molecular Diagnostic Instruments with Combined Functions,'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1763 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations and guidance documents. 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 part 807, subpart E, have been approved under OMB control number

0910–0120; the collections of information in 21 CFR part 803 have been approved under OMB control number 0910–0437; and the collections of information in 21 CFR part 801 and 21 CFR 809.10 have been approved under OMB control number 0910–0485.

V. 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.*

Dated: April 3, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–08167 Filed 4–8–13; 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 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: Orthopaedic and Rehabilitation Devices Panel of the Medical Devices 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 21, 2013, from 8 a.m. to 5 p.m. and on May 22, 2013, from 8 a.m. to 4 p.m.

Location: Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD 20879. The hotel phone number is 301–948–8900.

Contact Person: 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). 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 21, 2013, the committee will discuss and make recommendations regarding the classification of one of the remaining preamendments class III devices, shortwave diathermy for all other uses except for the treatment of malignancies. The class III shortwave diathermy is a device that applies electromagnetic energy to the body in a radiofrequency band ranging between 13 megahertz to 27.12 megahertz and is intended for the treatment of medical conditions by means other than the generation of deep heat within body tissues.

On July 6, 2012 (77 FR 39953), FDA issued a proposed rule which, if made final, would make shortwave diathermy devices for all other uses class III requiring premarket approval (PMA) applications. In response to the proposed rule calling for PMAs, FDA received petitions under section 515(b)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360e(b)(2)(B)) requesting a change in classification. The reclassification petitions are available for public review and comment at *www.regulations.gov* under docket number FDA–2012–N–0378. The prior regulatory history of shortwave diathermy for all other uses has been discussed as part of the proposed rule (77 FR 39953).

The discussion at the panel meeting will involve making recommendations regarding regulatory classification to either reconfirm to class III (subject to PMA), or reclassify to class I or class II (subject to premarket notification (510(k))), as directed by section 515(i) of the FD&C Act.

On May 22, 2013, the committee will discuss and make recommendations regarding the 515(i) order issued by FDA on April 9, 2009 (Docket No. FDA–2009–M–0101), for one of the remaining preamendments class III devices, pedicle screw spinal systems, intended to treat degenerative disc disease and spondylolisthesis other than either severe spondylolisthesis (grades 3 and 4) at L5–S1, or degenerative spondylolisthesis with objective evidence of neurologic impairment. Pedicle screw spinal systems are posterior spinal screw and rod systems intended as an adjunct to fusion for the treatment of degenerative disc disease, trauma, deformity, failed previous fusion, tumor, infection, and inflammatory disorders in the thoracolumbar spine.

On July 27, 1998 (63 FR 40025), FDA published a final rule classifying certain previously unclassified preamendments pedicle screw spinal systems and reclassifying certain postamendments pedicle screw spinal systems. On May 22, 2001 (66 FR 28051), FDA published a technical amendment to the final rule to include an intended use that was inadvertently omitted from the codified language in the rule. As described in the summary of revisions in the technical amendment, FDA changed the intended uses for which pedicle screw spinal systems are class III from ''all other uses,'' to ''when intended to provide immobilization and stabilization of spinal segments in the thoracic, lumbar, and sacral spine as an adjunct to fusion in the treatment of degenerative disc disease and spondylolisthesis other than either severe spondylolisthesis (grades 3 and 4) at L5–S1 or degenerative spondylolisthesis with objective evidence of neurologic impairment.'' Since the technical amendment, FDA has not established an effective date for the submission of PMAs for pedicle screw spinal systems with these class III indications for use; consequently, these systems have been subject to 510(k).

The discussion at the panel meeting will involve making recommendations regarding regulatory classification to either reconfirm to class III (subject to PMA), or reclassify to class I or class II (subject to 510(k)), as directed by section 515(i) of the FD&C Act.

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 13, 2013. Oral presentations from the public will be scheduled between approximately 12 p.m. and 1 p.m. on May 21, 2013, and between approximately 10:45 a.m. and 11:45 a.m. on May 22, 2013. 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 May 3, 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 6, 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 AnnMarie Williams (*Annmarie.williams@fda.hhs.gov*, 301–796–5966) 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: April 4, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–08218 Filed 4–8–13; 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: The Clinical Trials Reporting Program (CTRP) Database (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 to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 1, 2013 (Volume 78, Page 7437) and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), 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 Jose Galvez, Office of the Director, National Cancer Institute, 2115 East Jefferson Street, Rockville, MD 20852 or call non-toll-free number 301–443–6141 or Email your request, including your address to: *jose.galvez@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: The Clinical Trials Reporting Program (CTRP) Database, 0925–0600, Expiration Date 3/31/2013—REINSTATEMENT WITH CHANGE, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The Clinical Trials Reporting Program (CTRP) is an electronic resource that serves as a single, definitive source of information about all NCI-supported clinical research. This resource allows the NCI to consolidate reporting, aggregate information and reduce redundant submissions. Information is submitted by clinical research administrators as designees of clinical investigators who conduct NCI-supported clinical research. The designees can electronically access the CTRP Web site to complete the initial trial registration. Subsequent to registration, four amendments and four study subject accrual updates occur per trial annually.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The estimated annualized burden hours are 33,000.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Instrument	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Clinical Trials	Initial Registration	5,500	1	1	5,500
	Amendment	5,500	4	1	22,000
	Accrual Updates	5,500	4	15/60	5,500

Dated: April 3, 2013.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, NCI, NIH.

[FR Doc. 2013–08270 Filed 4–8–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings.

Date: April 30, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mohan Viswanathan, Ph.D., Acting Director, Office of Grants Management & Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1084, Bethesda, MD 20892–4874, 301–435–0829, *mv10f@nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings.

Date: May 1, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mohan Viswanathan, Ph.D., Acting Director, Office of Grants Management & Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1084, Bethesda, MD 20892–4874, 301–435–0829, *mv10f@nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings.

Date: May 3, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mohan Viswanathan, Ph.D., Acting Director, Office of Grants Management & Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1084, Bethesda, MD 20892–4874, 301–435–0829, *mv10f@nih.gov.*

Dated: April 2, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08149 Filed 4–8–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of An Exclusive Evaluation Option License: Pre-clinical Evaluation of Anti-tyrosine Kinase-like Orphan Receptor 1 Immunotoxins for the Treatment of Human Cancers

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Patent Application 61/172,099 entitled ''Anti-human ROR1 Antibodies'' [HHS Ref. E–097–2009/0–US–01], U.S. Patent Application 60/703,798 entitled ''Mutated *Pseudomonas* Exotoxins with Reduced Antigenicity'' [HHS Ref. E–262–2005/0–US–01], U.S. Patent Application 60/969,929 entitled ''Deletions in Domain II of *Pseudomonas* Exotoxin A that Remove Immunogenic Epitopes with Affecting Cytotoxic Activity'' [HHS Ref. E–292–2007/0–US–01], U.S. Patent Application 61/241,620 entitled ''Improved *Pseudomonas* Exotoxin A with Reduced Immunogenicity'' [HHS Ref. E–269–2009/0–US–01], U.S. Patent Application 61/483,531 entitled ''Recombinant Immunotoxin Targeting Mesothelin'' [HHS Ref. E–117–2011/0–US–01], U.S. Patent Application 61/495,085 entitled ''*Pseudomonas* Exotoxin A with Less Immunogenic T-Cell/or B-Cell Epitopes'' [HHS Ref. E–174–2011/0–US–01], U.S. Patent Application 61/535,668 entitled ''*Pseudomonas* Exotoxin A with Less Immunogenic B-Cell Epitopes'' [HHS Ref. E–263–2011/0–US–01], and all related continuing and foreign patents/patent applications for the technology family, to SPEED BioSystems, LLC. The patent rights in these inventions have been assigned to the Government of the United States of America.

The prospective exclusive evaluation option license territory may be worldwide and the field of use may be limited to pre-clinical evaluation of lead therapeutic candidates for the development and use of anti-tyrosine kinase-like orphan receptor 1 (ROR1) targeted immunotoxins for the treatment of human ROR1 expressing cancers, wherein the immunotoxin comprises an anti-ROR1 antibody designated as 2A2 and *Pseudomonas* exotoxin A (PE). Upon expiration or termination of the exclusive evaluation option license, SPEED will have the right to execute an exclusive patent commercialization license which will supersede and replace the exclusive evaluation option license with no broader territory than granted in the exclusive evaluation option license and the field of use will be commensurate with the commercial development plan at the time of conversion.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before April 24, 2013 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, comments, and other materials relating to the contemplated exclusive evaluation option license should be directed to: Jennifer Wong, M.S., Senior Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4633; Facsimile: (301) 402–0220; Email: *wongje@od.nih.gov.*

SUPPLEMENTARY INFORMATION: This invention concerns anti-ROR1 immunotoxin comprising an anti-ROR1 antibody designated as 2A2 and PE as a treatment for human ROR1 expressing cancers. The immunotoxin will comprise a chimeric mouse anti-human receptor tyrosine kinase-like orphan receptor 1 monoclonal antibody whereas the immunotoxin will have a toxin domain derived from PE. PE toxin's domain have been modified in

various ways in order to reduce the immunogenicity of the molecule to improve its therapeutic value while at the same time maintaining the toxin's ability to trigger cell death. The immunotoxin provides targeted cytotoxic delivery to cancer cells while sparing normal cells thereby resulting in therapies with fewer side effects.

The prospective exclusive evaluation option license is being considered under the small business initiative launched on October 1, 2011and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive evaluation option license, and a subsequent exclusive patent commercialization license, may be granted unless within fifteen (15) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Any additional, properly filed, and complete applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive evaluation option license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 2, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development & Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–08148 Filed 4–8–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Protection and Advocacy for Individuals With Mental Illness (PAIMI) Final Rule, 42 CFR Part 51 (OMB No. 0930–0172)—Extension

These regulations meet the directive under 42 U.S.C. 10826(b) requiring the Secretary to promulgate final regulations to carry out the PAIMI Act. The regulations contain information collection requirements. The Act authorizes funds to support activities on behalf of individuals with significant (severe) mental illness (adults) or emotional impairment (children/youth) [42 U.S.C. 10802 (4)]. Only entities designated by the governor of each State, including American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, the Mayor of the District of Columbia, and the tribal councils for the American Indian Consortium (the Hopi and Navajo Nations in the Four Corners region of the Southwest), to protect and advocate the rights of persons with developmental disabilities are eligible to receive PAIMI Program grants [the Act at 42 U.S.C. at 10802 (2)]. These grants are based on a formula prescribed by the Secretary [42 U.S.C. at 10822(a)(1)(A)].

On January 1, each eligible State protection and advocacy (P&A) system is required to prepare a report that describes its activities, accomplishments, and expenditures to protect the rights of individuals with mental illness supported with payments from PAIMI Program allotments during the most recently completed fiscal year. The PAIMI Act [at 42 U.S.C. 10824(a)] requires that each P&A system transmit a copy of its annual report to the Secretary (via SAMHSA/CMHS) and to the State Mental Health Agency where the system is located. These annual PAIMI Program Performance Reports (PPR) to the Secretary must include the following information:

- The number of (PAIMI-eligible) individuals with mental illness served;
- A description of the types of activities undertaken;
- A description of the types of facilities providing care or treatment to which such activities are undertaken;
- A description of the manner in which the activities are initiated;
- A description of the accomplishments resulting from such activities;
- A description of systems to protect and advocate the rights of individuals with mental illness supported with payments from PAIMI Program allotments;
- A description of activities conducted by States to protect and advocate such rights;
- A description of mechanisms established by residential facilities for individuals with mental illness to protect such rights; and,
- A description of the coordination among such systems, activities and mechanisms;
- Specification of the number systems that are public and nonprofit systems established with PAIMI Program allotments;
- Recommendations for activities and services to improve the protection and advocacy of the rights of individuals with mental illness and a description of the need for such activities and services that were not met by the State P&A systems established under the PAIMI Act due to resource or annual program priority limitations.

** The PAIMI Rules [42 CFR Part 51] mandate that each State P&A system may place restrictions on either its case or client acceptance criteria developed as part of its annual PAIMI priorities. Each P&A system is required to inform prospective clients of any such restrictions when they request a service [42 CFR 51.32(b)].

This PAIMI PPR summary must include a separate section, prepared by the PAIMI Advisory Council (PAC) that describes the council's activities and its assessment of the State P&A system's operations [42 U.S.C. 10805(7)].

The burden estimate for the annual State P&A system reporting requirements for these regulations is as follows.

42 CFR Citation	Number of respondents	Responses per respondent	Burden per response (Hrs.)	Total annual burden
51.(8)(a)(2) Program Performance Report	57	1	26.0	[1]1,482
51.8(8)(a)(8) Advisory Council Report	57	1	10.0	[1]570
51.10 Remedial Actions:				
Corrective Action Plans	7	1	8.0	56
Implementation Status Report	7	3	2.0	42
51.23(c) Reports, materials and fiscal data provided to the PAC	57	1	1.0	57

42 CFR Citation	Number of respondents	Responses per respondent	Burden per response (Hrs.)	Total annual burden
51.25(b)(2) Grievance Procedures	57	1	.5	29
Total	126	8	47.5	184

[1] Burden hours associated with these reports are approved under OMB Control No. 0930–0169.

Written comments and recommendations concerning the proposed information collection should be sent by May 9, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–08187 Filed 4–8–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Addiction Technology Transfer Centers (ATTC) Network Program Monitoring (OMB No. 0930–0216)—Extension

The Substance Abuse and Mental Health Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) will continue to monitor program performance of its Addiction Technology Transfer Centers (ATTCs). The ATTCs disseminate current health services research from the National Institute on Drug Abuse, National Institute on Alcohol Abuse and Alcoholism, National Institute of Mental Health, Agency for Health Care Policy and Research, National Institute of Justice, and other sources, as well as other SAMHSA programs. To accomplish this, the ATTCs develop and update state-of-the-art, research-based curricula and professional development training.

CSAT monitors the performance of ATTC events. The ATTCs hold three types of events: technical assistance events, meetings, and trainings. An ATTC technical assistance event is defined as a jointly planned consultation generally involving a series of contacts between the ATTC and an outside organization/institution during which the ATTC provides expertise and gives direction toward resolving a problem or improving conditions. An ATTC meeting is defined as an ATTC sponsored or co-sponsored events in which a group of people representing one or more agencies other than the ATTC work cooperatively on a project, problem, and/or a policy. An ATTC training is defined as an ATTC sponsored or co-sponsored event of at least three hours that focuses on the enhancement of knowledge and/or skills. Higher education classes are included in this definition with each course considered as one training event.

CSAT currently uses seven (7) instruments to monitor the performance and improve the quality of ATTC events. Two (2) of these forms, the Meeting Follow-up Form and the Technical Assistance Follow-up Form, are currently approved by the Office of Management and Budget (OMB) through approval for CSAT Government Performance and Results Act (GPRA) Customer Satisfaction instruments (OMB No. 0930–0197). CSAT is not seeking any action related to these two forms at this time. They are merely referenced here to provide clarity and context to the description of the forms CSAT uses to monitor the performance of the ATTCs.

The remaining five (5) instruments for program monitoring and quality improvement of ATTC events are currently approved by the OMB (OMB No. 0930–0216) for use through April 30, 2013. These five forms are as follows: Event Description Form; Training Post Event Form; Training Follow-up Form; Meeting Post Event Form; and Technical Assistance Post Event Form. Sixty percent of the forms are administered in person to participants at educational and training events, who complete the forms by paper and pencil. Ten percent of the training courses are online, and thus, those forms are administered online. The remaining thirty percent is made up of 30-day follow-up forms that are distributed to consenting participants via electronic mail using an online survey tool. At this time, CSAT is requesting approval to extend the use of these five forms as is, with no revisions. A description of each of these forms follows.

(1) Event Description Form (EDF). The EDF collects descriptive information about each of the events of the ATTC Network. This instrument asks approximately 10 questions of ATTC faculty/staff relating to the event focus and format, as well as publications to be used during the event. It allows the ATTC Network and CSAT to track the number and types of events held. There are no revisions to the form. CSAT is proposing to continue to use the form as is.

(2) Training Post Event Form. This form is distributed to training participants at the end of the training activity, and collected from them before they leave. For training events which take place over an extended period of time, this form is completed after the final session of training. The form asks approximately 30 questions of each individual that participated in the training. Training participants are asked to report demographic information, education, profession, field of study, status of certification or licensure, workplace role, employment setting, satisfaction with the quality of the training and training materials, and to assess their level of skills in the topic area. There are no revisions to the form. CSAT is proposing to continue to use the form as is.

(3) Training Follow-up Form. The Training Follow-up form, which is

administered 30-days after the event to 25% of consenting participants, asks about 25 questions. The form asks participants to report demographic information, satisfaction with the quality of the training and training materials, and to assess their level of skills in the topic area. No revisions are being made to the form. CSAT is proposing to continue to use the form as is.

(4) Meeting Post Event Form. This form is distributed to meeting participants at the end of the meeting, and collected from them before they leave. This form asks approximately 30 questions of each individual that participated in the meeting. Meeting participants are asked to report demographic information, education, profession, field of study, status of certification or licensure, workplace role, employment setting, and satisfaction with the quality of the event and event materials, and to assess their level of skills in the topic area. No revisions are being made to the form. CSAT is proposing to continue to use the form as is.

(5) Technical Assistance (TA) Post Event form. This form is distributed to technical assistance participants at the end of the TA event. This form asks approximately 30 questions of each individual that participated in the TA event. TA participants are asked to report demographic information, education, profession, field of study, status of certification or licensure, workplace role, employment setting, and satisfaction with the quality of the event and event materials, and to assess their level of skills in the topic area. No revisions are being made to the form. CSAT is proposing to continue to use the form as is.

The information collected on the ATTC forms will assist CSAT in documenting the numbers and types of participants in ATTC events, describing the extent to which participants report improvement in their clinical competency, and which method is most effective in disseminating knowledge to various audiences. This type of information is crucial to support CSAT in complying with GPRA reporting requirements and will inform future development of knowledge dissemination activities.

The chart below summarizes the annualized burden for this project.

Type of respondent	Number of respondents	Responses per respondent	Total responses	Hours per response	Total annual burden hours	Hourly wage cost	Total hour cost
ATTC Faculty/Staff:							
Event Description Form	250	1	250	.25	62.50	$19.73	$1,233
Meeting and Technical Assistance Participants:							
Post-Event Form	5,000	1	5,000	.12	600	19.73	11,838
Follow-up Form	Covered under CSAT Government Performance and Results Act (GPRA) Customer Satisfaction form (OMB # 0930–0197)						
Training Participants:							
Post-Event Form	30,000	1	30,000	.16	4,800	19.73	94,704
Follow-up Form	7,500	1	7,500	.16	1,200	19.73	23,676
Total	42,750		42,750		6,662.50		131,451

Written comments and recommendations concerning the proposed information collection should be sent by May 9, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–08189 Filed 4–8–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2011–1114]

Merchant Mariner Medical Advisory Committee; Vacancy

AGENCY: United States Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The United States Coast Guard is requesting applications from qualified candidates seeking consideration for appointment as members to the Merchant Mariner Medical Advisory Committee (MEDMAC). MEDMAC provides advice to the United States Coast Guard on matters related to medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents; medical standards and guidelines for the physical qualifications of operators of commercial vessels; medical examiner education; and medical research.

DATES: Applicants must send a cover letter describing their interest, reasons for application, and qualifications, and should enclose a complete professional biography or resume to LT Ashley Holm, the Alternate Designated Federal Officer (ADFO). Applications will be accepted from the time the notice is published until May 29, 2013.

ADDRESSES: Applicants must send their cover letter and resume to the following address: USCG Headquarters, CG–CVC Office of Commercial Vessel Compliance, ATTN: MEDMAC, 2100 2nd Street SW., Washington, DC 20593;

or by faxing (202) 372–1246; or by emailing to *ashley.e.holm@uscg.mil*.

FOR FURTHER INFORMATION CONTACT: Lieutenant Ashley Holm, ADFO of MEDMAC at telephone 202–372–1128 or email to *ashley.e.holm@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Merchant Mariner Medical Advisory Committee (MEDMAC) is an advisory committee chartered under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub L. 92–463). The MEDMAC is authorized under Title 46, United States Code, Section 7115, as amended by section 210 of the *Coast Guard Authorization Act of 2010* (Pub. L. 111–281.) The Committee's purpose is to advise the Secretary on matters related to medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents; medical standards and guidelines for the physical qualifications of operators of commercial vessels; medical examiner education; and medical research.

The Committee is expected to meet at least twice a year at various locations around the country. It may also meet intercessionally for extraordinary purposes. Working groups may also meet to consider specific tasks as required.

We will consider applications for three positions that expire on August 8, 2013 and one position that became vacant on February 20, 2013.

(a) Two professional mariners with knowledge and experience in mariner occupational requirements.

(b) Two health care professionals with particular expertise, knowledge, or experience regarding medical examinations of merchant mariners or occupational medicine.

The members appointed will serve a term of office of 5 years. However, due to a professional mariner resignation, when appointed, one professional mariner will fill the unexpired term that expires on August 8, 2016. The members may be considered to serve consecutive terms. All members serve without compensation from the Federal Government; however, members may be reimbursed for travel and per diem depending on fiscal budgetary constraints.

Members of MEDMAC will be appointed and serve as Special Government Employees (SGEs) as defined in section 202(a) of title 18 of the United States Code. As candidates for appointment as SGEs, applicants are required to complete Confidential Financial Disclosure Reports (OGE Form 450). Applicants can obtain this form by going to the Web site of the Office of Government Ethics (*www.oge.gov*), or by contacting the ADFO. Applications which are not accompanied by a completed OGE Form 450 will not be considered.

Registered lobbyists are not eligible to serve on federal advisory committees. Registered lobbyists are lobbyists required to comply with the provisions contained in the Lobbying Disclosure Act of 1995 (Pub. L. 104–65 as amended).

The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or any other non-merit factor.

If you are interested in applying for membership of the Committee, send your cover letter and resume to LT Ashley Holm, ADFO of MEDMAC by mail, fax, or email according to the instructions in the **ADDRESSES** section of this notice.

This notice is available in our online docket, USCG–2011–1114, at *http://www.regulations.gov* by inserting USCG–2011–1114 in the ''Search'' box, and then clicking ''Search''. Please do not post your resume on this site. During the vetting process, the applicants may be asked by the White House Liaison Office, through the Coast Guard, to provide their date of birth and social security number.

Dated: April 1, 2013.

P.F. Thomas,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2013–08162 Filed 4–8–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0010; OMB No. 1660–0006]

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 collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning information collected for NFIP policies to accommodate the changing insurance needs of policyholders.

DATES: Comments must be submitted on or before June 10, 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–2013–0010. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *Email.* Submit comments to *FEMA–POLICY@dhs.gov.* Include Docket ID FEMA–2013–0010 in the subject line.

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: Mary Ann Chang, Insurance Examiner, Mitigation Directorate, 202–212–4712. 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: The National Flood Insurance Program (NFIP) is authorized by Public Law 90–448 (1968) and expanded by Public Law 93–234 (1973). The National Flood Insurance Act of 1968 requires that the Federal Emergency Management Agency (FEMA) provided flood insurance at full actuarial rates reflecting the complete flood risk to structures built or substantially improved on or after the effective date for the initial Flood Insurance Rate Map for the community, or after December 31, 1974, whichever is later, so that the risks associated with buildings in flood-prone areas are borne by those located in such areas and not by the taxpayers at large. In accordance

with Public Law 93–234, the purchase of flood insurance is mandatory when Federal or federally related financial assistance is being provided for acquisition or construction of buildings located, or to be located, within FEMA-identified special flood hazard areas of communities that are participating in the NFIP.

Collection of Information

Title: National Flood Insurance Program Policy Forms.

Type of Information Collection: Revision of a currently approved collection.

FEMA Forms: FEMA Form 086–0–1, Flood Insurance Application; FEMA Form 086–0–2, Flood Insurance Cancellation/Nullification Request Form; FEMA Form 086–0–3, Flood Insurance General Change Endorsement; FEMA Form 086–0–4, V-Zone Risk Factor Rating Form and Instructions; and FEMA Form 086–0–5, Flood Insurance Preferred Risk Application.

Abstract: In order to provide for the availability of policies for flood insurance, policies are marketed through the facilities of licensed insurance agents or brokers in the various States. Applications from agents or brokers are forwarded to a servicing company designated as fiscal agent by the Federal Insurance Administration. Upon receipt and examination of the application and required premium, the servicing company issues the appropriate Federal flood insurance policy.

Affected Public: Individuals or households; State, local or Tribal Government; Business or other for profit; Not-for-profit institutions; and Farms.

Number of Respondents: 56,122.

Number of Responses: 56,122.

Estimated Total Annual Burden Hours: 8,268.

Estimated Cost: The cost to respondents is $6,500 for engineer or architect services.

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. 2013–08178 Filed 4–8–13; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1306]

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.
Arizona: Maricopa	Unincorporated areas of Maricopa County (12–09–2950P).	The Honorable Max W. Wilson, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	*http://www.r9map.org/Docs/12–09–2950P–040037–102IAC.pdf.*	April 5, 2013	040037
California: San Bernardino.	City of Fontana (12–09–2642P).	The Honorable Acquanetta Warren, Mayor, City of Fontana, 8353 Sierra Avenue, Fontana, CA 92335.	Fontana City Hall, 8353 Sierra Avenue, Fontana, CA 92335.	*http://www.r9map.org/Docs/12–09–2642P–060274–102IAC.pdf.*	May 13, 2013	060274
Illinois:						
DuPage	City of Darien (13–05–1709P).	The Honorable Kathleen A. Weaver, Mayor, City of Darien, 1702 Plainfield Road, Darien, IL 60561.	Darien City Hall, 1702 Plainfield Road, Darien, IL 60561.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	May 28, 2013	170750
Peoria	City of Peoria (12–05–7861P).	The Honorable Jim Ardis, Mayor, City of Peoria, 6141 North Evergreen Circle, Peoria, IL 61614.	City of Peoria Public Works Department, 3505 North Dries Lane, Peoria, IL 61604.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	June 7, 2013	170536
Boone	Town of Zionsville (12–05–6549P).	The Honorable Jeff Papa, President, Zionsville Town Council, 1100 West Oak Street, Zionsville, IN 46077.	1100 West Oak Street, Zionsville, IN 46077.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	April 9, 2013	180016
Fulton	City of Rochester (12–05–9647P).	The Honorable Mark Smiley, Mayor, City of Rochester, 320 Main Street, Rochester, IN 46975.	125 East 9th Street, Rochester, IN 46975.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	May 29, 2013	180071
Fulton	Unincorporated areas of Fulton County (12–05–9647P).	The Honorable Mark J. Rodriguez, President, Fulton County Board of Commissioners, 1784 Chickory Lane, Rochester, IN 46975.	125 East 9th Street, Rochester, IN 46975.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	May 29, 2013	180070
Iowa: Black Hawk	City of Cedar Falls (12–07–2641P).	The Honorable Jon Crews, Mayor, City of Cedar Falls, 220 Clay Street, Cedar Falls, IA 50613.	220 Clay Street, Cedar Falls, IA 50613.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	May 31, 2013	190017
Michigan: Wayne	City of Taylor (12–05–9857P).	The Honorable Jeffrey P. Lamarand, Mayor, City of Taylor, 23555 Goddard Road, Taylor, MI 48180.	23555 Goddard Road, Taylor, MI 48180.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	May 30, 2013	260728
Minnesota:						
Lac Qui Parle	City of Dawson (12–05–2019P).	The Honorable Merlin Ellefson, Mayor, City of Dawson, 675 Chestnut Street, Dawson, MN 56232.	675 Chestnut Street, Dawson, MN 56232.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	May 9, 2013	270241
Lac Qui Parle	Unincorporated areas of Lac Qui Parle County (12–05–2019P).	The Honorable DeRon Brehmer, Chair, Lac Qui Parle County Board of Commissioners, 600 6th Street, Madison, MN 562256.	600 6th Street, Madison, MN 562256.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	May 9, 2013	270239
St. Louis	City of Duluth (12–05–3211P).	The Honorable Don Ness, Mayor, City of Duluth, 411 West First Street, Room 402, Duluth, MN 55802.	411 West First Street, Duluth, MN 55802.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	April 12, 2013	270421
Missouri: Greene	City of Springfield (12–07–2302P).	The Honorable Bob Stephens, Mayor, City of Springfield, 840 Boonville Avenue, Springfield, MO 65801.	840 Boonville Avenue, Springfield, MO 65801.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	May 31, 2013	290149
Nebraska: Buffalo	City of Kearney (12–07–3246P).	The Honorable Stanley Clouse, Mayor, City of Kearney, 18 East 22nd Street, Kearney, NE 68847.	18 East 22nd Street, Kearney, NE 68847.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	May 9, 2013	310016
Ohio: Portage	City of Kent (12–05–6090P).	The Honorable Jerry T. Fiala, Mayor, City of Kent, 614 Pioneer Avenue, Kent, OH 44240.	930 Overholt Drive, Kent, OH 44240.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	April 29, 2013	390456
Oregon:						

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.
Jackson	Unincorporated areas of Jackson County (12–10–0825P).	The Honorable Don Skundrick, Chair, Jackson County Board of Commissioners, 10 South Oakdale Avenue, Room 214, Medford, OR 97501.	10 South Oakdale Avenue, Medford, OR 97501.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	April 5, 2013	415589
Yamhill	Unincorporated areas of Yamhill County (12–10–1146P).	The Honorable Leslie Lewis, Chair, Yamhill Board of Commissioners, 434 Northeast Evans Street, McMinnville, OR 97128.	535 Northeast 5th Street, McMinnville, OR 97128.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	May 9, 2013	410249
Washington:						
Franklin	Unincorporated areas of Franklin County (12–10–0991P).	The Honorable Brad Peck, Chairman, Franklin County Board of Commissioners, 1016 North 4th Avenue, Pasco, WA 99301.	1016 North 4th Avenue, Pasco, WA 99301.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	April 5, 2013	530044
Walla Walla	Unincorporated areas of Walla Walla County (12–10–0991P).	The Honorable Gregory A. Tompkins, Chairman, Walla Walla County Board of Commissioners, 314 West Main Street, Walla Walla, WA 99362.	314 West Main Street, Walla Walla, WA 99362.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	April 5, 2013	530194
Wisconsin:						
Kewaunee	City of Kewaunee (12–05–5905P).	The Honorable John Blaha, Jr., Mayor, City of Kewaunee, 107 Summers Circle-3 388–4454, Kewaunee, WI 54216.	401 Fifth Street, Kewaunee, WI 54216.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	April 26, 2013	550215
Outagamie	Unincorporated areas of Outagamie County (12–05–7344P).	The Honorable Thomas Nelson, 410 South Walnut Street, Appleton, WI 54911.	410 South Walnut Street, Appleton, WI 54911.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	June 3, 2013	550302
Sauk	City of Wisconsin Dells (12–05–7540P).	The Honorable Brian L. Landers, Mayor, City of Wisconsin Dells, 305 Bauer Court, Wisconsin Dells, WI 53965.	300 LaCrosse Street, Wisconsin Dells, WI 53965.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	May 28, 2013	550065
Wood	City of Wisconsin Rapids (12–05–6906P).	The Honorable Zach Vruwink, Mayor, City of Wisconsin Rapids, 444 West Grand Avenue, Wisconsin Rapids, WI 54495.	Engineering Department, 444 West Grand Avenue, Wisconsin Rapids, WI 54495.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	April 5, 2013	555587

(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. 2013–08199 Filed 4–8–13; 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.
Alabama: Morgan (FEMA Docket No.: B–1279).	City of Decatur (12–04–5276P).	The Honorable Don Stanford, Mayor, City of Decatur, P.O. Box 488, Decatur, AL 35602.	City Hall, 402 Lee Street Northeast, Decatur, AL 35601.	January 7, 2013	010176
Arizona:					
Maricopa (FEMA Docket No.: B–1280).	City of Goodyear (12–09–1661P)..	The Honorable Georgia Lord, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, AZ 85338.	City Hall, 190 North Litchfield Road, Goodyear, AZ 85338.	February 1, 2013	040046
Maricopa (FEMA Docket No.: B–1280).	Unincorporated areas of Maricopa County (12–09–1661P).	The Honorable Max W. Wilson, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	February 1, 2013	040047
Pinal (FEMA Docket No.: B–1280).	City of Apache Junction (11–09–3907P).	The Honorable John S. Insalaco, Mayor, City of Apache Junction, 300 East Superstition Boulevard, Apache Junction, AZ 85119.	Public Works Department, 1001 North Idaho Road, Apache Junction, AZ 85219.	October 16, 2012	040120
California:					
San Bernardino (FEMA Docket No.: B–1279).	City of Ontario (12–09–2406P).	The Honorable Paul S. Leon, Mayor, City of Ontario, 303 East B Street, Ontario, CA 91764.	City Hall, Engineering Department Public Counter, 303 East B Street, Ontario, CA 91764.	January 4, 2013	060278
San Diego (FEMA Docket No.: B–1279).	City of Coronado (12–09–2589P).	The Honorable Casey Tanaka, Mayor, City of Coronado, 1825 Strand Way, Coronado, CA 92118.	City Hall, 1825 Strand Way, Coronado, CA 92118.	January 17, 2013	060287
San Diego (FEMA Docket No.: B–1279).	City of San Marcos (12–09–1988P).	The Honorable Jim Desmond, Mayor, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069.	City Hall, 1 Civic Center Drive, San Marcos, CA 92069.	January 25, 2013	060296
San Mateo (FEMA Docket No.: B–1280).	Town of Portola Valley (12–09–1477P).	The Honorable Maryann Moise Derwin, Mayor, Town of Portola Valley, 765 Portola Road, Portola Valley, CA 94028.	Town Hall, 765 Portola Road, Portola Valley, CA 94028.	January 10, 2013	065052
Solano (FEMA Docket No.: B–1280).	City of Vallejo (12–09–2640P).	The Honorable Osby Davis, Mayor, City of Vallejo, 555 Santa Clara Street, Vallejo, CA 94590.	Public Works Department, 555 Santa Clara Street, Vallejo, CA 94590.	February 1, 2013	060374
Solano (FEMA Docket No.: B–1279).	Unincorporated areas of Solano County (12–09–1553P).	The Honorable Linda J. Seifert, Chair, Solano County Board of Supervisors, 675 Texas Street, Suite 6500, Fairfield, CA 94533.	Solano County Public Works Department, 675 Texas Street, Suite 5500, Fairfield, CA 94533.	January 21, 2013	060631
Colorado:					
Adams (FEMA Docket No.: B–1280).	City of Commerce City (12–08–0512P).	The Honorable Sean Ford, Sr., Mayor, City of Commerce City, 7887 East 60th Avenue, Commerce City, CO 80022.	City Hall, 7887 East 60th Avenue, Commerce City, CO 80022.	October 31, 2012	080006
Adams (FEMA Docket No.: B–1280).	Unincorporated areas of Adams County (12–08–0512P).	The Honorable W. R. "Skip" Fischer, Chairman, Adams County Board of Commissioners, 4430 South Adams County Parkway, Suite C5000A, Brighton, CO 80601.	Adams County Public Works Department, 4430 South Adams County Parkway, Suite W2123, Brighton, CO 80601.	October 31, 2012	080001
Arapahoe (FEMA Docket No.: B–1280).	Unincorporated areas of Arapahoe County (12–08–0619P).	The Honorable Nancy N. Sharpe, Chair, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80166.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	December 17, 2012 ...	080011
Arapahoe (FEMA Docket No.: B–1280).	Unincorporated areas of Arapahoe County (12–08–0806P).	The Honorable Nancy N. Sharpe, Chair, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80166.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	February 1, 2013	080011
Douglas (FEMA Docket No.: B–1279).	Unincorporated areas of Douglas County (12–08–0727P).	The Honorable Jack Hilbert, Chairman, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Department of Public Works, Engineering Division, 100 3rd Street, Castle Rock, CO 80104.	January 11, 2013	080049

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Jefferson (FEMA Docket No.: B–1279).	City of Golden (12–08–0103P).	The Honorable Marjorie Sloan, Mayor, City of Golden, 911 10th Street, Golden, CO 80401.	Public Works and Planning Department, 1445 10th Street, Golden, CO 80401.	January 18, 2013	080090
Jefferson (FEMA Docket No.: B–1279).	Unincorporated areas of Jefferson County (12–08–0572P).	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, Suite 3, Golden, CO 80419.	January 18, 2013	080087
Florida:					
Bay (FEMA Docket No.: B–1280).	City of Panama City (12–04–3225P).	The Honorable Greg Brudnicki, Mayor, City of Panama City, 9 Harrison Avenue, Panama City, FL 32401.	City Hall, Engineering Department, 9 Harrison Avenue, Panama City, FL 32402.	November 26, 2012 ...	120012
Bay (FEMA Docket No.: B–1280).	Unincorporated areas of Bay County (12–04–3225P).	The Honorable George B. Gainer, Chairman, Bay County Board of Commissioners, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning Department, 707 Jenks Avenue, Suite B, Panama City, FL 32401.	November 26, 2012 ...	120004
Hillsborough (FEMA Docket No.: B–1280).	City of Plant City (12–04–4888P).	The Honorable Michael S. Sparkman, Mayor, City of Plant City, P.O. Box C, Plant City, FL 33563.	Engineering Division, 302 West Reynolds Street, Plant City, FL 33607.	February 1, 2013	120113
Lee (FEMA Docket No.: B–1279).	City of Fort Myers (12–04–3735P).	The Honorable Randy Henderson, Jr., Mayor, City of Fort Myers, 2200 2nd Street, Fort Myers, FL 33901.	Community Development Department, 1825 Hendry Street, Fort Myers, FL 33901.	January 18, 2013	125106
Lee (FEMA Docket No.: B–1279).	Unincorporated areas of Lee County (12–04–3735P).	The Honorable John E. Manning, Chairman, Lee County Board of Commissioners, P.O. Box 398, Fort Myers, FL 33902.	Lee County Community Development Department, 1500 Monroe Street, 2nd Floor, Fort Myers, FL 33901.	January 18, 2013	125124
Orange (FEMA Docket No.: B–1279).	City of Orlando (12–04–6040P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services, 400 South Orange Avenue, Orlando, FL 32301.	January 25, 2013	120186
Orange (FEMA Docket No.: B–1279).	Unincorporated areas of Orange County (12–04–6040P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Management Department, 4200 South John Young Parkway, Orlando, FL 32839.	January 25, 2013	120179
Georgia: Columbia (FEMA Docket No.: B–1279).	Unincorporated areas of Columbia County (12–04–4789P).	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Columbia County Development Services Division, 630 Ronald Reagan Drive, Evans, GA 30809.	January 17, 2013	130059
Mississippi: Lamar (FEMA Docket No.: B–1280).	Unincorporated areas of Lamar County (12–04–2162P).	The Honorable Joe Bounds, Chairman, Lamar County Board of Supervisors, 403 Main Street, Purvis, MS 39475.	Lamar County Planning Department, Central Office Complex, 144 Shelby Speights Drive, Purvis, MS 39475.	February 1, 2013	280304
Nevada: Clark (FEMA Docket No.: B–1280).	Unincorporated areas of Clark County (12–09–1708P).	The Honorable Susan Brager, Chair, Clark County Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, NV 89155.	Clark County Public Works Department, 500 South Grand Central Parkway, Las Vegas, NV 89155.	January 18, 2013	320003
North Carolina:					
Rowan (FEMA Docket No.: B–1285).	Town of East Spencer (11–04–3050P).	The Honorable Barbara Mallett, Mayor, Town of East Spencer, 105 South Long Street, East Spencer, NC 28039.	Town Hall, 105 South Long Street, East Spencer, NC 28039.	January 2, 2013	370211
Rowan (FEMA Docket No.: B–1285).	Unincorporated areas of Rowan County (11–04–3050P).	The Honorable Gary L. Page, Rowan County Manager, 130 West Innes Street, Salisbury, NC 28144.	Rowan County Planning Department, 402 North Main Street, Salisbury, NC 28144.	January 2, 2013	370351
North Dakota: Stark (FEMA Docket No.: B–1279).	City of Dickinson (12–08–0288P).	The Honorable Dennis W. Johnson, Mayor, City of Dickinson, 99 2nd Street East, Dickinson, ND 58601.	Building Department, 99 2nd Street East, Dickinson, ND 58601.	January 7, 2013	380117
South Carolina: Richland (FEMA Docket No.: B–1279).	Unincorporated areas of Richland County (12–04–1256P).	The Honorable Kelvin Washington, Chairman, Richland County Council, 2020 Hampton Street, Columbia, SC 29204.	Richland County Administration Building, 2020 Hampton Street, 1st Floor, Columbia, SC 29204.	December 31, 2012 ...	450170
South Dakota:					
Meade (FEMA Docket No.: B–1280).	Town of Piedmont (12–08–0611P).	The Honorable Phil Anderson, Mayor, Town of Piedmont, 111 South 2nd Street, Piedmont, SD 57769.	Town of Piedmont, 1400 Main Street, Sturgis, SD 57785.	January 28, 2013	461198
Meade (FEMA Docket No.: B–1280).	Unincorporated areas of Meade County (12–08–0611P).	The Honorable Alan Aker, Chairman, Meade County Board of Commissioners, 14347 Mahaffey Drive, Piedmont, SD 57769.	Meade County Emergency Management Department, 1400 Main Street, Sturgis, SD 57785.	January 28, 2013	460054
Tennessee:					
Hamilton (FEMA Docket No.: B–1279).	City of Collegedale (11–04–7989P).	The Honorable John Turner, Mayor, City of Collegedale, P.O. Box 1880, Collegedale, TN 37315.	City Hall, 4910 Swinyar Drive, Collegedale, TN 37315.	January 15, 2013	475422

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Hamilton (FEMA Docket No.: B–1279).	Unincorporated areas of Hamilton County (11–04–7989P).	The Honorable Jim Coppinger, Mayor, Hamilton County, 625 Georgia Avenue, Chattanooga, TN 37402.	Hamilton County Regional Planning Department, 1250 Market Street, Chattanooga, TN 37402.	January 15, 2013	470071

(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. 2013–08201 Filed 4–8–13; 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.
Oklahoma:					
Tulsa (FEMA Docket No.: B–1278).	City of Broken Arrow (11–06–0831P).	The Honorable Craig Thurmond, Mayor, City of Broken Arrow, 220 South 1st Street, Broken Arrow, OK 74012.	Department of Public Works, 485 North Poplar Avenue, Broken Arrow, OK 74102.	December 31, 2012 ...	400236
Tulsa (FEMA Docket No.: B–1278).	City of Tulsa (11–06–0831P).	The Honorable Dewey F. Bartlett, Jr., Mayor, City of Tulsa, 175 East 2nd Street, Tulsa, OK 74103.	Development Services, 175 East 2nd Street, Suite 450, Tulsa, OK 74103.	December 31, 2012 ...	405381
Pennsylvania:					
Cumberland (FEMA Docket No.: B–1278).	Township of Lower Allen (12–03–1797P).	The Honorable H. Edward Black, President, Township of Lower Allen Board of Commissioners, 2233 Gettysburg Road, Camp Hill, PA 17011.	Township of Lower Allen Municipal Services Center, 2233 Gettysburg Road, Camp Hill, PA 17011.	January 7, 2013	421016
Lancaster (FEMA Docket No.: B–1278).	Borough of Manheim (11–03–1822P).	The Honorable Eric Phillips, Mayor, Borough of Manheim, 15 East High Street, Manheim, PA 17545.	Borough Office, 15 East High Street, Manheim, PA 17545.	January 14, 2013	420555

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Lancaster (FEMA Docket No.: B–1278).	Township of Penn (11–03–1822P).	The Honorable David A. Sarley, Chairman, Township of Penn Board of Supervisors, 97 North Penryn Road, Manheim, PA 17545.	Penn Township Office, 97 North Penryn Road, Manheim, PA 17545.	January 14, 2013	421778
Texas:					
Bexar (FEMA Docket No.: B–1278).	City of San Antonio (12–06–1378P).	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.	January 10, 2013	480045
Bexar (FEMA Docket No.: B–1279).	City of San Antonio (12–06–0109P).	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.	January 22, 2013	480045
Bexar (FEMA Docket No.: B–1278).	Unincorporated areas of Bexar County (12–06–0857P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos- La Trinidad Street, Suite 420, San Antonio, TX 78207.	January 10, 2013	480035
Bexar (FEMA Docket No.: B–1278).	Unincorporated areas of Bexar County (12–06–2935P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos- La Trinidad Street, Suite 420, San Antonio, TX 78207.	January 10, 2013	480035
Bexar (FEMA Docket No.: B–1279).	Unincorporated areas of Bexar County (12–06–0109P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	January 22, 2013	480035
Dallas (FEMA Docket No.: B–1278).	City of Dallas (12–06–0869P).	The Honorable Mike Rawlings, Mayor, City of Dallas, 1500 Marilla Street, Room 5EN, Dallas, TX 75201.	Department of Public Works, 320 East Jefferson Boulevard, Room 321, Dallas, TX 75203.	January 7, 2013	480171
Dallas (FEMA Docket No.: B–1278).	City of Garland (12–06–0869P).	The Honorable Ronald E. Jones, Mayor, City of Garland, 200 North 5th Street, Garland, TX 75040.	City Hall, 800 Main Street, Garland, TX 75040.	January 7, 2013	485471
Dallas (FEMA Docket No.: B–1278).	City of Rowlett (12–06–0869P).	The Honorable Todd W. Gottel, Mayor, City of Rowlett, 4000 Main Street, Rowlett, TX 75088.	City Hall, 4000 Main Street, Rowlett, TX 75088.	January 7, 2013	480185
Ellis (FEMA Docket No.: B–1279).	City of Midlothian (12–06–0065P).	The Honorable Bill Houston, Mayor, City of Midlothian, 104 West Avenue East, Midlothian, TX 76065.	104 West Avenue East, Midlothian, TX 76065.	October 11, 2012	480801
Harris (FEMA Docket No.: B–1279).	City of Baytown (11–06–4571P).	The Honorable Stephen H. DonCarlos, Mayor, City of Baytown, 2401 Market Street, Baytown, TX 77522.	City Hall, 2401 Market Street, Baytown, TX 75522.	January 22, 2013	485456
Harris (FEMA Docket No.: B–1278).	Unincorporated areas of Harris County (12–06–0881P).	The Honorable Ed Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	December 31, 2012 ...	480287
Harris (FEMA Docket No.: B–1279).	Unincorporated areas of Harris County (11–06–4571P).	The Honorable Ed Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	January 22, 2013	480287
Harris (FEMA Docket No.: B–1279).	Unincorporated areas of Harris County (12–06–2710P).	The Honorable Ed Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	January 22, 2013	480287
Lubbock (FEMA Docket No.: B–1279).	City of Lubbock (12–06–1157P).	The Honorable Glen Robertson, Mayor, City of Lubbock, P.O. Box 2000, Lubbock, TX 79457.	City Hall, 1625 13th Street, Lubbock, TX 79408.	January 22, 2013	480452
Lubbock (FEMA Docket No.: B–1278).	Unincorporated areas of Lubbock County (12–06–0396P).	The Honorable Tom Head, Lubbock County Judge, 904 Broadway Street, Suite 101, Lubbock, TX 79401.	Lubbock County Courthouse, 904 Broadway Street, Lubbock, TX 79401.	January 10, 2013	480915
Rockwall (FEMA Docket No.: B–1279).	City of Rockwall (12–06–2575P).	The Honorable David Sweet, Mayor, City of Rockwall, 385 South Goliad Street, Rockwall, TX 75087.	City Hall, 205 West Rusk Street, Rockwall, TX 75087.	January 18, 2013	480547
Wichita (FEMA Docket No.: B–1278).	City of Wichita Falls (12–06–0348P).	The Honorable Glenn Barham, Mayor, City of Wichita Falls, P.O. Box 1431, Wichita Falls, TX 76307.	City Hall, 1300 7th Street, Wichita Falls, TX 76301.	January 7, 2013	480662

(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. 2013–08200 Filed 4–8–13; 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 19, 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
Clarendon County, South Carolina, and Incorporated Areas Docket No.: FEMA–B–1251	
City of Manning	29 West Boyce Street, Manning, SC 29102.
Town of Summerton	10 West Main Street, Summerton, SC 29148.
Town of Turbeville	1400 Main Street, Turbeville, SC 29162.
Unincorporated Areas of Clarendon County	412 North Brooks Street, Manning, SC 29102.

(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. 2013–08195 Filed 4–8–13; 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–1307]

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 8, 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–1307, 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.
Freemont County, Wyoming, and Incorporated areas	
Maps Available for Inspection Online at: *http://www.bakeraecom.com/index.php/wyoming/fremont-2*	
Town of Shoshoni	Town Hall, 102 East Second Street, Shoshoni, WY 82649.
Unincorporated Areas of Fremont County	Planning Department, 450 North Second Street, Room 360, Lander, WY 82520.

(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. 2013–08198 Filed 4–8–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2532–13; DHS Docket No.: USCIS–2006–0068]

Introduction of the Revised Employment Eligibility Verification Form; Correction

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

ACTION: Notice; correction.

SUMMARY: On March 8, 2013, U.S. Citizenship and Immigration Services (USCIS) published a notice in the **Federal Register** announcing the recently revised Employment Eligibility Verification, Form I–9. USCIS also announced in the **DATES** section of the notice that employers can no longer use prior versions of Form I–9 effective May 7, 2013. In the **SUPPLEMENTARY INFORMATION** section of the notice, however, USCIS incorrectly described the effective date as being after May 7, 2013. This notice corrects this error and clarifies that employers may no longer use prior versions of the Form I–9 beginning May 7, 2013.

FOR FURTHER INFORMATION CONTACT: Sharon Ryan, Department of Homeland Security, U.S. Citizenship and Immigration Services, Verification Division, 131 M Street NE., Suite 200, Washington, DC 20529. For information about the employment eligibility verification process, employers can call the Verification hotline at 888–464–4218 (877–875–6028 for TTY) and

employees can call 888–897–7781 (877–875–6028 for TTY) for further information. The public can also email the Verification Division at *I–9Central@dhs.gov.*

Correction

In the notice published in the **Federal Register** on March 8, 2013 at 78 FR 15030, USCIS incorrectly described the date on which employers can no longer use prior versions of Employment Eligibility Verification, Form I–9 (Form I–9). As correctly stated under the **DATES** caption of the notice, prior versions of Form I–9 can no longer be used effective May 7, 2013.

Accordingly, USCIS is correcting the notice as follows:

1. On page 15030, in the third column under the heading, III. Use of the Revised Form I–9, in the first sentence of the second paragraph, replace the word ''After'' with the word ''Effective'' so that the sentence reads: ''Effective May 7, 2013, all prior versions of Form I–9 can no longer be used by the public.''

2. On page 15030, in the third column under the heading, III. Use of the Revised Form I–9, in the third sentence of the second paragraph, replace the word ''After'' with the word ''Effective'' so that the sentence reads: ''Effective May 7, 2013, employers who fail to use Form I–9 (Rev. 03/08/13)N may be subject to all applicable penalties under section 274A of the INA, 8 U.S.C. 1324a, as enforced by U.S. Immigration and Customs Enforcement (ICE) and DOJ.''

Alejandro N. Mayorkas,

Director, U.S. Citizenship and Immigration Services.

[FR Doc. 2013–08224 Filed 4–8–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Accreditation of Commercial Testing Laboratories and Approval of Commercial Gaugers

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651–0053.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Accreditation of Commercial Testing Laboratories and Approval of Commercial Gaugers. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (78 FR 6128) on January 29, 2013, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before May 9, 2013.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Accreditation of Commercial Testing Laboratories and Approval of Commercial Gaugers.

OMB Number: 1651–0053.

Form Number: None.

Abstract: Commercial laboratories seeking accreditation or approval must provide the information specified in 19 CFR 151.12 to Customs and Border Protection (CBP), and Commercial Gaugers seeking CBP approval must provide the information specified under 19 CFR 151.13. After the initial accreditation, a private company may ''extend'' its accreditation to add facilities by submitting a formal written request to CBP. This application process is authorized by Section 613 of Public Law 103–182 (NAFTA Implementation Act), codified at 19 U.S.C. 1499, which directs CBP to establish a procedure to accredit privately owned testing laboratories. The information collected is used by CBP in deciding whether to approve individuals or businesses desiring to measure bulk products or to analyze importations. Instructions for completing these applications are accessible at: *http://www.cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/app_info/app_instructions.ctt/app_instructions.pdf.*

Action: CBP proposes to extend the expiration date of this information collection with a change to the burden hours as a result of revised estimates by CBP. There are no changes to the information collected.

Type of Review: Extension (with change).

Affected Public: Businesses.

Reporting:

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Total Responses: 100.

Estimated Time per Response: 75 minutes.

Estimated Total Burden Hours: 125.

Record Keeping:

Estimated Number of Record Keepers: 100.

Estimated Time per Record Keeper: 60 minutes.

Estimated Total Burden Hours: 100.

Dated: April 3, 2013.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2013–08159 Filed 4–8–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2013–N078; 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 9, 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–98707A

Applicant: Mitchell Lockhart, Sallisaw, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Oklahoma, Texas, Missouri, and Kansas.

Permit TE–837751

Applicant: U.S. Bureau of Reclamation, Phoenix, Arizona.

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*) in Navajo, Apache, Greenlee, and Coconino Counties, Arizona, and Catron, Grant, and Hidalgo Counties, New Mexico; desert pupfish (*Cyprinodon macularius macularius*), Gila topminnow (*Poeciliopsis occidentalis occidentalis*), and Colorado pikeminnow (*Ptychocheilus lucius*) in San Juan, Grant, Catron, and Hidalgo Counties, New Mexico; and Gila chub (*Gila intermedia),* spikedace *(Mega fulgida*), loach minnow (*Tiaroga cobitis*), and woundfin (*Plagopterus argentissimus*) in Maricopa, Pima, Cochise, Graham, Coconino, Greenlee, and Santa Cruz Counties, Arizona, and Catron, Grant and Hidalgo Counties, New Mexico.

Permit TE–42737A

Applicant: Sevenecoten, LLC, Dripping Springs, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct nest monitoring and searching for golden-cheeked warblers (*Dendroica chrysoparia*) and black-capped vireos (*Vireo atricapilla*) within Texas.

Permit TE–821356

Applicant: U.S. Geological Survey, Grand Canyon Monitoring and Research Station, Flagstaff, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to deliberately take up to 150 endangered humpback chub (*Gila cypha*) smaller than 120 millimeters by hoop net, minnow trap, and seine within Arizona.

Permit TE–88512A

Applicant: New Mexico Department of Transportation Environmental Bureau, Santa Fe, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to excavate and transplant *Echinocereus fendleri* var. *kuenzleri* (Kuenzler's hedgehog cactus) along U.S. Highway 54 in New Mexico.

Permit TE–000948

Applicant: Western New Mexico University, Silver City, New Mexico.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys and nest monitoring of southwestern willow flycatcher (*Empidonax traillii extimus*) within New Mexico.

Permit TE–829995

Applicant: Dallas Zoo and Aquarium, Dallas, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct husbandry and holding of hawksbill sea turtles (*Eretmochelys imbricata*) at the Dallas Zoo and Aquarium.

Permit TE–00347B

Applicant: Alisha Powell, Sallisaw, Oklahoma.

Applicant requests a new permit for research and recovery purposes to capture and release American burying beetles (*Nicrophorus americanus*) for presence/absence surveys in Oklahoma.

Permit TE–009926

Applicant: Gulf South Research Corporation, Baton Rouge, Louisiana.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of interior least tern (*Sterna antillarum*) along the major tributaries of the Red River in Texas, Oklahoma, and Arkansas.

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: *April 1, 2013.*

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region.

[FR Doc. 2013–08180 Filed 4–8–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO220000.L10200000.PH0000.00000000]

Renewal of Approved Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) plans to request approval to continue the collection of information from individuals, households, farms, and businesses interested in cooperating with the BLM in constructing or maintaining range improvement projects that enhance or improve livestock grazing management, improve watershed conditions, enhance wildlife habitat, or serve similar purposes. The BLM also invites public comments on this collection of information. The Office of Management and Budget (OMB) has assigned control number 1004–0019 to this information collection.

DATES: Please submit comments on the proposed information collection by June 10, 2013.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0019'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Kimberly Hackett, at 202–912–7216. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339, to leave a message for Ms. Hackett.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

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.

The following information is provided for the information collection:

Title: Grazing Management: Range Improvement Agreements and Permits (43 CFR Subpart 4120).

OMB Control Number: 1004–0019.

Summary: This request pertains to range improvements on public lands managed by the BLM. Range improvements enhance or improve livestock grazing management, improve watershed conditions, enhance wildlife habitat, or serve similar purposes. At times, the BLM may require holders of grazing permits or grazing leases to install range improvements to meet the terms and conditions of their permits or leases. Operators may also come to the BLM with proposals for range improvements. Often the BLM, operators, and other interested parties work together and jointly contribute to construction of range improvements in order to facilitate improved grazing management or enhance other multiple uses. Cooperators may include lenders which provide the funds that operators contribute for improvements.

Frequency of Collection: On occasion.

Forms: Form 4120–6 (Cooperative Range Improvement Agreement); and Form 4120–7 (Range Improvement Permit).

Description of Respondents: Primarily holders of BLM grazing permits or grazing leases.

Estimated Annual Responses: 1,310.

Estimated Annual Burden Hours: 1,940.

Estimated Annual Non-Hour Costs: None.

The estimated annual burdens for respondents are itemized in the following table:

A. Type of response	B. Number of responses	C. Hours per response	D. Total hours (column B × column C)
43 CFR part 4100, subpart 4120, Cooperative Range Improvement Agreement, Form 4120–6 and related non-form information	600	2	1,200
43 CFR part 4100, subpart 4120, Range Improvement Permit, Form 4120–7 and related non-form information	30	2	60
43 CFR part 4100, subpart 4120, Affected Public/Individuals or Households	50	1	50
43 CFR part 4100, subpart 4120, Affected Public/State, Local, and Tribal Governments	630	1	630
Total	1,310		1,940

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2013–08215 Filed 4–8–13; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[13X.LLAZ956000.L14200000.BJ0000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Arizona.

SUMMARY: The plats of survey of the described lands were officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Arizona, on dates indicated.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat representing the dependent resurvey of a portion of the metes-and-bounds survey of the North Maricopa Mountains Wilderness Boundary in sections 24 and 25, Township 3 South, Range 2 West, accepted February 5, 2013, and officially filed February 7, 2013, for Group 762, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the dependent resurvey of Homestead Entry Survey 504, unsurveyed Township 4 North, Range 30 East, accepted March 19, 2013, and officially filed March 20, 2013, for Group 1108, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat representing the dependent resurvey of portions of Homestead Entry Survey 481 and portions of Tract 37, unsurveyed Township 4½ North, Range 29 East, accepted March 19, 2013, and officially filed March 20, 2013, for Group 1108, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat representing the dependent resurvey and subdivision of certain sections, Township 24 North, Range 20 East, accepted March 22, 2013, and officially filed March 26, 2013, for Group 1094, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of the West and North boundaries and the survey of the subdivisional lines and the subdivision of certain sections, Township 41 North, Range 27 East, accepted March 27, 2013, and officially filed March 29, 2013, for Group 1095, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of the West and East boundaries and the survey of the subdivisional lines, Township 42 North, Range 27 East, accepted March 27, 2013, and officially filed March 29, 2013, for Group 1095, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of a portion of the metes-and-bounds survey of the North Maricopa Mountains Wilderness Boundary in sections 24 and 25, Township 3 South, Range 2 West, accepted February 5, 2013, and officially filed February 7, 2013, for Group 762, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

A person or party who wishes to protest against any of these surveys must file a written protest with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona, 85004–4427. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

Stephen K. Hansen,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2013–08175 Filed 4–8–13; 8:45 am]

BILLING CODE 4310–32–P

INTERNATIONAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35), the Commission intends to seek approval from the Office of Management and Budget to survey complainants who obtained exclusion orders that are currently in effect from the U.S. International Trade Commission following proceedings under 19 U.S.C. 1337. The survey will seek feedback on the effectiveness of the exclusion orders in stopping certain imports. Comments from the public concerning the proposed information collection are requested in accordance with 5 CFR 1320.8(d).

DATES: To be assured of consideration, written comments must be received not later than sixty (60) days after publication of this notice.

ADDRESSES: Signed comments should be submitted to Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E

Street SW., Washington, DC 20436. Comments may be submitted in paper form by mail or by hand delivery/courier. Comments may also be submitted through the Electronic Docket Information System (EDIS) at *http://www.usitc.gov/secretary/edis.htm.* All comments should reference the docket number MISC–042.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed survey questionnaires that the Commission will submit to the Office of Management and Budget for approval are posted on the Commission's Internet server at *http://pubapps2.usitc.gov/comments-misc-042* or may be obtained from Anne Goalwin, Acting Director, Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments are solicited as to (1) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond.

Summary of the Proposed Information Collection

In its FY 2013 Performance Plan (available on the agency's Internet server at *http://www.usitc.gov/press_room/documents/budget_2013.pdf*), the Commission set the goal of obtaining feedback on the effectiveness of its exclusion orders issued under 19 U.S.C. 1337. The proposed survey is directed to entities that have obtained an outstanding exclusion order, and asks each such entity that responds to the survey to: (i) Evaluate whether the exclusion order has prevented the importation of items covered by the order; (ii) if not, estimate what are the absolute value and effect in the United States market of such imports; and (iii) indicate what experience it has had in policing the exclusion order, particularly with respect to any investigatory efforts and any interactions with U.S. Customs and Border Protection.

Responses to the survey are voluntary. The Commission intends to permit electronic submission of responses to the survey and estimates that the survey will require less than one hour to complete.

Issued: April 4, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–08223 Filed 4–8–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Docket No. 2949]

Certain Linear Actuators; Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Linear Actuators,* DN 2949; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Okin America, Inc. and Dewert Okin GmbH on April 3, 2013. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain linear actuators. The complaint names as respondents Changzhou Kaidi Electrical Co. Ltd. of China and Kaidi LLC of MI.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 2949'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

Issued: April 4, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–08184 Filed 4–8–13; 8:45 am]

BILLING CODE 7020–02–P

[4] Handbook for Electronic Filing Procedures: http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Notice is hereby given that on December 20, 2012, a proposed Consent Decree in *United States* v. *Authority for the Port of The Americas,* Civ. A. No. 12–2033(JAG), was lodged with the United States Court for the District of Puerto Rico.

The Complaint filed in this action alleges that the Authority for the Port of Las Americas, Puerto Rico (''the Authority''), violated various provisions of a permit issued under Section 404 of the Clean Water Act, 33 U.S.C. 1344, and the Rivers and Harbor Act, 33 U.S.C. 403, in connection with development and construction of the port facilities. Pursuant to the attached proposed Consent Decree, the Authority would pay a civil penalty of $150,000, and will deposit $4,200,000.00 into an escrow account for use for In-Lieu-Fee-Mitigation over a period of three (3) years.

The U.S. Attorney's Office will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to Isabel Muñoz-Acosta, Assistant U.S. Attorney, and either emailed to *isabel.munoz@usdoj.gov* or mailed to U.S. Attorney's Office, Torre Chardón, Suite 1201, 350 Carlos Chardón Street, San Juan, Puerto Rico 00918, and should refer to *United States* v. *Authority for the Port of The Americas,* Civil No. 12–2033(JAG).

During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.*

A copy of the Consent Decree may also be obtained in the U.S. Attorney's Office, located at Torre Chardón, Suite 1201, 350 Carlos Chardón Street, San Juan, PR 00918.

Isabel Muñoz-Acosta, Assistant U.S. Attorney, USDC–PR #128302, Torre Chardón, Suite 1201, 350 Carlos Chardón Street, San Juan, Puerto Rico 00918, Telephone: (787) 766–5656, Facsimile: (787) 766–6219.

Rosa Emilia Rodríguez-Vélez,

United States Attorney.

[FR Doc. 2013–08208 Filed 4–8–13; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Amendment to Consent Decree Under the Clean Water Act

On April 4, 2013, the Department of Justice lodged with the United States District Court for the Eastern District of Virginia a proposed Second Amendment to the Consent Decree previously entered in *United States and Commonwealth of Virginia* v. *Hampton Roads Sanitation District,* Civil Action No. 2:09-cv-481 (''Second Amendment'').

Hampton Roads Sanitation District (''HRSD'') and the Localities [1] are evaluating the potential benefits and feasibility of regionalization and consolidation of the Localities' sewage collection systems under a single regional entity, HRSD. Presently, HRSD generally owns and operates the large interceptor force mains and related pumping stations, as well as the sewage treatment plants, and the Localities generally own and operate the local sewage collection lines, many of which are gravity lines, and associated pumping stations. The proposed Second Amendment provides that the Regional Wet Weather Management Plan, originally due on November 26, 2013, will be due no later than October 1, 2016, so that HRSD and the Localities will have time to evaluate and, if appropriate, to implement the transfer of Locality sewer systems to HRSD. The proposed Second Amendment also sets forth a phased sequence and schedule for the decision-making process of HRSD and the Localities as they consider regionalization and consolidation of the Localities' sewage collection systems under a single regional entity, HRSD, and for the transfer of Locality assets should regionalization proceed.[2] Finally, HRSD commits in the Second Amendment to implement an additional 18 capital projects, with an estimated cost of approximately $60 million, to continue to improve local water quality notwithstanding the extension.

The publication of this notice opens a period for public comment on the proposed Second Amendment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *Hampton Roads Sanitation District,* D.J. Ref. No.90–5–1–1–09125. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

[1] The Localities are the thirteen municipal and county governments that collect and convey wastewaters to the HRSD system for further conveyance and treatment at the HRSD sewage treatment plants.

[2] The Localities are not parties to the consent decree and are not subject to the jurisdiction of the Court. It is anticipated that HRSD and the Localities will evaluate jointly the consolidation of the sewer systems, pumping stations, and other appurtenances, and that each Locality will need to elect to transfer assets to HRSD as part of any regionalization process.

To submit comments:	Send them to:
By email ...	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Second Amendment may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Second Amendment upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $ 3.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–08219 Filed 4–8–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,129; TA–W–82,129A]

Boise White Paper, LLC, A Subsidiary of Boise Paper Holdings, LLC, Including On-Site Leased Workers From Guardsmark Security, Warner Enterprises, Utilizeit, Abb, Inc., Hamer Electric, Mitech, and Anne Elisabeth Elsey, St. Helens, OR; Boise White Paper, LLC, A Subsidiary of Boise Paper Holdings, LLC, Vancouver, WA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 11, 2013, applicable to workers and former workers of Boise White Paper, LLC, a subsidiary of Boise Paper Holdings, LLC, St. Helens, Oregon (Boise-St.Helens). The Department's Notice of determination was published in the **Federal Register** on February 6, 2013 (78 FR 8590). Workers are engaged in activities related to the production of paper.

Based on information provided in a later-filed petition, the Department reviewed the certification for Boise-St. Helens.

New information provided by the company official revealed that the subject worker group includes workers at an affiliated Vancouver, Washington facility who supplied logistical and customer support services for Boise-St.Helens. Therefore, the Department is amending this certification to include workers of Boise White Paper, LLC, Vancouver, Washington (TA–W–82,129A).

The amended notice applicable to TA–W–82,129 is hereby issued as follows:

All workers of Boise White Paper, LLC, a subsidiary of Boise Paper Holdings, LLC, including on-site leased workers from Guardsmark Security, ABB, Inc., Warner Enterprises, UtilizeIT, Hamer Electric, MiTech, and Anne Elisabeth Elsey, St. Helens, Oregon (TA–W–82,129) and all workers of Boise White Paper, LLC, a subsidiary of Boise Paper Holdings, LLC, Vancouver, Washington (TA–W–82,129A), who became totally or partially separated from employment on or after November 2, 2011 through January 11, 2015, and all workers in the group threatened with total or partial separation from employment on January 11, 2013 through January 11, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 26th day of March, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–08132 Filed 4–8–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,432]

G4 Products, LLC a Subsidiary of G4 Holdings, Inc. Including Workers Whose Wages are Paid Under CPS Ventures, LLC, Crestline, Ecoeverywhere, LLC, G4 Services, LL, Geiger Brothers, Geiger Group, Livgeiger, and Sun Graphix and Including On-Site Leased Workers from OSW and Maine Staffing Group Lewiston, ME; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 23, 2012, applicable to workers and former workers of G4 Products, LLC, a subsidiary of G4 Holdings, Inc., including on-site leased workers of OSW and Maine Staffing Group, Lewiston, Maine (G4 Products). The Department's Notice of determination was published in the **Federal Register** on May 17, 2012 (77 FR 29364). The workers are engaged in activities related to the production of paper based calendars, journals, planners, address books, and stationary products.

Based on information provided in a later-filed petition, the Department reviewed the certification for G4 Products.

Additional information provided by the company official revealed that the subject worker group includes workers at the G4 Products, Lewiston, Maine facility whose wages are paid under CPS Ventures, LLC, Crestline, ECOeverywhere, LLC, G4 Services, LLC, Geiger Brothers, Geiger Group, Livgeiger, LLC, and Sun Graphix. The subject worker group does not, however, include workers of Geiger O'Cain, LLC (doing business as Geiger Carolinas).

The intent of the Department's certification is to include all workers at the G4 Products, Lewiston, Maine facility who have met the appropriate TAA criteria. Therefore, the Department is amending this certification to include workers whose wages are paid under CPS Ventures, LLC, Crestline, ECOeverywhere, LLC, G4 Services, LLC, Geiger Brothers, Geiger Group, Livgeiger, LLC, and Sun Graphix.

The amended notice applicable to TA–W–81,432 is hereby issued as follows:

All workers of G4 Products, LLC, a subsidiary of G4 Holdings, Inc., including workers whose wages are paid under CPS Ventures, LLC, Crestline, ECOeverywhere, LLC, G4 Services, LLC, Geiger Brothers, Geiger Group, Livgeiger, LLC, and Sun Graphix, and including on-site leased workers from OSW and Maine Staffing Group, Lewiston, Maine, who became totally or partially separated from employment on or after March 19, 2011 through April 23, 2014, and all workers in the group threatened with total or partial separation from employment on April 23, 2012 through April 23, 2014, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 25th day of March, 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–08133 Filed 4–8–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of March 18, 2013 through March 22, 2013.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,427	VT Fleece Co., Fleece to Please	Hyde Park, VT	February 6, 2012.
82,441	OAI Electronics, LLC, Adecco, Resource Manufacturing and Bridge Employment Services.	Tulsa, OK	February 8, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,124	Brunswick Corporation, Boat Group, Aerotek	Knoxville, TN	November 1, 2011.
82,271	Nokia Siemens Networks US, LLC, Nokia Siemens Networks, B.V.	Arlington Heights, IL	November 18, 2011.
82,355	Triumph Aerostructures, Vought Aircraft Division, Aerostructures Contract Employees, etc.	Dallas, TX	January 17, 2012.
82,355A	Triumph Aerostructures, Vought Aircraft Division, Aerostructures Contract Employees, etc.	Grand Prairie, TX	October 7, 2012.
82,425	IBM Corporation, As Delivery/Communications Sector, 6C Division, ACT 1, Artech, etc.	Southbury, CT	February 6, 2012.
82,432	Flextronics America, LLC, fka Solectron, Flextronics International USA, Aerotek Commercial Staffing.	Creedmoor, NC	August 6, 2012.
82,439	StatSpin, Inc., d/b/a Iris Sample Processing, Kelly Services and Microtech.	Westwood, MA	February 7, 2012.
82,458	REC Silicon, Inc., Express Employment Professionals, REC Solar Grade Silicon LLC.	Moses Lake, WA	February 12, 2012
82,469.	Thermo Fisher Scientific—Matrix Technologies, LLC, 22 Friars Drive, Micro Tech.	Hudson, NH	January 16, 2012.
82,477	Motorola Mobility, Inc., The Credit Management Department, Google, Inc.	Libertyville, IL	February 14, 2012.
82,477A	Motorola Mobility, Inc., The Credit Management Department, Google, Inc.	Plantation, FL	February 14, 2012.
82,494	United Parcel Service, Inc., Des Moines Billing Site	Des Moines, IA	March 16, 2013.
82,528	The Nielsen Company (US), LLC, Monitor Plus Systems Control Department, A.C. Nielsen Company LLC.	Shelton, CT	February 25, 2012.
82,552	Ficosa North America Corporation, Ficosa International	Berne, IN	March 11, 2012.
82,567	CyOptics, Inc., Express Employment Professionals and Aerotek.	Breinigsville, PA	March 15, 2012.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,462	Hydratec, Inc.	Baltimore, MD	February 13, 2012.

The following certifications have been issued. The requirements of Section 222(f) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,484	SolarWorld Industries America, Randstad	Hillsboro, OR	December 6, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,351	Jensen Promotional Items, Inc	Albemarle, NC	
82,406	360 Enterprises, Inc., DBA Textlinkbrokers.com, National PEO, LLC.	Mesa, AZ	

TA–W No.	Subject firm	Location	Impact date
82,409	Dominion Energy Kewaunee, Inc., Dominion Resources, Inc	Kewaunee, WI	
82,431	Walterboro Veneer (Plant H1), Shaw Industries, Inc	Walterboro, SC	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued in cases where these petitions were not filed in accordance with the requirements of 29 C.F.R. 90.11. Every petition filed by workers must be signed by at least three individuals of the petitioning worker group. Petitioners separated more than one year prior to the date of the petition cannot be covered under a certification of a petition under Section 223(b), and therefore, may not be part of a petitioning worker group. For one or more of these reasons, these petitions were deemed invalid.

TA–W No.	Subject firm	Location	Impact date
82,430	Genuent IT Fluency, Also known as Genuent, Segula Technologies.	Webster, NY	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
82,460	Recycling and Treatment Technologies of Baltimore, LLC, Magnus International Group, Steel Sparrows Point LLC.	Sparrows Point, MD	

I hereby certify that the aforementioned determinations were issued during the period of March 18, 2013 through March 22, 2013. These determinations are available on the Department's Web site tradeact/taa/taa_search_form.cfm under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: March 26, 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–08136 Filed 4–8–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 19, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 19, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 27th day of March 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[23 TAA petitions instituted between 3/18/13 and 3/22/13]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82566	Eastman/Solutia (Union)	Springfield, MA	03/18/13	03/15/13
82567	CyOptics, Inc. (Company)	Breinigsville, PA	03/18/13	03/15/13

APPENDIX—Continued

[23 TAA petitions instituted between 3/18/13 and 3/22/13]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82568	Homeward Residentiall, formerly American Home Serv (State/One-Stop).	Jacksonville, FL	03/18/13	03/15/13
82569	Abbott Ross Division (Workers)	Altavista, VA	03/18/13	03/07/13
82570	LexisNexis/Matthew Bender (Company)	Charlottesville, VA	03/19/13	03/18/13
82571	LexisNexis/Matthew Bender (Company)	Albany, NY	03/19/13	03/18/13
82572	Hasbro Games (Union)	East Longmeadow, MA	03/19/13	03/15/13
82573	Hewlett Packard Company (New Version) (Company)	Palo Alto, CA	03/19/13	03/18/13
82574	Hewlett-Packard Company (Company)	Palo Alto, CA	03/19/13	03/18/13
82575	Compucom Systems, Inc. (State/One-Stop)	Dallas, TX	03/19/13	03/15/13
82576	Global Functions of Hewlett Packard Company (Company)	Palo Alto, CA	03/20/13	03/19/13
82577	Hewlett Packard Company (Company)	Palo Alto, CA	03/20/13	03/19/13
82578	Hewlett Packard Software (Company)	Palo Alto, CA	03/20/13	03/19/13
82579	Resolute Forest Products (Company)	Calhoun, TN	03/20/13	03/19/13
82580	Revstone Greenwood Forgings (Company)	Greenwood, SC	03/20/13	03/07/13
82581	West Point Home LLC—Wagram Division Office (Company).	Wagram, NC	03/21/13	03/20/13
82582	Standard Motor Products (Company)	Independence, KS	03/21/13	03/20/13
82583	Chromalloy (State/One-Stop)	Gardena, CA	03/21/13	03/20/13
82584	Nanosolar, Inc. (State/One-Stop)	San Jose, CA	03/22/13	03/07/13
82585	Phillips Lightolier (formerly Genlyte Group) (State/One-Stop).	Fall River, MA	03/22/13	03/22/13
82586	AAR Mobility Systems (Union)	Cadillac, MI	03/22/13	02/28/13
82587	McConway & Torley Corporation (Union)	Kutztown, PA	03/22/13	03/21/13
82588	Katana Summit, LLC (State/One-Stop)	Ephrata, WA	03/22/13	03/15/13

[FR Doc. 2013–08134 Filed 4–8–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,387]

Eastman Kodak Company, IPS—Dayton Location, Including On-site Leased Workers From Adecco, Dayton, Ohio; Notice of Termination of Reconsideration Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, a reconsideration investigation was initiated in on August 1, 2012 by the Department of Labor on behalf of workers and former workers of Eastman Kodak Company, IPS—Dayton Location, including on-site leased workers from Adecco, Dayton, Ohio.

The worker group on whose behalf the request for reconsideration was filed is eligible to apply for Trade Adjustment Assistance under an amended certification (TA–W–74,813A) which was issued on March 19, 2013. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 26th day of March, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–08137 Filed 4–8–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0009]

Presence Sensing Device Initiation (PSDI) Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Presence Sensing Device Initiation (PSDI) Standard (29 CFR 1910.217(h)).

DATES: Comments must be submitted (postmarked, sent, or received) by June 10, 2013.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0009, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2010–0009) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Description of the requirements. A number of paragraphs in the Standard contain paperwork requirements. These requirements include: Certifying brake-monitor adjustments, alternatives to photoelectric presence sensing devices (PSDs), safety system design and installation, and worker training; annual recertification of safety systems; establishing and maintaining the original certification and validation records as well as the most recent recertification and revalidation records; affixing labels to test rods and to certified and recertified presses; and notifying an OSHA-recognized third-party validation organization when a safety system component fails, the employer modifies the safety system, or a point-of-operation injury occurs.

Use and purpose of the requirements. Requiring employers to certify brake-monitor adjustments, alternatives to photoelectric PSDs, and safety system design and installation, and to recertify safety systems annually, provides the employer, systems engineers, maintenance personnel, and other workers with reliable information regarding the status and operating characteristics of the presses, which they can use to determine that the systems are operating according to the requirements of the Standard. The training certification requirement assures employers that workers receive the training specified by the Standard at the required frequencies and, therefore, can safely operate a PSDI-equipped mechanical power press. Specifying that employers establish and maintain for each press the original certification and validation records, as well as the most recent recertification and revalidation records, allows employers, engineers, maintenance personnel, and other workers to determine if the presses are operating within required specifications, thereby ensuring that the presses remain in safe operating condition.

Having employers affix labels to test rods provides information to workers about the minimum object sensitivity of the sensing field, thereby allowing them to use the test rods in determining that a field is operating correctly. The provision specifying that employers affix labels to certified and recertified presses gives assurance to employers and workers that the presses meet the requirements of the Standard and, therefore, that workers can operate them safely.

Requiring employers to notify an OSHA-recognized third-party validation organization when a safety system component fails, or a point-of-operation injury occurs, permits these organizations to identify and correct design problems in the safety systems. Having employers inform these organizations of modifications made to safety systems allows the organizations to review the modifications and determine if the presses will continue to operate safely.

By complying with these paperwork requirements, employers ensure that PSDI-equipped mechanical power presses are in safe working order, thereby preventing severe injury and death to press operators and other workers who work near this equipment. In addition, these records provide the most efficient means for an OSHA compliance officer to determine that an employer performed the requirements and that the equipment is safe.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

To date, OSHA has not recognized a third-party organization to validate employer and manufacturer certifications that their PSDI equipment and practices meet the requirements of the Standard. Therefore, the Agency cannot attribute burden hours and cost to the paperwork requirements of the Standard.

OSHA is proposing that OMB approve the information collection requirements specified by the Standard so that it can enforce these requirements if employers obtain third-party certification/validation; thus, the Agency reports no program changes or adjustments and requests that it be allowed to retain its previous estimate of one burden hour should the requirements of the standard be implemented.

The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the Standard.

Type of Review: Extension of a currently approved collection.

Title: Presence Sensing Device Initiation (PSDI) (29 CFR 1910.217(h)).

OMB Control Number: 1218–0143.

Affected Public: Business or other for-profits; Not-for-profit organizations;

Federal Government; State, Local, or Tribal Government.

Number of Respondents: 0.

Total Responses: 0.

Frequency: Initially; Annually; On occasion.

Average Time per Response: 0.

Estimated Total Burden Hours: 1.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0009). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627). Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on April 3, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–08183 Filed 4–8–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0016]

Derricks; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in its Standard on Derricks (29 CFR 1910.181).

DATES: Comments must be submitted (postmarked, sent, or received) by June 10, 2013.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2010–0016, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2010–0016) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act

also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The Standard specifies several paperwork requirements. The following sections describe who uses the information collected under each requirement as well as how they use it. The purpose of these requirements is to prevent death and serious injuries among workers by ensuring that the derrick is not used to lift loads beyond its rated capacity and that all the ropes are inspected for wear and tear.

Paragraph (c)(1) requires that for permanently installed derricks a clearly legible rating chart must be provided with each derrick and securely affixed to the derrick. Paragraph (c)(2) requires that for non-permanent installations the manufacturer must provide sufficient information from which capacity charts can be prepared by the employer for the particular installation. The capacity charts must be located at the derrick or at the jobsite office. The data on the capacity charts provide information to the workers to assure that the derricks are used as designed and not overloaded or used beyond the range specified in the charts.

Paragraph (f)(2)(i)(d) requires that warning or out of order signs must be placed on the derrick hoist while adjustments and repairs are being performed.

Paragraph (g)(1) requires employers to thoroughly inspect all running rope in use, and to do so at least once a month. In addition, before using rope that has been idle for at least a month, it must be inspected as prescribed by paragraph (g)(3) and a record prepared to certify that the inspection was done. The certification records must include the inspection date, the signature of the person conducting the inspection, and the identifier of the rope inspected. Employers must keep the certification records on file and available for inspection. The certification records provide employers, workers, and OSHA compliance officers with assurance that the ropes are in good condition.

Disclosure of Charts under paragraph (c) and Inspection Certification Records under paragraph (g). The Standard requires the disclosure of charts and inspection certification records if requested during an OSHA inspection.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Derricks (29 CFR 1910.181). The Agency is requesting that it retain its previous estimate of 1,356 burden hours. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Derricks (29 CFR 1910.181).

OMB Control Number: 1218–0222.

Affected Public: Business or other for-profits; Federal Government; State, Local or Tribal Government.

Number of Respondents: 500.

Frequency: On occasion.

Average Time per Response: Ranges from one minute (.02 hour) to maintain rating load charts to 13 minutes (.22 hour) to inspect ropes and to develop and maintain the inspection certification record.

Estimated Total Burden Hours: 1,356.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (OSHA Docket No. OSHA–2010–0016). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled ''Addresses''). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on April 3, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–08181 Filed 4–8–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0020]

Additional Requirements for Special Dipping and Coating Operations (Dip Tanks); Extension of the Office of Management and Budget's Approval of the Information Collection (Paperwork) Requirement

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirement specified in its Standard on Dipping and Coating Operations (Dip Tanks) (29 CFR 1910.126(g)(4)).

DATES: Comments must be submitted (postmarked, sent, or received) by June 10, 2013.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2010–0020, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA Docket No. OSHA–2010–0020). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The Standard on Dipping and Coating Operations (29 CFR 1910.126(g)(4)) requires employers to post a conspicuous sign near each piece of electrostatic detearing equipment that notifies employees of the minimum safe distance they must maintain between goods undergoing electrostatic detearing and the electrodes or conductors of the equipment used in the process. Doing so reduces the likelihood of igniting the explosive chemicals used in electrostatic detearing operations.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirement is necessary for the proper performance of the Agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirement, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirement contained in the Standard on Additional Requirements for Special Dipping and Coating Operations (Dip Tanks) (29 CFR 1910.126(g)(4)). The Agency is requesting to retain its previous burden hour estimate of one (1) hour. This provision requires the employer to determine how far away goods being electrostatically deteared should be separated from electrodes or conductors. This distance is called the ''safe distance.'' This minimum distance must be displayed conspicuously on a sign located near the equipment.

OSHA has determined that where electrostatic equipment is being used, the information has already been ascertained and that the ''safe distance'' has been displayed on a sign in a permanent manner. The Agency does not believe that this equipment is currently being manufactured or used due to changes in technology. OSHA does not believe there is any burden associated with the information collection requirement in the provision and is, therefore, estimating zero burden hours and no cost to the employer.

The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved information collection.

Title: Additional Requirements for Special Dipping and Coating Operations (Dip Tanks) (29 CFR 1910.126(g)(4)).

OMB Control Number: 1218–0237.

Affected Public: Business or other for-profits; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 1.

Frequency of Recordkeeping: On occasion.

Total Responses: 1.

Average Time Per Response: 0.

Estimated Total Burden Hours: 1.

Estimated Cost (Operation and Maintenance). $0.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (OSHA Docket No. OSHA–2010–0020). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on April 3, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–08182 Filed 4–8–13; 8:45 am]

BILLING CODE 4510–26–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Paperwork Reduction Act; 30-Day Notice

AGENCY: Office of National Drug Control Policy.

The Office of National Drug Control Policy (ONDCP) proposes the extension of three existing data collection instruments used in the production of ONDCP's National Youth Anti-Drug Media Campaign advertising and Media Campaign advertising tracking.

Purpose: The National Youth Anti-Drug Media Campaign is in the process of extending three data collection instruments. These data collection instruments—pre-production qualitative (or ''focus group'') testing of creative advertising concepts (OMB 3201–0011), pre-broadcast quantitative (or ''copy'') testing of developed advertising (OMB 3201–0006), and a tracking study to measure advertising effectiveness (OMB 3201–0010)—are critical to the continuity and improvement of the Media Campaign.

Type of Collections: OMB 3201–0011–Qualitative Research—Focus groups; OMB 3201–0006—Copy testing—15-minute online interviews; OMB 3201–0010—Tracking Study—15-minute online interviews.

Title of Collections: See above.

Frequency: OMB 3201–0011—Qualitative Research—Quarterly; OMB 3201–0006—Copy testing—Quarterly; OMB 3201–0010—Tracking Study—Weekly.

Affected Public: Teenagers and adult influencers of teenagers.

Estimated Burden: OMB 3201–0011—Qualitative Research—$19,800; OMB 3201–0006—Copy testing—$16,500; OMB 3201–0010—Tracking Study—$37,700.

Comments: Address comments within 30-days to Andrew Hertzberg, Executive Office of the President, Office of National Drug Control Policy, Washington, DC 20503; by email at *AHertzberg@ondcp.eop.gov;* or by fax at (202) 395–6721. For further information, contact Mr. Hertzberg at (202) 395–6353.

Signed in Washington, DC on April 3, 2013.

Daniel R. Petersen,

Deputy General Counsel.

[FR Doc. 2013–08154 Filed 4–8–13; 8:45 am]

BILLING CODE 3180–02–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Establish an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request approval of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing an opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Interested persons are invited to send comments regarding the burden or any other aspect of this collection of information requirements by June 10, 2013.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by email to *splimpto@nsf.gov.*

Comments: Written comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; or (d) ways to minimize the burden of the collection of information on those

who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title: Microbusiness, Innovation, Science & Technology Survey.

OMB Approval Number: 3145–New.

Expiration Date: Not applicable.

Overview of This Information Collection

The National Center for Science and Engineering Statistics (NCSES) of the National Science Foundation (NSF) plans to conduct a pilot of the new Microbusiness Innovation Science & Technology (MIST) Survey. MIST will collect R&D and other innovation-related data from small, independent U.S. microbusinesses with fewer than five employees. In addition to general information—primary business activity, year business was formed, and number of employees—this survey will collect the following:

- Business data on R&D activity and funding,
- Number of employees and R&D employees,
- Sales of goods and services,
- Operating agreements and licensing activities with universities, other businesses, and government agencies (federal, state, and local),
- Experience with several forms of technology transfer,
- Use and importance of patents and other forms of intellectual property,
- Sources of technical knowledge, and
- Demographic and entrepreneurial characteristics of the business owner.

Consult With Other Agencies & the Public

NSF has consulted with other agencies and has not found another project similar in scope. A request for public comments will be solicited through announcement of data collection in the **Federal Register**.

Background

NCSES is broadly tasked with measuring the role of science and technology (S&T) in the United States' economy and abroad. A major component of this activity is its sponsorship of the Business Research and Development (R&D) Innovation Survey (BRDIS), which collects information annually on research and development and related activities performed within the United States by industrial firms. In 2004 the National Academy of Sciences' Committee on National Statistics (CNSTAT) reviewed NSF's portfolio of R&D surveys and recommended that NSF explore ways to measure firm innovation and investigate the incidence of R&D activities in growing sectors, such as small business enterprises, not currently covered by BRDIS. BRDIS collects information annually on research and development and related activities performed within the United States by industrial firms. However, businesses with fewer than five employees are excluded from this survey. MIST will fill that void.

Respondents: Establishments (Typically owners or senior level managers of microbusinesses).

Number of Principal Investigator Respondents: 1,600.

Burden on the Public: 400 total hours.

Dated: April 4, 2013.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2013–08177 Filed 4–8–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 USC U.S.C. 3506(c)(2)(A)), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation invites the general public and other Federal agencies to take this opportunity to comment on this information collection. This is the second notice for public comment; the first was published in the **Federal Register** at 78 FR 1884 and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725–17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title: Survey of Earned Doctorates.

OMB Control Number: 3145–0019.

Summary of Collection: Established within the National Science Foundation by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950, as amended, the National Center for Science and Engineering Statistics (NCSES) serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by

practitioners, researchers, policymakers, and the public. The Survey of Earned Doctorates (SED) is part of an integrated survey system that meets the human resources part of this mission.

The SED has been conducted annually since 1958 and is jointly sponsored by six Federal agencies in order to avoid duplication. It is an accurate, timely source of information on an important national resource—highly educated individuals. Data are obtained via paper questionnaire or Web survey from each person earning a research doctorate at the time they receive the degree. Graduate Schools help distribute the Survey of Earned Doctorates to their graduating doctorate recipients. Data are collected on the doctorate recipient's field of specialty, educational background, sources of support in graduate school, debt level, postgraduation plans for employment, and demographic characteristics.

The survey will be collected in conformance with the National Science Foundation Act of 1950, as amended, and the Privacy Act of 1974. Responses from individuals are voluntary. NSF will ensure that all individually identifiable information collected will be kept strictly confidential and will be used for research or statistical purposes, analyzing data, and preparing scientific reports and articles.

Need and Use of the Information: The Federal government, universities, researchers, and others use the information extensively. The National Science Foundation, as the lead agency, publishes statistics from the survey in several reports, but primarily in the annual publication series, ''Science and Engineering Doctorate Awards'' and the Summary Report, ''Doctorate Recipients from U.S. Universities.'' These reports are available on the Web. NSF uses this information to prepare congressionally mandated reports such as *Science and Engineering Indicators* and *Women, Minorities and Persons with Disabilities in Science and Engineering.*

Description of Respondents: Individuals.

Number of Respondents: 54,000.

Frequency of Responses: Annually.

Total Burden Hours: 29,500.

Dated: April 3, 2013.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2013–08157 Filed 4–8–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent to Establish an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 et seq.), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed information collection. The NSF will publish periodic summaries of the proposed projects.

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 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.

DATES: Written comments on this notice must be received by May 9, 2013, to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

For Additional Information or Comments: Contact Suzanne H. Plimpton, NSF Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Early Career Doctorates Survey

OMB Approval Number: 3145–NEW

Expiration Date: Not applicable.

Type of Request: Intent to seek approval for new information collection.

1. *Abstract:* Established within the NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950, as amended, the National Center for Science and Engineering Statistics (NCSES) serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public. The Early Career Doctorates Survey will become part of an integrated survey system that meets the human resources part of this mission.

The Early Career Doctorates Project was established to gather in-depth information about early career doctorates (ECD), including postdoctoral researchers (postdocs). Early career doctorates are critical to the success of the U.S. scientific enterprise and will influence U.S. and global scientific markets for years to come. Despite their importance, current surveys of this population are limited, and extant workforce studies are insufficient for all doctorates who contribute to the U.S. economy. The NSF's Survey of Earned Doctorates and the Survey of Doctorate Recipients are limited to individuals who received research doctorates from U.S. academic institutions, thereby excluding individuals who earned professional doctorates and those who earned doctorates from institutions outside the United States but are currently employed in the United States. The NSF's Survey of Graduate Students and Postdoctorates in Science and Engineering (GSS) provides aggregate level data for all postdocs and nonfaculty researchers regardless of where they earned the degree. However, the GSS is limited to science, engineering, and selected health (SEH) fields in U.S. academic institutions and their related research facilities and is collected at the program rather than the individual level.

Through its multi-year Postdoc Data Project, NCSES determined the need for and the feasibility of gathering information about postdocs and ECD working in the United States. Efforts to reliably identify and gather information about postdocs proved difficult due to substantial variation in how institutions characterize postdoc appointments. As a result, NCSES expanded the target population to include all individuals who earned their first doctorate within the past 10-years, defined as ECD. Expanding the population to doctoral degree holders ensures a larger, more consistent and reliable target population. Unique in scope, the key goals of the ECD Project are:

- To broaden the scope and depth of national statistics on the ECD population both U.S. degreed and non-

U.S. degreed, across employment sectors and fields of discipline.

• To collect nationally representative data from ECD that can be used by funding agencies, policy makers, and other researchers to better understand the labor markets and work experiences of recent doctorate recipients.

• To establish common definitions for different types of ECD (e.g., postdocs, junior faculty, and other nonfaculty researchers) that can be applied across and within employment sectors.

The current focus of the Early Career Doctorates Project is to conduct a survey of ECD working in three areas of employment: U.S. academic institutions, Federally Funded Research and Development Centers, and the National Institutes of Health Intramural Research Programs. NCSES, under generic clearance (OMB #3145–0174), has conducted a methodological study to test a data collection strategy that uses institutional contacts as the conduit for questionnaire dissemination to ECD in the above employment settings. This data collection strategy will be used in the survey of ECD (ECDS). The ECDS will be a two stage sample survey design.

Beginning in August 2013, NSF will collect lists of ECD from 201 institutions nationwide, then sample and survey 8,250 ECD from these lists. Sample members will be invited to participate in a 30-minute web-based questionnaire. The survey will cover: Educational achievement, professional activities, employer demographics, professional and personal life balance, mentoring, training and research opportunities, and career paths and plans. Participation in the survey is voluntary. All information will be used for statistical purposes only.

The NSF will publish statistics from the survey in several reports, including NCSES' *Science and Engineering Indicators* report. These reports will be made available in print and electronically on the NSF Web site. Restricted-use and public use data files will also be developed.

The survey will be collected in conformance with the Privacy Act of 1974 and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA). Responses from individuals are voluntary. The NSF will ensure that all individually identifiable information collected will be kept strictly confidential and will be used for research or statistical purposes, analyzing data, and preparing scientific reports and articles.

2. *Expected Respondents:* There are four types of respondents to the ECDS: institutional high authority (HA), list coordinator (LC), ECD contactor (EC), and individual ECD. At the first stage of sampling, the ECDS will select 201 institutions. At each institution, a high authority (HA) will authorize the institution's participation in the study, designate a list coordinator (LC) and an ECD contactor (EC), and provide a letter of support for the survey. The primary responsibility of the LC is to prepare a list of ECD employed at the institution. The LC will provide a list of all ECD, that is, individuals working at their institution who earned their first doctorate or doctorate-equivalent degree within the past 10 years, including postdocs, nonfaculty researchers, tenured or tenure-track faculty members.

In the second stage, the EC will notify the sampled individual of their selection and NSF will survey these individuals. The ECDS is intended to cover both U.S. and Non-U.S. degreed and U.S. and Non-U.S. Citizens. The ECDS will sample 8,250 ECD from 201 institutions. It is expected that 80% of the sampled ECDs will participate, yielding 6,600 ECD respondents.

3. *Estimate of Burden:* In the methodological study, HAs required 1 hour on average to complete these tasks while the LCs required an average of 6 hours to fulfill their duties. Assuming that 100% of the institutions will participate, we estimate the total HA burden to be 201 hours and total burden for LCs is 1,206 hours. Most ECs were able to complete this task in less than 30 minutes in the methodological study. It is expected that 5% of the sampled institutions will choose to have NSF contact the ECD directly without involvement of ECs. We estimate a total burden of 96 hours for ECs.

NCSES estimates that respondents will take 30 minutes on average to complete the questionnaire based on the time to completion data from the methodological study. Assuming 6,600 respondents, we estimate the total burden for ECD to be 3,300 hours.

Taking into account all four respondent types (HAs, LCs, ECs, and ECD), we estimate the total respondent burden to be 4,803 hours. The below table showed the estimated burden by stage and respondent type.

ECDS Estimated Burden by Stage and Respondent Type

Respondent type	Minutes per respondent	Number of respondents	Estimated total hours
Stage 1: Frame Creation			
High Authority (HA)	60	201	[1] 201
List Coordinator (LC)	360	201	[1] 1,206
Subtotal			1,407
Stage 2: ECD Survey			
ECD Contactor (EC)	30	201	[2] 96
Early Career Doctorate (ECD)	30	8,250	[3] 3,300
Subtotal			3,396
Total			4,803

[1] Assumes 100% of the institutions will participate.
[2] Assumes 5% of the institutions will have NSF contact the ECD directly without involvement of the EC.
[3] Assumes an 80% response rate.

Dated: April 3, 2013.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2013–08153 Filed 4–8–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Notice; Submission for OMB Review; Comment Request

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 78 FR 6141, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW. Room 10235, Washington, DC 20503, and to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 295, Arlington, VA 22230, or by email to *splimpton@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Under OMB regulations, the agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

ADDRESSES: Submit written comments to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 295, Arlington, VA 22230, or by email to *splimpton@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Call or write, Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 295, Arlington, VA 22230, or by email to *splimpton@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: Antarctic emergency response plan and environmental protection information.

OMB Approval Number: 3145–0180

Abstract: The NSF, pursuant to the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 et seq.) (''ACA'') regulates certain non-governmental activities in Antarctica. The ACA was amended in 1996 by the Antarctic Science, Tourism, and Conservation Act. On September 7, 2001, NSF published a final rule in the **Federal Register** (66 FR 46739) implementing certain of these statutory amendments. The rule requires non-governmental Antarctic expeditions using non-U.S. flagged vessels to ensure that the vessel owner has an emergency response plan. The rule also requires persons organizing a non-governmental expedition to provide expedition members with information on their environmental protection obligations under the Antarctic Conservation Act.

Expected Respondents. Respondents may include non-profit organizations and small and large businesses. The majority of respondents are anticipated to be U.S. tour operators, currently estimated to number twelve.

Burden on the Public. The Foundation estimates that a one-time paperwork and recordkeeping burden of 40 hours or less, at a cost of $500 to $1400 per respondent, will result from the emergency response plan requirement contained in the rule. Presently, all respondents have been providing expedition members with a copy of the Guidance for Visitors to the Antarctic (prepared and adopted at the Eighteenth Antarctic Treaty Consultative Meeting as Recommendation XVIII–1). Because this Antarctic Treaty System document satisfies the environmental protection information requirements of the rule, no additional burden shall result from the environmental information requirements in the proposed rule.

Dated: April 3, 2013.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2013–08161 Filed 4–8–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0059]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, opportunity to request a hearing, and to petition for leave to intervene, order.

DATES: Comments must be filed by May 9, 2013. A request for a hearing must be filed by June 10, 2013. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by April 19, 2013.

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and is publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2013–0059. You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0059. Address questions about NRC dockets to Carol

Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

• *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

• *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0059 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by any the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0059.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2013–0059 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in the NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to

MSHD.Resource@nrc.gov, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the following three factors in 10 CFR 2.309(c)(1): (i) The information upon which the filing is based was not previously available; (ii) the information upon which the filing is based is materially different from information previously available; and (iii) the filing has been submitted in a timely fashion based on the availability of the subsequent information.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Detroit Edision, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: December 21, 2012. A publicly available version is available under ADAMS Accession No. ML130040160.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise Fermi 2 Plant Operating License, Technical Specification (TS) Section 1.1, ''Definitions,'' Section 3.4.10, ''RCS Pressure and Temperature (P/T) Limits,'' and Section 5.6, ''Reporting Requirements,'' by replacing the existing reactor vessel heatup and cooldown rate limits and the P/T limit curves with references to the Pressure and Temperature Limits Report (PTLR) at Fermi 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes modify the TS by replacing references to existing reactor vessel heatup and cooldown rate limits and P/T limit curves with references to the PTLR. The proposed amendment also adopts the NRC approved methodology of the GEH Nuclear Energy Licensing Topical Report NEDC–33178P–A, Revision 1, for the preparation of the Fermi 2 P/T limit curves. In 10 CFR Part 50, Appendix G, requirements are established to protect the integrity of the Reactor Coolant Pressure Boundary in nuclear power plants. Implementing the NRC-approved methodology for calculating P/T limit curves and relocating those curves to the PTLR provides an equivalent level of assurance that Reactor Coolant Pressure Boundary integrity will be maintained, as specified in 10 CFR Part 50, Appendix G.

The proposed changes do not adversely affect accident initiators or precursors, and do not alter the design assumptions, conditions, or configuration of the plant or the manner in which the plant is operated and maintained. The ability of structures, systems, and components to perform their intended safety functions is not altered or prevented by the proposed changes, and the assumptions used in determining the radiological consequences of previously evaluated accidents are not affected.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change in methodology for calculating P/T limits and the relocation of those limits to the PTLR does not alter or involve any design basis accident initiators. Reactor Coolant Pressure Boundary integrity will continue to be maintained in accordance with 10 CFR Part 50, Appendix G, and the assumed accident performance of plant structures, systems and components will not be affected. These changes do not involve any physical alteration of the plant (i.e., no new or different type of equipment will be installed), and installed equipment is not being operated in a new or different manner. Thus, no new failure modes are introduced.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety. The proposed changes do not affect the function of the Reactor Coolant Pressure Boundary or its response during plant transients. By calculating the P/T limits using NRC-approved methodology, adequate margins of safety relating to Reactor Coolant Pressure Boundary integrity are maintained. The proposed changes do not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. There are no changes to setpoints at which protective actions are initiated, and the operability requirements for equipment assumed to operate for accident mitigation are not affected.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bruce R. Masters, DTE Energy, General Counsel—Regulatory, 688 WCB, One Energy Plaza, Detroit, MI 48226–1279.

NRC Branch Chief: Robert D. Carlson.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of application for amendments: September 28, 2012, as supplemented on February 15, 2013. A publicly available version is available under ADAMS Accession Nos. ML122860201 and ML13051A032, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendments would authorize an increase in the maximum power level from 3514 megawatts thermal (MWt) to 3951 MWt. The requested change, referred to as an extended power uprate (EPU), represents an increase of approximately 12.4 percent above the current licensed thermal power level.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below with the NRC staff's edits in square brackets:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The increase in power level does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change will increase the maximum authorized core power level for PBAPS [Peach Bottom Atomic Power Station] from the current licensed thermal power (CLTP) of 3514 megawatts thermal (MWt) to 3951 MWt. Evaluations and analyses of the nuclear steam supply system (NSSS) and balance of plant (BOP) structures, systems, and components (SSCs) that could be affected by the power uprate were performed in accordance [with] the approaches described in:

- NEDC–33004P–A (commonly called CLTR), Licensing Topical Report Constant Pressure Power Uprate, Revision 4,
- NEDC–32424P–A (commonly called ELTR1), Generic Guidelines for General Electric Boiling Water Reactor Extended Power Uprate, and
- NEDC–32523P–A (commonly called ELTR2), Generic Evaluations of General Electric Boiling Water Reactor Extended Power Uprate.

The evaluations concluded that all plant components, as modified, will continue to be capable of performing their design function at the proposed uprated core power level.

The PBAPS licensing and design bases, including PBAPS accident analyses, were also evaluated for the effect of the proposed power increase. The evaluation concluded that the applicable analysis acceptance criteria continue to be met.

Power level is not an initiator of any transient or accident; it is used as an input assumption to equipment design and accident analyses. The proposed change does not affect the release paths or the frequency of release for any accidents previously evaluated in the UFSAR [Updated Final Safety Analysis Report]. Structures, systems, and components required to mitigate transients remain capable of performing their design functions considering radiological consequences associated with the effect of the proposed EPU. The source terms used to evaluate the radiological consequences were reviewed and were determined to bound [plant] operation at EPU power levels. The results of EPU accident evaluations do not exceed NRC-approved acceptance limits.

The spectrum of postulated accidents and transients were reviewed and were shown to meet the regulatory criteria to which PBAPS is currently licensed. In the area of fuel and core design, the Safety Limit Minimum Critical Power Ratio (SLMCPR) and other Specified Acceptable Fuel Design Limits (SAFDLs) are still met. Continued compliance with the SLMPCR and other SAFDLs is confirmed on a cycle specific basis consistent with the criteria accepted by the NRC.

Challenges to the reactor coolant pressure boundary were evaluated at EPU conditions (pressure, temperature, flow, and radiation) and found to meet the acceptance criteria for allowable stresses. Adequate overpressure margin is maintained with the addition of one main steam safety valve.

Challenges to the containment were also evaluated. Containment and its associated cooling system continue to meet applicable regulatory requirements. The calculated post Loss of Coolant Accident (LOCA) suppression pool temperature decreases due to modifications and methodology changes and remain acceptable.

Radiological releases were evaluated and found to be within the regulatory limits of 10 CFR 50.67, [''Accident source term.'']

The modifications and methodology associated with the elimination of containment accident pressure credit do not change the design functions of the systems. By maintaining these functions they do not significantly increase the probability or consequences of an accident previously evaluated.

The non-safety related Replacement Steam Dryer (RSD) must function to maintain structural integrity and avoid generation of loose parts that may affect other SSCs. The RSD analyses demonstrate the structural integrity of the steam dryer is maintained at EPU conditions. Therefore, the RSD does not significantly increase the probability or consequences of an accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The increase in power does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change increases the maximum authorized core power level for PBAPS from the current maximum license thermal power of 3514 MWt to 3951 MWt. An evaluation of the equipment that could be affected by the power uprate has been performed. No new accident scenarios or equipment failure modes were identified. Due to the voluntary elimination of the need for containment accident pressure credit, the EPU safety analysis for primary containment response credits a modification to the residual heat removal system which involves a change in a safety-related equipment lineup. However, this modification and new line up does not result in a new type of accident. The full spectrum of accident considerations was evaluated and no new or different kinds of accidents were identified. For PBAPS, the standard evaluation methods outlined in CLTR, ELTR1, and ELTR2 were applied to the capability of existing or modified safety-related plant equipment. No new accidents or event precursors were identified.

All [SSCs] previously required for the mitigation of a transient remain capable of fulfilling their intended design functions with the addition of one main steam safety valve. The addition of the main steam safety valve does not adversely affect the main steam system nor create an accident or malfunction of a different kind. The proposed increase in power does not adversely affect safety-related systems or components and does not challenge the performance or integrity of any safety-related systems. The change does not adversely affect any current system interfaces or create any new interfaces that could result in an accident or malfunction of a different kind than was previously evaluated. Operating at the proposed EPU power level does not create any new accident initiators or precursors.

The modifications and methodology associated with the elimination of containment accident pressure credit do not change the design functions of the systems. The systems are not accident initiators and by maintaining their current functions they do not create the possibility of a new or different kind of accident.

The new RSD does not have any new design functions. RSD analyses demonstrate

the RSD will be capable of performing the design function of maintaining structural integrity. Therefore, there are no new or different kinds of accidents from those previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed increase in power does not involve a significant reduction in a margin of safety.

Based on the analyses of the proposed power increase, the relevant design and safety acceptance criteria will be met without a significant reduction in margins of safety. The analyses supporting EPU have demonstrated that the PBAPS [SSCs] are capable of safely performing at EPU conditions with the addition of one main steam safety valve. The analyses identified and defined the major input parameters to the [NSSS], analyzed NSSS design transients, and evaluated the capabilities of the primary containment, NSSS fluid systems, NSSS and [BOP], NSSS control systems and NSSS and BOP components, as appropriate. Radiological consequences of design basis events remain within regulatory limits and are not increased significantly. The analyses confirmed that NSSS and BOP SSCs are capable of achieving EPU conditions without significant reduction in margins of safety, with the modifications discussed in this application.

Analyses have shown that the integrity of primary fission product barriers will not be significantly affected as a result of the power increase.

Calculated loads on SSCs important to safety have been shown to remain within design allowables under EPU conditions for all design basis event categories, including with the addition of one main steam safety valve. Plant response to transients and accidents do not result in exceeding acceptance criteria.

As appropriate, the evaluations that demonstrate acceptability of EPU have been performed using methods that have either been reviewed and approved by the NRC staff, or that are in compliance with regulatory review guidance and standards established for maintaining adequate margins of safety. These evaluations demonstrate that there are no significant reductions in the margins of safety.

Maximum power level is one of the inherent inputs that determine the safe operating range defined by the accident analyses. The Technical Specifications ensure that PBAPS is operated within the bounds of the inputs and assumptions used in the accident analyses. The acceptance criteria for the accident analyses are conservative with respect to the operating conditions defined by the Technical Specifications. The engineering reviews performed for the constant pressure [EPU] confirm that the accident analyses criteria are met at the revised maximum allowable thermal power level of 3951 MWt. Therefore, the adequacy of the revised Facility Operating License and Technical Specifications to maintain the plant in a safe operating range is also confirmed, and the increase in maximum allowable power level does not involve a significant decrease in a margin of safety.

The modifications and methodology associated with the elimination of [containment accident pressure] credit do not change the design functions within the applicable limits. The systems are associated with accident or event response and do not significantly affect accident initiators by maintaining their current functions and they do not create the possibility of a new or different kind of accident. The proposed Technical Specifications associated with these modifications ensure that PBAPS is operated within the bounds of the inputs and assumptions used in the accident analyses.

The steam dryer is being replaced in order to ensure adequate margin to the established structural requirements is maintained. The new RSD does not have any new design functions and an analysis was performed to confirm it will be capable of maintaining its structural integrity. The power ascension test plan will verify that the RSD conservatively meets the vibration and stress requirements.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, and with the changes noted above in square brackets, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for Licensee: Mr. J. Bradley Fewell, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Kennett Square, PA 19348.

NRC Branch Chief: Meena K. Khanna.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Detroit Edision, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2)

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 1st day of April 2013.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in this Proceeding

Day	Event/Activity
0	Publication of *Federal Register* notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	The U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If the NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If the NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Day	Event/Activity
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2013–07957 Filed 4–8–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission [NRC–2013–0001]

DATE: Weeks of April 8, 15, 22, 29, May 6, 13, 2013.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of April 8, 2013

There are no meetings scheduled for the week of April 8, 2013.

Week of April 15, 2013—Tentative

There are no meetings scheduled for the week of April 15, 2013.

Week of April 22, 2013—Tentative

Monday, April 22, 2013

9:00 a.m. Meeting with the Department of Energy Office of Nuclear Energy (Public Meeting) (Contact: Brett Rini, 301–251–7615)

This meeting will be webcast live at the Web address—*www.nrc.gov*.

2:30 p.m. Discussion of Management and Personnel Issues (Closed—Ex. 2 and 6)

Tuesday, April 23, 2013

9:00 a.m. Briefing on the Status of Lessons Learned from the Fukushima Dai'ichi Accident (Public Meeting) (Contact: William D. Reckley, 301–415–7490)

This meeting will be webcast live at the Web address—*www.nrc.gov*.

Week of April 29, 2013—Tentative

There are no meetings scheduled for the week of April 29, 2013.

Week of May 6, 2013—Tentative

There are no meetings scheduled for the week of May 6, 2013.

Week of May 13, 2013—Tentative

There are no meetings scheduled for the week of May 13, 2013.

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* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *kimberly.meyer-chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

Dated: April 4, 2013.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2013–08362 Filed 4–5–13; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2013–57; Order No. 1690]

International Mail Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional International Reply Service Competitive Contract 3 Negotiated Service Agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 10, 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
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I. Introduction

On April 2, 2013, the Postal Service filed a notice pursuant to 39 CFR 3015.5 announcing that it has entered into an additional International Business Reply Service (IBRS) Competitive Contract 3 negotiated service agreement (Agreement).[1] It seeks to have the Agreement included within the existing IBRS Competitive Contract 3 product on grounds of functional equivalence to the baseline agreement filed in Docket No. CP2011–59.[2] Notice at 4–6.

II. Contents of Filing

Agreement. The Postal Service states that the Agreement is the successor to the agreement included in the IBRS Competitive Contract 3 product in Docket No. CP2012–18. *Id.* at 3.

[1] Notice of United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, April 2, 2013 (Notice).

[2] *See* Docket Nos. MC2011–21 and CP2011–59, Order No. 684, Order Approving International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, February 28, 2011.

The Postal Service filed the following material in conjunction with its Notice, along with public (redacted) versions of supporting financial information:

- Attachment 1—a redacted copy of the Agreement;
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 08–24; and
- Attachment 4—an application for non-public treatment of materials filed under seal.

Functional equivalency. The Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement filed in Docket No. CP2011–59 because it shares similar cost and market characteristics and meets criteria in Governors' Decision No. 08–24 concerning attributable costs. *Id.* at 4. The Postal Service further asserts that the functional terms of the Agreement and the baseline agreement are the same and the benefits are comparable. *Id.* It states that prices offered under the Agreement may differ from other IBRS 3 contracts due to differences in volumes, postage commitments, and pricing at the time of the Agreement's execution, but asserts that these differences do not alter the functional equivalency of the Agreement and the baseline agreement. *Id.* at 5. The Postal Service also identifies differences between the terms of the two agreements, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.[3] *Id.*

III. Notice of Proceeding

The Commission establishes Docket No. CP2013–57 for consideration of matters raised by the Postal Service's Notice. Interested persons may submit comments on whether the Agreement is consistent with the requirements of 39 CFR part 3020 subpart b, 39 CFR 3015.5, and the policies of 39 U.S.C. 3632, 3633, and 3642. Comments are due no later than April 10, 2013. The public portions of this filing can be accessed via the Commission's Web site, *http://www.prc.gov.* Information on how to obtain access to material filed under seal appears in 39 CFR part 3007.

The Commission appoints Lyudmila Y. Bzhilyanskaya to serve as Public Representative in the captioned proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2013–57 for consideration of the matters raised by the Postal Service's Notice.

2. Comments by interested persons in this proceeding are due no later than April 10, 2013.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Lyudmila Y. Bzhilyanskaya to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2013–08160 Filed 4–8–13; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, April 11, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

institution and settlement of injunctive actions;

institution and settlement of administrative proceedings;

other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: April 4, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–08316 Filed 4–5–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69285; File No. SR–NYSEMKT–2013–32]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing Certain Fees for NYSE MKT OpenBook, NYSE MKT Trades, and NYSE MKT BBO

April 3, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 22, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to implement certain fees for NYSE MKT OpenBook, NYSE MKT Trades, and NYSE MKT BBO, all of which will be operative on April 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish certain fees for NYSE MKT OpenBook, NYSE MKT Trades, and NYSE MKT BBO, all of which will be operative on April 1, 2013. The subsections below describe (1) The background on the current fees for these real-time products; (2) a description of the proposed fees for NYSE MKT OpenBook (excluding the proposed non-display fees); (3) the rationale for creating a new non-display usage fee structure; (4) the proposed fees for non-display use, which will include internal non-display use and managed non-display use; and (5) examples comparing the current and proposed fees.

Background on Current Fees

Currently, there are no fees for the equities data distributed via NYSE MKT OpenBook.[4] The current monthly fees for NYSE MKT BBO [5] and NYSE MKT Trades [6] are as follows:

Product	Access fee	Subscriber fees	Digital media enterprise fee	Redistribution fee
NYSE MKT BBO	$750	Professional: $10 Non-professional: $5 Per Quote: $0.005	N/A	N/A.
NYSE MKT Trades	750 [7]	$10	$5,000	$1,000 (operative May 1, 2013).

[7] One $750 monthly access fee entitles a vendor to receive both the NYSE MKT BBO data feed as well as the Exchange's NYSE MKT Trades data feed. *See supra* n.4.

While the majority of subscribers pay the subscriber fee for each display or non-display device that has access to NYSE MKT BBO and NYSE MKT Trades as set forth above, a small number of vendors and subscribers are eligible for, and have elected, the NYSE MKT Unit-of-Count Policy that was first introduced by the Exchange's affiliate, New York Stock Exchange LLC (''NYSE''), in 2009 [8] and is now also available for NYSE MKT BBO and NYSE MKT Trades.[9] Under this fee structure, these vendors and subscribers are subject to a fee structure that utilizes the following basic principles:

i. Vendors.

• ''Vendors'' are market data vendors, broker-dealers, private network providers, and other entities that control Subscribers' access to a market data product through Subscriber Entitlement Controls (as described below).

ii. Subscribers.

• ''Subscribers'' are unique individual persons or devices (which include both display and non-display devices) to which a Vendor provides a market data product. Any individual or device that receives the market data product from a Vendor is a Subscriber, whether the individual or device works for or belongs to the Vendor, or works for or belongs to an entity other than the Vendor.

• Only a Vendor may control Subscriber access to the market data product.

• Subscribers may not redistribute the market data product in any manner.

iii. Subscriber Entitlements.

• A Subscriber Entitlement is a Vendor's permitting a Subscriber to receive access to the market data product through an Exchange-approved Subscriber Entitlement Control.

• A Vendor may not provide access to a market data product to a Subscriber except through a unique Subscriber Entitlement.

• The Exchange will require each Vendor to provide a unique Subscriber Entitlement to each unique Subscriber.

• At prescribed intervals (normally monthly), the Exchange will require each Vendor to report each unique Subscriber Entitlement.

iv. Subscriber Entitlement Controls.

• A Subscriber Entitlement Control is the Vendor's process of permitting Subscribers' access to a market data product.

• Prior to using any Subscriber Entitlement Control or changing a previously approved Subscriber Entitlement Control, a Vendor must provide the Exchange with a demonstration and a detailed written description of the control or change and the Exchange must have approved it in writing.

• The Exchange will approve a Subscriber Entitlement Control if it allows only authorized, unique end-users or devices to access the market data product or monitors access to the market data product by each unique end-user or device.

• Vendors must design Subscriber Entitlement Controls to produce an audit report and make each audit report available to the Exchange upon request. The audit report must identify:

• Each entitlement update to the Subscriber Entitlement Control;

• The status of the Subscriber Entitlement Control; and

• Any other changes to the Subscriber Entitlement Control over a given period.

• Only the Vendor may have access to Subscriber Entitlement Controls.

Vendors must count every Subscriber Entitlement, whether it be an individual person or a device. Thus, the Vendor's count would include every person and device that accesses the data regardless of the purpose for which the individual or device uses the data.

Vendors must report all Subscriber Entitlements in accordance with the following:

i. In connection with a Vendor's external distribution of the market data product, the Vendor should count as one Subscriber Entitlement each unique Subscriber that the Vendor has entitled to have access to the market data product. However, where a device is dedicated specifically to a single individual, the Vendor should count only the individual and need not count the device.

ii. In connection with a Vendor's internal distribution of a market data product, the Vendor should count as one Subscriber Entitlement each unique individual (but not devices) that the Vendor has entitled to have access to such market data.

iii. The Vendor should identify and report each unique Subscriber. If a Subscriber uses the same unique Subscriber Entitlement to gain access to multiple market data services, the Vendor should count that as one Subscriber Entitlement. However, if a unique Subscriber uses multiple Subscriber Entitlements to gain access to one or more market data services (e.g., a single Subscriber has multiple

[4] *See* Securities Exchange Act Release No. 60123 (June 17, 2009), 74 FR 30192 (June 24, 2009) (File No. SR–NYSEAmex–2009–28) (''OpenBook Release''). Separate fees have been established for the NYSE MKT OpenBook options data. *See* Securities Exchange Act Release No. 68004 (Oct. 9, 2012), 77 FR 62582 (Oct. 15, 2012) (SR–NYSEMKT–2012–49).

[5] *See* Securities Exchange Act Release No. 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR–NYSEAmex–2010–35).

[6] *See* SR–NYSEMKT–2013–31.

[8] *See* Securities Exchange Act Release Nos. 62038 (May 5, 2010), 75 FR 26825 (May 12, 2010) (SR–NYSE–2010–22); 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR–NYSE–2010–30); and 59290 (Jan. 23, 2009), 74 FR 5707 (Jan. 30, 2009) (SR–NYSE–2009–05).

[9] *See supra* n.4.

passwords and user identifications), the Vendor should report all of those Subscriber Entitlements.

iv. Vendors should report each unique individual person who receives access through multiple devices as one Subscriber Entitlement so long as each device is dedicated specifically to that individual.

v. The Vendor should include in the count as one Subscriber Entitlement devices serving no entitled individuals. However, if the Vendor entitles one or more individuals to use the same device, the Vendor should include only the entitled individuals, and not the device, in the count.

Proposed Fees for NYSE MKT OpenBook (Excluding Non-Display Fees)

The Exchange proposes to charge access and subscriber fees for NYSE MKT OpenBook, which has been offered for free since 2009. The Exchange believes that fees should be charged for the product because the data is valuable and there are costs associated with consolidating and distributing it. The Exchange will charge a $1,000 per month access fee, a $5 per month professional subscriber fee, and a $1 per month non-professional subscriber fee. No redistribution fee will be charged. This fee structure—with an access fee and differentiated professional and non-professional subscriber fees—is similar to the Exchange's fee structure for NYSE MKT Trades and NYSE MKT BBO market data products, and the proposed fee levels are the same or lower as other exchanges' fees for similar products.[10]

The Exchange proposes to limit the maximum amount of monthly fees payable by any broker-dealer for nonprofessional subscribers who maintain brokerage accounts with the broker-dealer. Professional subscribers may be included in the calculation of the monthly maximum amount if:

(i) Nonprofessional subscribers comprise no less than 90 percent of the pool of subscribers that are included in the calculation;

(ii) Each professional subscriber that is included in the calculation is not affiliated with the broker-dealer or any of its affiliates (either as an officer, partner, or employee or otherwise); and

(iii) Each such professional subscriber maintains a brokerage account directly with the broker-dealer (that is, with the broker-dealer rather than with a correspondent firm of the broker dealer).[11]

For 2013, the maximum amount for any calendar month will equal $20,000. For the months falling in a subsequent calendar year, the maximum monthly payment will increase (but not decrease) by the percentage increase (if any) in the annual composite share volume[12] for the calendar year preceding that calendar year, subject to a maximum annual increase of five percent.[13] For example, if the annual composite share volume for calendar year 2013 increases by three percent over the annual composite share volume for calendar year 2012, then the monthly maximum amount for months falling in calendar year 2014 will increase by three percent to $20,600. The maximum amount is the same as the monthly maximum payable to NYSE Arca.[14]

Although the Exchange had indicated in 2009 that it would offer the NYSE MKT Unit-of-Count Policy for NYSE MKT OpenBook when fees were established,[15] the Exchange has determined not to do so. As a result of the changes described below, the Exchange is no longer offering NYSE MKT Unit-of-Count Policy for NYSE MKT BBO and NYSE MKT Trades for non-display usage. As described above, the Exchange expects to amend its display usage fees in the near future. Therefore, it would impractical to expand the coverage of the NYSE Unit-of-Count Policy at this time.

Rationale for New Non-Display Usage Fee Structure

The Exchange also proposes to establish fees for non-display use of NYSE MKT OpenBook, NYSE MKT BBO, and NYSE MKT Trades. As noted in the original NYSE Unit-of-Count Policy proposal, ''technology has made it increasingly difficult to define 'device' and to control who has access to devices, [and] the markets have struggled to make device counts uniform among their customers.''[16] Significant change has characterized the industry in recent years, stemming in large measure from changes in regulation and technological advances, which has led to the rise in automated and algorithmic trading. Additionally, market data feeds have become faster and contain a vastly larger number of quotes and trades. Today, a majority of trading is done by leveraging non-display devices consuming massive amounts of data. Some firms base their business models largely on incorporating non-display data into applications and do not require widespread data access by the firm's employees. Changes in market data consumption patterns have increased the use and importance of non-display data.

Applications that can be used in non-display devices provide added value in their capability to manipulate and spread the data they consume. Such applications have the ability to perform calculations on the live data stream and manufacture new data out of it. Data can be processed much faster by a non-display device than it can be by a human being processing information that he or she views on a data terminal. Non-display devices also can dispense data to multiple computer applications as compared with the restriction of data to one display terminal.

While the non-display data has become increasingly valuable to data recipients who can use it to generate substantial profits, it has become increasing difficult for them and the Exchange to accurately count non-display devices. The number and type of non-display devices, as well as their complexity and interconnectedness, have grown in recent years, creating administrative challenges for vendors, data recipients, and the Exchange to accurately count such devices and audit such counts. Unlike a display device, such as a Bloomberg terminal, it is not possible to simply walk through a trading floor or areas of a data recipient's premises to identify non-display devices. During an audit, an auditor must review a firm's entitlement report to determine usage. While display use is generally associated with an individual end user and/or unique user ID, a non-display use is more difficult to account for because the entitlement report may show a server name or Internet protocol (''IP'') address or it may not. The auditor must review

[10] *See, e.g.,* NASDAQ Stock Market LLC (''NASDAQ'') Rule 7023.

[11] The same criteria are used by NYSE Arca, Inc. (''NYSE Arca'') for its equities depth-of-book product. *See* Securities Exchange Act Release No. 63291 (Nov. 9, 2010), 75 FR 70311 (Nov. 17, 2010) (SR–NYSEArca–2010–97) (''Arca Release'').

[12] ''Composite share volume'' for a calendar year refers to the aggregate number of shares in all securities that trade over NYSE MKT facilities for that calendar year.

[13] This is the same annual increase calculation that the Commission approved for the CTA Monthly Maximum and NYSE Arca's ArcaBook monthly maximum. *See* Securities Act Release No. 34–41977 (Oct. 5, 1999), 64 FR 55503 (Oct. 13, 1999 (SR–CTA/CQ–99–01) and 2010 Arca Release, *supra* n.11, at 70313.

[14] *See id.*

[15] *See* OpenBook Release, *supra* n.4.

[16] *See* Securities Exchange Act Release No. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131). At least one other Exchange also has noted such administrative challenges. In establishing a non-display usage fee for internal distributors of TotalView and OpenView, NASDAQ noted that as ''the number of devices increase, so does the administrative burden on the end customer of counting these devices.'' *See* Securities Exchange Act Release No. 61700 (Mar. 12, 2010), 75 FR 13172 (Mar. 18, 2010) (SR–NASDAQ–2010–034).

each IP or server and further inquire about downstream use and quantity of servers with access to data; this type of counting is very labor-intensive and prone to inaccuracies.

For these reasons, the Exchange determined that its current fee structure, which is based on counting non-display devices, is no longer appropriate in light of market and technology developments and does not reflect the value of the non-display data and its many profit-generating uses for subscribers. As such, the Exchange, in conjunction with its domestic and foreign affiliate exchanges, undertook a review of its market data policies with a goal of bringing greater consistency and clarity to its fee structure; easing administration for itself, vendors, and subscribers; and setting fees at a level that better reflects the current value of the data provided. As a result of this review, the Exchange has determined to implement a new fee structure for display and non-display use of certain market data products. Initially, the Exchange will implement the new non-display use fee structure for NYSE MKT OpenBook, NYSE MKT BBO, and NYSE MKT Trades, operative on April 1, 2013. The Exchange anticipates implementing a new display use fee structure later this year; until such time, existing fees for display use will apply.

Proposed Non-Display Usage Fees

The Exchange proposes to establish new monthly fees for non-display usage, which for purposes of the proposed fee structure will mean accessing, processing or consuming an NYSE MKT data product delivered via direct and/or Redistributor [17] data feeds, for a purpose other than in support of its display or further internal or external redistribution. The proposed non-display fees will apply to the non-display use of the data product as part of automated calculations or algorithms to support trading decision-making processes or the operation of trading platforms (''Non-Display Trading Activities''). They include, but are not limited to, high frequency trading, automated order or quote generation and/or order pegging, or price referencing for the purposes of algorithmic trading and/or smart order routing. Applications and devices that solely facilitate display, internal distribution, or redistribution of the data product with no other uses and applications that use the data product for other non-trading activities, such as the creation of derived data, quantitative analysis, fund administration, portfolio management, and compliance, are not covered by the proposed non-display fee structure and are subject to the current standard per-device fee structure. The Exchange reserves the right to audit data recipients' use of NYSE MKT market data products in Non-Display Trading Activities in accordance with NYSE MKT's vendor and subscriber agreements.

There will be two types of fees, which are described below. The first type of fee is for internal non-display use. The second type of fee is for managed non-display services. The current NYSE MKT Unit-of-Count Policy will no longer apply to any non-display usage for NYSE MKT BBO and NYSE MKT Trades.[18]

Proposed Fees for Internal Non-Display Use

The proposed internal non-display use fees will apply to NYSE MKT OpenBook, NYSE MKT BBO, and NYSE MKT Trades. Internal non-display use occurs when a data recipient either manages its own non-display infrastructure and controls the access to and permissioning of the market data product on its non-display applications or when the data recipient's non-display applications are hosted by a third party that has not been approved to provide the managed non-display services as described below.

The fee structure will have three categories, which recognize the different uses for the market data. Category 1 Fees apply where a data recipient's non-display use of real time market data is for the purpose of principal trading. Category 2 Fees apply where a data recipient's non-display use of market data is for the purpose of broker/agency trading, i.e., trading-based activities to facilitate the recipient's customers' business. If a data recipient trades both on a principal and agency basis, then the data recipient must pay both categories of fees. Category 3 Fees apply where a data recipient's non-display use of market data is, in whole or in part, for the purpose of providing reference prices in the operation of one or more trading platforms, including but not limited to multilateral trading facilities, alternative trading systems, broker crossing networks, dark pools, and systematic internalization systems. A data recipient will not be liable for Category 3 Fees for those market data products for which it is also paying Category 1 and/or Category 2 Fees.

The fees for internal non-display use per data recipient organization for each category will be as follows:

Product	Category 1 Trading as Principal (per month)	Category 2 Trading as Broker/Agency (per month)	Category 3 Trading Platform (per month)
NYSE MKT OpenBook	$1,500	$1,500	$1,500
NYSE MKT BBO	500	500	500
NYSE MKT Trades	1,000	1,000	1,000

For internal non-display use, there will be no reporting requirements regarding non-display device counts, thus doing away with the administrative burdens described above. Data recipients will be required to declare the market data products used within their non-display trading applications by executing an NYSE Euronext Non-Display Usage Declaration.

Proposed Fees for Managed Non-Display Services

The Exchange also proposes to establish fees for managed non-display services for NYSE MKT OpenBook and NYSE MKT Trades. Under the managed non-display service, a data recipient's non-display applications must be hosted by a Redistributor approved by the Exchange, and this Redistributor must manage and control the access to NYSE MKT OpenBook and/or NYSE MKT Trades for these applications and may

[17] ''Redistributor'' means a vendor or any other person that provides an NYSE MKT data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

[18] Existing customers that are approved for the NYSE MKT Unit-of-Count Policy for NYSE MKT BBO and NYSE MKT Trades display usage may continue to follow that Policy until the new display fees are implemented.

not allow for further internal distribution or external redistribution of these market data products. The Redistributor of the managed non-display services and the data recipient must be approved under the current NYSE MKT Unit-of-Count Policy described above,[19] which will no longer be available for non-display use after the proposed fees are implemented. If a data recipient is receiving NYSE MKT OpenBook or NYSE MKT Trades for Non-Display Trading Activities from a Redistributor that is not approved under the NYSE MKT Unit-of-Count Policy, then the internal non-display fees described above will apply.

The fees for managed non-display services per data recipient organization will be as follows:

Product	Managed Non-Display Use Fee (per month)
NYSE MKT OpenBook	$500
NYSE MKT Trades	$400

Data recipients will not be liable for managed non-display fees for those market data products for which they pay the internal non-display fee.

Upon request, Redistributor offering managed non-display services must provide the Exchange with a list of data recipients that are receiving NYSE MKT OpenBook or NYSE MKT Trades through the Redistributor's managed non-display service. Data recipients of the managed non-display service have no additional reporting requirements, thus easing the administrative burdens described above.

Examples

Broker-Dealer A obtains NYSE MKT Trades directly from the Exchange for internal use and does not fall under the NYSE MKT Unit-of-Count Policy. Broker-Dealer A trades both on a principal and agency basis and has (i) 80 individual persons who use 100 display devices and (ii) 50 non-display devices.

- Under the current fee schedule, Broker-Dealer A pays the Exchange the $750 access fee plus $10 for each of the 100 display devices (although 80 individual persons use them, the number of devices is counted), or $1,000, and $10 for each of the 50 non-display devices, or $500, for a total of $2,250 per month.
- Under the proposed fee schedule, Broker-Dealer A would pay the Exchange the $750 access fee plus $10 for each of the 100 display devices, or $1,000, and Category 1 and Category 2 fees for internal non-display use, or $2,000, for a total of $3,750 per month. No redistribution fee would be charged.

Broker-Dealer B, which only trades as principal, obtains NYSE MKT Trades from Vendor X. Broker-Dealer B and Vendor X are both approved for the NYSE MKT Unit-of-Count Policy. Broker-Dealer B has (i) 10 individual persons who use 12 display devices and (ii) 5 non-display devices.

- Under the current fee schedule, Vendor X pays the $750 access fee and Broker-Dealer B pays $150 ($10 for the 10 individual persons (under the NYSE MKT Unit-of-Count Policy, the larger number of display devices is not counted), or $100, plus $10 for each of the 5 non-display devices, or $50).
- Under the proposed fee schedule, Broker-Dealer B would pay $100 as it does today for its individual persons using display devices, and $400 for managed non-display use, for a total of $500 per month in fees. Vendor X would pay the $750 access fee.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[20] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[21] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that the proposed fees for NYSE MKT OpenBook are reasonable, equitable, and not unfairly discriminatory. The Exchange believes that the fees for the OpenBook equity data feed are reasonable because, as described above, they are less than or equivalent to the fees charged by other exchanges for comparable data. Moreover, the Exchange has offered the OpenBook data feed for free since 2009, and it is reasonable and equitable for the Exchange to begin charging fees in light of the value of the data and the costs associated with consolidating and distributing it. The Exchange also believes that the fees are equitable and not unfairly discriminatory because the fee structure of access and professional and nonprofessional subscriber fees is substantially the same as the fee structure used by the Exchange for other products, the other exchanges, and the CTA and CQ Plans.

As described in detail in the section ''Rationale for New Non-Display Usage Fee Structure'' above, which is incorporated by reference herein, technology has made it increasingly difficult to define ''device'' and to control who has access to devices. Significant change has characterized the industry in recent years, stemming in large measure from changes in regulation and technological advances, which has led to the rise in automated and algorithmic trading, which have the potential to generate substantial profits. Indeed, data used in a single non-display device running a single trading algorithm can generate large profits. Market data technology and usage has evolved to the point where it is no longer practical, nor fair and equitable, to simply count non-display devices. The administrative costs and difficulties of establishing reliable counts and conducting an effective audit of non-display devices have become too burdensome, impractical, and non-economic for the Exchange, vendors, and data recipients. Rather, the Exchange believes that its proposed flat fee structure for non-display use is reasonable, equitable, and not unfairly discriminatory in light of these developments.

Other exchanges also have established differentiated fees based on non-display usage, including a flat or enterprise fee. For example, NASDAQ professional subscribers pay monthly fees for non-display usage based upon direct access to NASDAQ Level 2, NASDAQ TotalView, or NASDAQ OpenView, which range from $300 per month for customers with one to 10 subscribers to $75,000 for customers with 250 or more subscribers.[22] In addition, NASDAQ OMX PHLX, Inc. (''Phlx'') offers an alternative $10,000 per month ''Non-Display Enterprise License'' fee that permits distribution to an unlimited number of internal non-display subscribers without incurring additional fees for each internal subscriber.[23] The Non-Display Enterprise License covers non-display subscriber fees for all Phlx proprietary direct data feed products and is in addition to any other associated distributor fees for Phlx proprietary direct data feed products. NASDAQ OMX BX, Inc. (''BX'') also offers an alternative non-display usage fee of $16,000 for its BX TotalView data

[19] *See supra* n.9. The Redistributor and data recipient will qualify if they are approved for NYSE MKT Unit-of-Count Policy for any NYSE MKT market data product. The products that are currently approved for NYSE MKT Unit-of-Count Policy are NYSE MKT Trades and NYSE MKT BBO.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(4), (5).

[22] *See* NASDAQ Rule 7023(b)(4).

[23] *See* Securities Exchange Act Release No. 68576 (Jan. 3, 2013), 78 FR 1886 (Jan. 9, 2013) (SR-Phlx-2012–145). Alternatively, Phlx charges each professional subscriber $40 per month.

feed.[24] NASDAQ and Phlx also both offer managed non-display data solutions at higher overall fees than the Exchange proposes to charge.[25]

The Exchange also believes that it is reasonable, equitable, and not unfairly discriminatory to charge relatively lower fees for managed non-display services because the Exchange expects that they will generally be used by a small number of Redistributors and data recipients that are currently eligible for the NYSE MKT Unit-of-Count Policy. These data recipients are constrained by whatever applications are available via Redistributors operating in the Exchange's co-location center and other hosted facilities. In comparison, a data recipient that elects internal non-display use is free to use the data in any manner it chooses and create new uses in an unlimited number of non-display devices. The lack of constraint in this regard will make the non-display usage of the data more valuable to such an internal use data recipient.

The Exchange has not raised the market data fees for NYSE MKT BBO and NYSE MKT Trades since June 2010.[26] The Exchange has made NYSE MKT OpenBook available for free to date. The Exchange believes that the new fee schedule, which may result in certain vendors and data recipients paying more than they have in the last several years, is fair and reasonable in light of market and technology developments. The current per-device fee structure no longer reflects the significant overall value that non-display data can provide in trading algorithms and other uses that provide professional users with the potential to generate substantial profits. The Exchange believes that it is equitable and not unfairly discriminatory to establish an overall monthly fee that better reflects the value of the data to the data recipients in their profit-generating activities and does away with the costs and administrative burdens of counting non-display devices.

The Exchange also notes that products described herein are entirely optional. Firms are not required to purchase NYSE MKT OpenBook, NYSE MKT BBO, or NYSE MKT Trades. Firms have a wide variety of alternative market data products from which to choose.[27] Moreover, the Exchange is not required to make these proprietary data products available or to offer any specific pricing alternatives to any customers.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (DC Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [28]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards.[29] In addition, the existence of alternatives to these data products, such as proprietary last sale data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach, and the Exchange incorporates by reference into this proposed rule change its affiliate's analysis of this topic in another rule filing.[30]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

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. An exchange's ability to price its proprietary data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary last sale data.

The Existence of Actual Competition. The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings and order flow and sales of market data itself, providing virtually limitless opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own market data. Proprietary data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market.

Competitive markets for listings, order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products and therefore constrain markets from overpricing proprietary market data. The U.S. Department of Justice also has acknowledged the aggressive competition among exchanges, including for the sale of proprietary market data itself. In announcing that the bid for NYSE Euronext by NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. had been abandoned, Assistant Attorney General Christine Varney stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer

[24] *See* NASDAQ OMX BX Rule 7023(a)(2). Alternatively, BX charges each professional subscriber $40 per month.

[25] NASDAQ established fees for a Managed Data Solution to Distributors, which includes a monthly Managed Data Solution Administration fee of $1,500 and monthly Subscriber fees ranging from $60 to $300. *See* NASDAQ Rule 7026(b). Phlx also established a Managed Data Solution, which includes a monthly Managed Data Solution Administration fee of $1,500 and a monthly Subscriber fee of $250. The monthly License fee is in addition to Phlx's monthly Distributor fee of $2,500 (for external usage), and the $250 monthly Subscriber fee is assessed for each Subscriber of a Managed Data Solution. *See* Securities Exchange Act Release No. 67466 (July 19, 2012), 77 FR 43629 (July 25, 2012) (SR-Phlx-2012–93).

[26] *See supra* n.5.

[27] *See supra* nn.22–25.

[28] *NetCoalition,* 615 F.3d at 535.

[29] Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'') amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make clear that all exchange fees for market data may be filed by exchanges on an immediately effective basis.

[30] *See* Securities Exchange Act Release No. 63291 (Nov. 9, 2010), 75 FR 70311 (Nov. 17, 2010) (SR–NYSEArca-2010–97).

of every exchange and information on each equity trade, including the last sale.'' [31]

It is common for broker-dealers to further exploit this recognized competitive constraint by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. As a 2010 Commission Concept Release noted, the ''current market structure can be described as dispersed and complex'' with ''trading volume * * * dispersed among many highly automated trading centers that compete for order flow in the same stocks'' and ''trading centers offer[ing] a wide range of services that are designed to attract different types of market participants with varying trading needs.'' [32]

In addition, in the case of products that are distributed through market data vendors, the market data vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Internet portals, such as Google, impose price discipline by providing only data that they believe will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Similarly, vendors will not elect to make available the NYSE MKT products described herein unless their customers request them, and customers will not elect to purchase them unless they can be used for profit-generating purposes. All of these operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade executions are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data quality, and price and distribution of their data products. The more trade executions a platform does, the more valuable its market data products become.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's broker-dealer customers view the costs of transaction executions and market data as a unified cost of doing business with the exchange.

Other market participants have noted that the liquidity provided by the order book, trade execution, core market data, and non-core market data are joint products of a joint platform and have common costs.[33] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[34]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products. Thus, because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 equities self-regulatory organization (''SRO'') markets, as well as internalizing broker-dealers (''BDs'') and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. In

[31] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), *available at http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html.*

[32] Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010) (File No. S7–02–10). This Concept Release included data from the third quarter of 2009 showing that no market center traded more than 20% of the volume of listed stocks, further evidencing the dispersal of and competition for trading activity. *Id.* at 3598.

[33] *See* Securities Exchange Act Release No. 62887 (Sept. 10, 2010), 75 FR 57092, 57095 (Sept. 17, 2010) (SR–Phlx–2010–121); Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110); and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111) (''all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''); *see also* August 1, 2008 Comment Letter of Jeffrey S. Davis, Vice President and Deputy General Counsel, NASDAQ OMX Group, Inc., Statement of Janusz Ordover and Gustavo Bamberger (''because market data is both an input to and a byproduct of executing trades on a particular platform, market data and trade execution services are an example of 'joint products' with 'joint costs.' ''), attachment at pg. 4, *available at www.sec.gov/comments/34-57917/3457917-12.pdf.*

[34] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. * * * Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

Existence of Alternatives. The large number of SROs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE, NYSE Arca, NASDAQ OMX, BATS, and Direct Edge.

The fact that proprietary data from ATSs, BDs, and vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. Because market data users can thus find suitable substitutes for most proprietary market data products,[35] a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing. As noted above, the proposed non-display fees for NYSE MKT OpenBook, NYSE MKT Trades, and NYSE MKT BBO are generally lower than the maximum non-display fees charged by other exchanges such as NASDAQ, Phlx, and BX for comparable products.[36] The proposed NYSE MKT OpenBook access and subscriber fees are same or lower than other exchanges' comparable fees.[37]

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, BATS, and Direct Edge. Today, BATS and Direct Edge provide certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[38]

Further, data products are valuable to certain end users only insofar as they provide information that end users expect will assist them or their customers. The Exchange believes the proposed non-display fees will benefit customers by providing them with a clearer way to determine their fee liability for non-display devices, and with respect to internal use, to obviate the need to count such devices.

In establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange published draft Data Policies on its Web site on November 20, 2012. Among other things, the Data Policies addressed non-display use for certain market data products. The Exchange solicited comments on the Data Policies in the form of a survey. The Exchange received 14 comments relating to non-display use. Exhibit 2 contains a copy of the notice soliciting comment, the Data Policies, the 14 comments received in alphabetical order, and an alphabetical listing of such comments.

Nine commenters[39] requested greater clarity with respect to the definition and examples of non-display use. Specifically, the commenters requested that the Exchange provide a consistent definition of non-display use. As described above, the definition of non-display use will be accessing, processing or consuming an NYSE MKT data product delivered via direct and/or Redistributor data feeds, for a purpose other than in support of its display or further internal or external redistribution. The Exchange believes that this definition addresses the comments and will clearly describe the types of activities that will qualify for the proposed fee. The Exchange also provided examples for illustrative purposes, which are not exclusive.

Four commenters[40] also questioned whether price referencing, compliance, accounting or auditing activities, and derived data should be considered non-display use. The Data Policies listed price referencing, compliance, accounting or auditing activities, and derived data as examples of non-display usage; however, as discussed above, the Exchange has determined that price referencing for the purposes of algorithmic trading and/or smart order routing would be considered Non-Display Trading Activities, and applications that use the data product for non-trading activities, such as compliance, accounting or auditing activities, and derived data are not covered by the non-display fees and are subject to the current standard per-device fee structure.

Three commenters[41] requested clarity on the NYSE MKT Unit-of-Count Policy for non-display use. As discussed above, the NYSE MKT Unit-of-Count Policy will continue to apply to Redistributors and customers that have been approved under the NYSE MKT Unit-of-Count Policy. Under the proposed rule change, the pricing structure for display usage will remain the same. However, for non-display usage, customers approved under the NYSE MKT Unit-of-Count Policy will be eligible for the managed non-display services at the managed non-display fee, which is offered either directly from the Exchange or through a Redistributor.

Two commenters[42] asked for more detail on the managed non-display

[35] *See supra* n.22–25.

[36] *Id.*

[37] *See supra* nn.10, 13.

[38] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[39] Barclays, Brown Brothers Harriman, CMC Markets, Deutsche Bank, Flowtraders, Nomura, Threadneedle, Transtrend BV, and UBS.

[40] Barclays, CMC Markets, Transtrend BV, and UBS.

[41] Barclays, Essex Radez LLC, and UBS.

[42] FXCM and RTS Group.

service, which the Exchange has provided above.

Three commenters [43] asked for examples of how the Exchange would charge for customers that use both display and non-display devices. The Exchange believes that the pricing examples provided above are responsive to this request.

One commenter [44] stated that the proposed fees are excessive. The Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory for the reasons discussed in Section 3(b) above.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [45] of the Act and subparagraph (f)(2) of Rule 19b–4 [46] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [47] of the Act 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–NYSEMKT–2013–32 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–32. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2013–32 and should be submitted on or before April 30, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08176 Filed 4–8–13; 8:45 am]

BILLING CODE 8011–01–P

[43] Essex Radez LLC, Fidelity Market Data, and Lloyds TSB Bank plc.

[44] Essex Radez LLC.

[45] 15 U.S.C. 78s(b)(3)(A).

[46] 17 CFR 240.19b–4(f)(2).

[47] 15 U.S.C. 78s(b)(2)(B).

[48] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Announcement of the 2013 SBA-Visa Export Video Contest Under the America COMPETES Reauthorization Act of 2011

AGENCY: U.S. Small Business Administration (SBA)

ACTION: Notice.

SUMMARY: The U.S. Small Business Administration (SBA) and Visa U.S.A. Inc. (Visa) (collectively the ''Cosponsors'') announce a video contest for eligible small businesses to showcase the advantages of exporting and increase awareness of government assistance available to support small business exporters. This **Federal Register** Notice is required under Section 105 of the America COMPETES Reauthorization Act of 2011.

DATES: The submission period for entries begins 12:00 p.m. EDT, February 25, 2013 and ends 5:00 p.m. EDT, April 22, 2013. Winners will be announced no later than May 31, 2013.

FOR FURTHER INFORMATION CONTACT: Christopher Eskelinen, Office of International Trade, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416; Telephone (202) 205–6726; *christopher.eskelinen@sba.gov*

SUPPLEMENTARY INFORMATION:

Competition Details

1. *Subject of the Competition:* The U.S. Small Business Administration (SBA) and Visa U.S.A. Inc. (Visa) (collectively the ''Cosponsors'') are cosponsoring an export video contest that seeks to inform small businesses about the advantages of exporting and increase awareness of government assistance available to support small business exporters. The Cosponsors are looking for creative videos from small businesses that show how they became successful exporters. Videos can focus on how the small business became a successful exporter. Videos must highlight at least one of the following: Important lessons learned; factors that influenced the decision to become an exporter; advice for small businesses considering exporting; or a favorite exporting story.

2. *Prizes:* Five prizes are available: First place: $10,000 cash award; Second place: $8,000 cash award; Third place: $6,000 cash award; Fourth place: $4,000 cash award; and Fifth place: $2,000 cash award. Only one prize will be awarded for each winning submission, regardless of the number of Contest participants that created the winning video. Visa will issue the prizes directly to the Winners.

The Cosponsors (SBA and VISA) may choose to cohost an awards ceremony to announce the Winners. To the extent the Cosponsors cohost an awards ceremony, Winners that choose to travel to such award ceremony for the announcement of the Winners will each receive $1,000 for travel expenses per winning entry, regardless of the number of Contest participants that created the winning video. Any necessary travel arrangements are the sole responsibility of the Winner. Winner will not receive $1,000 for travel expenses if the

Cosponsors do not cohost an awards ceremony or if Winner does not attend the awards ceremony. All federal, state and local taxes are the sole responsibility of the Winner.

Competition Rules

1. *Eligibility to participate:* The contest is open to small businesses in the United States and its territories including, but not limited to, Puerto Rico, the U. S. Virgin Islands and Guam. You must be a small business as determined by SBA's size standards (*www.sba.gov/size*); have successfully completed at least one export transaction; and used at least one Federal program or service to support an export transaction. The small business owner(s) must be a U.S. citizen or permanent resident and at least 18 years old to enter and win the Contest. Small businesses who have won any prize in the SBA Visa Export Video Contest within the past two years are not eligible. Eligible small businesses may submit only one video. Any videos developed with federal funding, either grant, contract, or loan proceeds, are not eligible to win. Federal employees and their immediate families, Visa U.S.A. Inc. employees and their immediate families, current SBA contractors and SBA grant recipients may enter the Contest but are not eligible to win. ''Immediate family members'' include spouses, siblings, parents, children, grandparents, and grandchildren, whether as ''in-laws'', or by current or past marriage, remarriage, adoption, co-habitation or other familial extension, and any other persons residing at the same household location, whether or not related.

2. *Process for participants to register:* All Contest Participants must enter the Competition through the Competition Web page on the Challenge.gov portal *http://exportvideo.challenge.gov/by* 5 p.m. EDT on April 22, 2013. Submissions will be accepted starting at 12 p.m. EDT on February 25, 2013. Contest participants should review all contest rules and eligibility requirements. In order for a video to be eligible to win this Contest, the entry must meet the following requirements:

- Contest participants must create an original video.
- Contest participants must end their video with the following words: ''That's my exporting story. Where will your next customer come from?'' This statement can be spoken, written, embedded or delivered in any appropriate way deemed effective by the submitter.
- All videos must have a unique title or they will not be judged (i.e., not ''My Export Story'').
- Videos must highlight one of the following: Important lessons learned; factors that influenced the decision to become an exporter; advice for small businesses considering exporting; or a favorite exporting story.
- Videos must be 3 minutes or less (no more than 180 seconds) in length and produced in a high-resolution format.
- Videos must be educational, not promotional in nature (i.e., a commercial for the small business' products or services). Videos should tell a story.
- Only one video may be submitted per business.
- Videos must not contain violence, profanity, sex, images of a prurient nature, or direct attacks on individuals or organizations. SBA will disqualify any entries it deems to contain offensive material.
- Contest participants may not use the SBA seal or logo or the Visa trademark in the video.
- The video must be the contest participant's own original creation and must not infringe on any third party rights. No copyrighted music, video, or images may be used in submissions to this contest without appropriate permission. Entrants are responsible for obtaining all necessary permissions. Videos previously developed for other organizations may be submitted. Videos must not have been previously produced for compensation, posted on any SBA page, or submitted to SBA prior to the contest.
- All Contest submissions must adhere to the Challenge.gov Standards of Conduct (*http://challenge.gov/terms#standards*).

3. *Basis on which the winners will be selected:* Prior to judging, all Submissions will be screened for Contest participant eligibility and video eligibility. All videos will be judged by a panel of senior officials from SBA, Visa, and other member Federal Agencies from the Trade Promotion Coordinating Committee Small Business Working Group, selected by SBA in its sole discretion. The Judging Panel will rate each Submission approved by the screening panel on the following criteria: Inspirational nature of the message for potential exporters and effectiveness in promoting exporting; Creativity and uniqueness of video concept; Value of lessons learned/communicated; Use of U.S. Government program/service; Innovative means of delivering the message and Audio and visual quality of the video. Winners will be selected based on an overall score. All judging is in SBA's sole discretion and all decisions are final.

Authority: Public Law 111–358 (2011).

Dated: April 3, 2013.

Jonathan Swain,

Chief of Staff.

[FR Doc. 2013–08179 Filed 4–8–13; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and an extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA)

Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than June 10, 2013. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Application for Lump Sum Death Payment—20 CFR 404.390–404.392—0960–0013. SSA uses Form SSA–8–F4 to collect information needed to authorize payment of the lump sum

death payment (LSDP) to a widow, widower, or children as defined in Section 202(i) of the Social Security Act (Act). Respondents complete the application for this one-time payment via paper form, telephone, or during an in-person interview with SSA employees. Respondents are applicants for the LSDP.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Modernized claims system (MCS)	278,825	1	10	46,471
MCS/Signature Proxy	278,825	1	9	41,824
Paper	29,350	1	10	4,892
Totals	587,000			93,187

2. Questionnaire About Special Veterans Benefits—0960–0782. SSA regularly reviews individuals' claims for Special Veterans Benefits (SVB) to determine their continued eligibility and the correct payment amounts owed to them. Individuals living outside the United States receiving SVB must report to SSA any changes that may affect their benefits, such as (1) A change in mailing address or residence; (2) an increase or decrease in a pension, annuity, or other recurring benefit; (3) a return or visit to the United States for a calendar month or longer; and (4) an inability to manage benefits. SSA uses Form SSA–2010, Questionnaire About Special Veterans Benefits, to collect this information. Respondents are beneficiaries living outside the United States collecting SVB.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2010	1,308	1	20	436

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than May 9, 2013. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Certificate of Responsibility for Welfare and Care of Child Not in Applicant's Custody—20 CFR 404.330, 404.339–341 and 404.348–404.349—0960–0019. Under the provisions of the Act, non-custodial parents who are filing for spouse, mother, or father Social Security benefits based on having the child of a number holder or worker in their care must meet the in-care requirements the Act discusses. The in-care provision requires claimants have an entitled child under age 16 or disabled in their care. SSA uses Form SSA–781, Certificate of Responsibility for Welfare and Care of Child in Applicant's Custody, to determine if claimants meet the requirement. The respondents are applicants for spouse, mother's or father's Social Security benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–781	14,000	1	10	2,333

2. Earnings Record Information—20 CFR 404.801–404.803 and 404.821–404.822—0960–0505. SSA discovered as many as 70 percent of the wage reports we receive for children under age seven are actually the earnings of someone other than the child. To ensure we credit the correct person with the reported earnings, SSA verifies wage reports for children under age seven with the children's employers before posting to the earnings record. SSA uses Form SSA–L3231–C1, Request for Employer Information, for this purpose. The respondents are employers who report earnings for children under age seven.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–L3231–C1	20,000	1	10	3,333

3. Wage Reports and Pension Information—20 CFR 422.122(b)—0960–0547. Pension plan administrators annually file plan information with the Internal Revenue Service, which then forwards the information to SSA. SSA maintains and organizes this information by plan number, plan participant's name, and Social Security number. Under section *1131(a)* of the Act, pension plan participants are entitled to request this information from SSA. The Wage Reports and Pension Information regulation, *20 CFR 422.122(b)* of the *Code of Federal Regulations,* stipulates that before SSA disseminates this information, the requestor must first submit a written request with identifying information to SSA. The respondents are requestors of pension plan information.

Type of Request: Extension of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Requests for pension plan information	400	1	30	200

Dated: April 4, 2013.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2013–08206 Filed 4–8–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Delegation of Authority No. 350]

Delegation by the Secretary of State to the Assistant Secretary for Consular Affairs of the Authority To Disclose Visa Records In Certain Situations

By virtue of the authority vested in me as Secretary of State, including Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), and the Immigration and Nationality Act (INA), I hereby delegate to the Assistant Secretary for Consular Affairs, to the extent authorized by law, the authority under sections 222(f)(1) and (2) of the INA, codified in 8 U.S.C. 1202(f)(1) and (2), to exercise his or her discretion:

(1) To disclose certified copies of visa records to a court that certifies the need for such documents; and

(2) to provide to a foreign government, as a matter of discretion and on the basis of reciprocity, information in the Department's computerized visa lookout database and, when necessary and appropriate, other related records pertaining to the issuance and refusal of visas or permits to enter the United States under conditions specified in the statute.

Any act, executive order, regulation, or procedure subject to, or affected by, this delegation shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time. This delegation of authority may be re-delegated.

Notwithstanding this delegation of authority, the Secretary, the Deputy Secretary, the Deputy Secretary for Management and Resources, and the Under Secretary for Management may at any time exercise any authority or function delegated by this delegation of authority.

This delegation of authority shall be published in the **Federal Register.**

Dated: March 11, 2013.

John F. Kerry,

Secretary of State.

[FR Doc. 2013–08226 Filed 4–8–13; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 8268]

Persons on Whom Sanctions Have Been Imposed Under the Iran Sanctions Act of 1996 and the Iran Threat Reduction and Syria Human Rights Act of 2012

AGENCY: Bureau of Economic and Business Affairs, Department of State.

ACTION: Notice.

SUMMARY: The Secretary of State has determined, pursuant to authority delegated by Presidential Memorandum of October 9, 2012 (the ''Delegation Memorandum''), that the following persons have engaged in sanctionable activity described in section 5(a)(8) of the Iran Sanctions Act of 1996 (Public Law 104–172) (50 U.S.C. 1701 note) (''ISA''), as amended, and that certain sanctions are imposed as a result: Dimitris Cambis and Impire Shipping.

The Secretary of State has determined, pursuant to authority delegated by Presidential Memorandum of October 9, 2012 (the ''Delegation Memorandum''), that the following persons have engaged in sanctionable activity described in section 212 of the Iran Threat Reduction and Syria Human Rights Act of 2012 (Pub. L. 112–158) (''TRA''), and that certain sanctions are imposed as a result: Kish P&I and Bimeh Markazi-Central Insurance of Iran.

DATES: *Effective Date:* The sanctions on Dimitris Cambis, Impire Shipping, Kish P&I, and Bimeh Markzai-Central Insurance of Iran are effective March 14, 2013.

FOR FURTHER INFORMATION CONTACT: On general issues: Office of Sanctions Policy and Implementation, Department of State, Telephone: (202) 647–7489.

For U.S. Government procurement ban issues: Daniel Walt, Office of the Procurement Executive, Department of State, Telephone: (703) 516–1696.

SUPPLEMENTARY INFORMATION: Pursuant to section 5(a)(8) of the ISA and the Delegation Memorandum, the Secretary determined that the following sanctions as described in section 6 of the ISA are to be imposed on Dimitris Cambis:

1. Procurement sanction. The United States Government shall not procure, or enter into any contract for the procurement of, and goods or services from Dimitris Cambis.

2. Export-Import Bank assistance for exports. The Export-Import Bank of the United States shall not give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to Dimitris Cambis.

3. Banking transactions. Any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of Dimitris Cambis, shall be prohibited.

4. Property transactions. It shall be prohibited to:

a. Acquire, hold, withhold, use, transfer, withdraw, transport, import, or export any property that is subject to the jurisdiction of the United States and with respect to which Dimitris Cambis has any interest;

b. Deal in or exercise any right, power, or privilege with respect to such property; or

c. Conduct any transactions involving such property.

5. Foreign Exchange. Any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which Dimitris Cambis has any interest, shall be prohibited.

Pursuant to section 5(a)(8) of the ISA and the Delegation Memorandum, the Secretary determined that the following sanctions as described in section 6 of the ISA are to be imposed on Impire Shipping:

1. Procurement sanction. The United States Government shall not procure, or enter into any contract for the procurement of, and goods or services from Impire Shipping.

2. Export-Import Bank assistance for exports. The Export-Import Bank of the United States shall not give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to Impire Shipping.

3. Banking transactions. Any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of Impire Shipping, shall be prohibited.

4. Property transactions. It shall be prohibited to:

a. Acquire, hold, withhold, use, transfer, withdraw, transport, import, or export any property that is subject to the jurisdiction of the United States and with respect to which Impire Shipping has any interest;

b. Deal in or exercise any right, power, or privilege with respect to such property; or

c. Conduct any transactions involving such property.

5. Exclusion of corporate officers. The Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the from the United States, the following corporate officers of Impire Shipping:

a. Dimitris Cambis

Pursuant to section 212 of the TRA and the Delegation Memorandum, the Secretary determined that the following sanctions as described in section 6 of the ISA are to be imposed on Kish P&I:

1. Procurement sanction. The United States Government shall not procure, or enter into any contract for the procurement of, and goods or services from Kish P&I.

2. Export-Import Bank assistance for exports. The Export-Import Bank of the United States shall not give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to Kish P&I.

3. Banking transactions. Any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of Kish P&I, shall be prohibited.

4. Property transactions. It shall be prohibited to:

a. Acquire, hold, withhold, use, transfer, withdraw, transport, import, or export any property that is subject to the jurisdiction of the United States and with respect to which Kish P&I has any interest;

b. Deal in or exercise any right, power, or privilege with respect to such property; or

c. Conduct any transactions involving such property.

5. Exclusion of corporate officers. The Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the from the United States, the following corporate officers of Kish P&I:

a. Mohammad Reza Mohammadi Banaei

Pursuant to section 212 of the TRA and the Delegation Memorandum, the Secretary determined that the following sanctions as described in section 6 of the ISA are to be imposed on Bimeh Markazi-Central Insurance of Iran:

1. Procurement sanction. The United States Government shall not procure, or enter into any contract for the procurement of, and goods or services from Bimeh Markazi-Central Insurance of Iran.

2. Export-Import Bank assistance for exports. The Export-Import Bank of the United States shall not give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to Bimeh Markazi-Central Insurance of Iran.

3. Banking transactions. Any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of Bimeh Markazi-Central Insurance of Iran, shall be prohibited.

4. Property transactions. It shall be prohibited to:

a. Acquire, hold, withhold, use, transfer, withdraw, transport, import, or export any property that is subject to the jurisdiction of the United States and with respect to which Bimeh Markazi-Central Insurance of Iran has any interest;

b. Deal in or exercise any right, power, or privilege with respect to such property; or

c. Conduct any transactions involving such property.

5. Exclusion of corporate officers. The Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the from the United States, the following corporate officers of Bimeh Markazi-Central Insurance of Iran:

a. Seyed Mohammad Karimi
b. Rahim Mosaddegh
c. Mina Sadigh Noohi
d. Seyed Morteza Hasani Aghda
e. Esmaeil Mahdavi Nia

The sanctions described above with respect to Dimitris Cambis, Impire Shipping, Kish P&I, and Bimeh Markazi-Central Insurance of Iran shall remain in effect until otherwise directed pursuant to the provisions of the ISA, TRA or other applicable authority. Pursuant to the authority delegated to the Secretary of State in the Delegation Memorandum, relevant agencies and instrumentalities of the United States Government shall take all appropriate measures within their authority to carry out the provisions of this notice. The Secretary of the Treasury is taking appropriate action to implement the sanctions for which authority has been delegated to the Secretary of the Treasury pursuant to the Delegation Memorandum and Executive Order 13574 of May 23, 2011.

The following constitutes a current list, as of this date, of persons on whom ISA sanctions have been imposed. The particular sanctions imposed on an individual person are identified in the relevant **Federal Register** Notice.

—Allvale Maritime Inc. (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Associated Shipbroking (a.k.a. SAM) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Belarusneft (see Public Notice 7408, 76 FR 18821, April 5, 2011)
—Bimeh Markazi-Central Insurance of Iran
—Cambis, Dimitris
—FAL Oil Company Limited (see Public Notice 7776, 77 FR 4389, Jan. 27, 2012)
—Impire Shipping
—Kish Protection and Indemnity (a.k.a. Kish P&I)
—Kuo Oil (S) Pte. Ltd. (see Public Notice 7776, 77 FR 4389, Jan. 27, 2012)
—Naftiran Intertrade Company (see Public Notice 7197, 75 FR 62916, Oct. 13, 2010)

—Petrochemical Commercial Company International (a.k.a. PCCI) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Petro´leos de Venezuela S.A. (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Royal Oyster Group (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Socie´te´ Anonyme Mone´gasque D'Administration Maritime Et Ae´rienne (a.k.a. S.A.M.A.M.A., a.k.a. SAMAMA) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Speedy Ship (a.k.a. SPD) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Sytrol (see Public Notice 8040, 77 FR 59034, September 18, 2012)
—Tanker Pacific Management (Singapore) Pte. Ltd. (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Zhuhai Zhenrong Company (see Public Notice 7776, 77 FR 4389, Jan. 27, 2012)

Dated: April 2, 2013.

Jose W. Fernandez,

Assistant Secretary of State for Economic and Business Affairs.

[FR Doc. 2013–08229 Filed 4–8–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0025]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 235 of Title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated February 21, 2013, the Norfolk Southern Corporation (NS) has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2013–0025.

Applicant: Norfolk Southern Corporation, Mr. Brian Sykes, Chief Engineer C&S Engineering, 1200 Peachtree Street NE., Atlanta, Georgia 30309.

NS seeks approval of the proposed discontinuance of automatic signals within traffic control signal (TCS) territory and the installation of a cab signal system without wayside signals on the NS Pittsburgh Line, from Milepost (MP) PT 352.2 (CP Solomon) to MP PT 353.35/PC 0.0, and on its Fort Wayne Line from MP PT 353.35/PC 0.0 to MP PC 15.0 (CP Leets). All of the existing automatic signals on both line segments will be retired and cab signals without wayside signaling will be installed.

The installation of cab signals without wayside signals will include ''block clear'' signals at all control points in the event of an onboard cab signal failure en route.

NS seeks to make the proposed changes because the installation of cab signals without wayside signals will improve train operations and will facilitate the installation of Positive Train Control (PTC) on both lines. NS's implementation plan, if approved, would be to design and install the cab signals without wayside signals on the section of the line between CP Leets, MP 15.0, and CP Bell, MP PC 4.8, as soon as the approval is obtained. CP Bell, MP PC 4.8, to CP Solomon, MP PC 352.2, would follow as a later implementation phase.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 24, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as is practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on April 3, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–08244 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2010–0152]

Petition for Amending Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January 24, 2013, the National Railroad Passenger Corporation (Amtrak) has petitioned the Federal Railroad Administration (FRA) for an amendment of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 240, Qualification and Certification of Locomotive Engineers, in Docket Number FRA–2010–0152. On May 11, 2010, FRA granted Amtrak a waiver of compliance from 49 CFR 240.117(e)(1)–(4), 240.305, and 240.307. The relief granted to Amtrak was contingent on its continued participation in the Confidential Close Call Reporting System (C3RS) pilot project. FRA granted the original waiver for a period of 5 years.

Amtrak, the Brotherhood of Locomotive Engineers and Trainmen, and the United Transportation Union seek to shield the reporting employee and the railroad from punitive sanctions that would otherwise arise as provided in selected sections of 49 CFR 240.307, to encourage locomotive engineer reporting of close calls, and to protect locomotive engineers and Amtrak from

discipline or sanctions arising from the incidents reported pursuant to the Implementing Memorandum of Understanding (IMOU).

The proposed amendment extends the boundaries of inclusion under Article 3 of the IMOU to all Amtrak-owned or -controlled properties nationwide. The additional locations include: the Northeast Corridor (all main track operations); the Hudson Line; the Michigan Line in New Orleans, LA; and yards and facilities owned by Amtrak that are connected to other carriers' tracks.

Further, the amendment proposes changing the applicability parameters under Article 3.1 of the Amtrak IMOU, affording C3RS protection to NJ Transit train and engine service employees working in Sunnyside Yard.

Finally, the amendment proposes amending Article 6.4 of the Amtrak IMOU pertaining to special additional criteria for close call event reporting to allow coverage for events involving damage or derailment below the FRA monetary reporting threshold.

A copy of the petition, as well as any written communications concerning the petition available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays. If you do not have access to the Internet, please contact FRA's Docket Clerk at 202–493–6030, who will provide necessary information concerning the contents of the petition.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within April 29, 2013 of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as is practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov, or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on April 3, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–08209 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2004–19999]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document received on January 18, 2013, the Fayette Central Railroad (FCRV) has petitioned the Federal Railroad Administration (FRA) for a an extension of a waiver of compliance in Docket Number FRA–2004–19999. FCRV seeks to extend a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at Title 49 Code of Federal Regulations (CFR) Part 223, Safety Glazing Standards–Locomotives, Passenger Cars and Cabooses, which requires certified glazing in locomotive and caboose windows. FRA issued the initial waiver that granted FCRV relief on September 6, 2005, and FRA extended the waiver on June 12, 2008. The existing waiver will expire on June 11, 2013.

Specifically, FCRV seeks to extend a waiver of compliance for two cabooses, Car Numbers PC 18086 (built in 1946) and P&LE 504 (built in 1956), as well as one locomotive, Locomotive Number 9061 (built in 1948).

FCRV states that it operates in a rural area and does not operate through any intercity areas. Additionally, FCRV's operations are temporally separated from freight operations. There is no location or time where another train will be passing a FCRV train; therefore, there is no danger of a rock or debris being thrown up from a passing train. The maximum speed on the track over which FCRV operates is 15 mph. Finally, there have never been any incidents of people shooting at FCRV's trains.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 24, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association,

business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on April 3, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–08247 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2009–0015]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated September 6, 2012, Ritron, Incorporated (Ritron) has petitioned the Federal Railroad Administration (FRA) for an amendment of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices.

By a letter dated March 30, 2010, Ritron submitted its original petition for a waiver of compliance from 49 CFR 232.409(d), which pertains to the inspection and testing of end-of-train devices, as applied to its DTX–445 and DTX–454 radio transceivers. The provision requires that telemetry equipment be tested for accuracy and calibrated, if necessary, at least every 368 days. The provision also requires that the date and location of the last calibration or test, as well as the name of the person performing the calibration or test, be legibly displayed on a weather-resistant sticker or other marking device affixed to the outside of both the front and the rear unit. On June 21, 2010, FRA's Railroad Safety Board (Board) granted Ritron's petition for a waiver of compliance, subject to certain conditions, in Docket Number FRA–2009–0015.

The proposed amendment sought by Ritron would add its new radio transceiver model, the DTX–460, to the subject waiver. The DTX–460 is a follow-on to the DTX–454, which is already included in the subject waiver. Ritron states that the DTX–454 has been redesigned to remove obsolete parts and to improve its performance. The DTX–460 is, however, a form, fit, and functional equivalent to the DTX–454. A copy of the Federal Communications Commission certificate and test report can be found in the docket. Additional materials that were provided to the Board include schematics, the alignment procedure, the theory of operation, and the changes from the DTX–454 to the DTX–460.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 24, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as is practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on April 3, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–08241 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0021]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January 11, 2013, the City of Superior, Wisconsin (City) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 222, Use of Locomotive Horns at Public Highway-Rail Grade Crossings, for the highway-rail grade crossing at 28th Street (DOT #061459A) in Superior, WI. FRA assigned the petition Docket Number FRA–2013–0021.

The City seeks a waiver of compliance from the requirement of 49 CFR 222.41(c)(3), which provides that locomotive horn restrictions may continue until June 24, 2013, for a pre-rule quiet zone that was not able to be established by automatic approval, had been continued under the provisions of 49 CFR 222.31(c)(1) and 222.31(c)(2), and the State agency had provided a comprehensive statewide implementation plan. Specifically, the City requests that it be granted permission to retain its present locomotive horn restriction as trains approach the public highway-rail grade crossing at 28th Street. The City states that it has retained the services of a consultant with quiet zone experience and credentials and is prepared to move forward with the quiet zone continuation process.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by

submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings, since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number, and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 24, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as is practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on April 3, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–08250 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0024]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated March 6, 2013, BNSF Railway Company (BNSF) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 234, Grade Crossing Safety, Including Signal Systems, State Action Plans, and Emergency Notification Systems. FRA assigned the petition Docket Number FRA–2013–0024.

BNSF seeks a waiver from the requirements of 49 CFR 234.106, *Partial activation,* at highway-rail grade crossings that are equipped with four-quadrant gates and automated horn system (AHS) equipment throughout its rail network. Specifically, BNSF seeks FRA's approval to operate AHS equipment at four-quadrant gate installations in the event that the exit gates fail to lower to the horizontal position, in lieu of the alternative methods of protection listed in 49 CFR part 234, Appendix B.

BNSF requests this waiver of compliance as a method to minimize operational impacts caused by the malfunction or extended outage of vehicle presence detection systems, both of which are often wholly outside of its control. Typically, maintenance responsibilities for in-pavement inductive-loop detectors lie with the applicable road authority, not BNSF. Additionally, BNSF believes that with respect to exit gates not impacted by State design parameters that require such gates to remain in the vertical position upon failure of the vehicle presence detection system, granting this waiver will similarly minimize operational impacts on BNSF caused by exit gate malfunctions.

In its petition, BNSF submits that granting the waiver will improve safety. It maintains that the safety of the traveling public will be enhanced by allowing for the use of AHS equipment, which provides a recognized warning (an audible horn) that is superior to a crew member, flagman, or police officer present at a crossing. Moreover, BNSF asserts that the requested relief will allow trains to operate through the affected crossings at normal operating speeds, thereby minimizing the length of time that trains obstruct such highway-rail grade crossings. BNSF concludes that, if FRA were to grant the subject waiver, delays to the traveling public would also be reduced.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 24, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as is practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on April 3, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–08252 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–NHTSA–2013–0028]

Agency Requests for Approval of a New Information Collection: Motor Vehicle Brake Fluids

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation (DOT) invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The collection involves labeling requirements for manufacturers and packagers of brake fluids as well as packagers of hydraulic system mineral oils. The information to be collected will be used to and/or is necessary to insure the following: the contents of the container are clearly stated; these fluids are used for their intended purpose only; and, the containers are properly disposed of when empty. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995, Public Law 104–13.

DATES: Written comments should be submitted by June 10, 2013.

ADDRESSES: You may submit comments [identified by Docket No. DOT–NHTSA–2013–0028] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1 (202) 493–2251
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Hallan, (202) 366–9146, NHTSA, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2127–0521

Title: 49 CFR 571.116, Motor Vehicle Brake Fluids

Form Numbers: N/A

Type of Review: Extension of a currently approved collection.

Background: Federal Motor Vehicle Safety Standard No. 116, ''Motor Vehicle Brake Fluid,'' specifies performance and design requirements for motor vehicle brake fluids and hydraulic system mineral oils. Section 5.2.2 specifies labeling requirements for manufacturers and packagers of brake fluids as well as packagers of hydraulic system mineral oils. The information on the label of a container of motor vehicle brake fluid or hydraulic system mineral oil is necessary to insure: the contents of the container are clearly stated; these fluids are used for their intended purpose only; and the containers are properly disposed of when empty. Improper use or storage of these fluids could have dire safety consequences for the operators of vehicles or equipment in which they are used.

Respondents: Business or other for profit organizations.

Estimated Number of Respondents: 200

Estimated Number of Responses: 200

Estimated Total Annual Burden: 7000 hours

Estimated Frequency: N/A

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Issued on: April 2, 2013.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–08222 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; BMW of North America, LLC

AGENCY: National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the BMW of North America, LLC (BMW) petition for exemption of the X4 vehicle line in accordance with 49 CFR part 543, *Exemption from the Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). BMW requested confidential treatment for specific information in its petition that the agency will address by separate letter.

DATES: The exemption granted by this notice is effective beginning with the 2015 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, Room W43–443, Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–4139. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated January 25, 2013, BMW requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541) for the X4 vehicle line beginning with MY 2015. The petition requested exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, BMW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its X4 vehicle line. BMW stated that all X4 vehicles will be equipped with a passive antitheft device as standard equipment beginning with MY 2015. Key features of the antitheft device will include a key with a transponder, loop antenna (coil), engine control unit (DME/DDE) with encoded start release input, an electronically coded vehicle immobilizer/car access system (EWS/CAS) control unit and a passive immobilizer. BMW will not offer an audible or visible alarm feature on the proposed device. BMW's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

BMW stated that the antitheft device is a passive vehicle immobilizer system. BMW further stated that the EWS immobilizer device prevents the vehicle

from being driven away under its own engine power. BMW further stated that the EWS immobilizer device also fulfills the requirements of the European vehicle insurance companies, in that the security device must become effective either upon leaving the vehicle or not later than the point at which the vehicle is locked.

The immobilizer device is automatically activated when the engine is shut off and the vehicle key is removed from the ignition lock cylinder. Deactivation of the device occurs when the Start/Stop button is pressed and the vehicle starting process begins. BMW stated that deactivation cannot be carried out with a mechanical key, but must occur electronically. Specifically, BMW stated that its transponder sends key data to the EWS/CAS control unit. The correct key data must be recognized by the EWS/CAS control unit in order for the vehicle to start. The transponder contains a chip which is integrated in the key and powered by a battery. The transponder also consists of a transmitter/receiver which communicates with the EWS/CAS control unit. The EWS/CAS control unit provides the interface to the loop antenna (coil), engine control unit and starter. The ignition and fuel supply are only released when a correct coded release signal has been sent by the EWS/CAS control unit to deactivate the device and allow the vehicle to start. When the EWS/CAS control unit has sent a correct release signal, and after the initial starting value, the release signal becomes a rolling, ever-changing, random code that is stored in the DME/DDE and EWS/CAS control units. The DME/DDE must identify the release signal and only then will the ignition signal and fuel supply be released.

BMW stated that the vehicle is also equipped with a central-locking system that can be operated to lock and unlock all doors or to unlock only the driver's door, preventing forced entry into the vehicle through the passenger doors. The vehicle can be further secured by locking the doors and hood using either the key lock cylinder on the driver's door or the remote frequency remote control. BMW stated that the frequency for the remote control constantly changes to prevent an unauthorized person from opening the vehicle by intercepting the signals of its remote control.

BMW stated that all of its vehicles are currently equipped with antitheft devices as standard equipment, including the BMW X4 vehicle line. BMW compared the effectiveness of its antitheft device with devices which NHTSA has previously determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of Part 541. BMW stated that the antitheft device that it intends to install on its X4 vehicle line for MY 2015 has been sufficient to grant exemptions for other carlines. Specifically, BMW has installed its antitheft device on its X1, X3 and X5 vehicle lines, as well as its Carline 1, 3, 4, 5, 6, 7, Z4, and MINI vehicle lines and they have all been granted parts-marking exemptions by the agency. BMW asserts that theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which it proposes to install on the X4 vehicle line. BMW also stated that for MY/CY 2010, the agency's data show that theft rates for its lines are: 0.5000 (1-series), 0.8400 (3-series), 0.3300 (5-series), 1.5000 (6-series), 2.6300 (7-series), 0.1500 (X3), 0.8500 (Z4/M), and 0.4400 (MINI). BMW stated that the theft rate for its M models have been combined with their actual vehicle lines, (i.e., M3 with 3-series, M5 with 5-series and M6 with 6-Series). Using an average of 3 MYs data (2008–2010), theft rates for the Carline 1, 3, 5, 6, 7, X3 and Z4/M and MINI vehicle lines are 0.3287, 0.7172, 0.4661, 1.3648, 2.0273, 0.3316, 0.6046 and 0.2629 respectively. Theft rate data for the BMW X1, X4, X5 and Carline 4 are not available.

In addressing the specific content requirements of Part 543.6, BMW provided information on the reliability and durability of its device. To ensure reliability and durability of the device, BMW conducted tests based on its own specified standards and believes that the device is reliable and durable since the device complied with its specified requirements for each test. BMW provided a detailed list of the tests conducted in its January 2013 request for exemption from the parts-marking requirements. Further assuring the reliability and durability of the X4 antitheft device, BMW notes that the mechanical keys for the X4 vehicle line are unique. Specifically, a special key blank, a special key cutting machine and the vehicle's unique code are needed to duplicate a key. BMW also stated that new keys will only be issued to authorized persons, and the guide-ways that are milled in the mechanical keys make the locks almost impossible to pick and the keys impossible to duplicate on the open market.

BMW's proposed device lacks an audible or visible alarm. Therefore, this device cannot perform one of the functions listed in 49 CFR Part 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, in its January 2013 petition, BMW asserted that in a previous **Federal Register** notice published by the agency (58 FR 44872, dated August 25, 1993), NHTSA's review of the theft data for 10 General Motors (GM) vehicle lines that had been granted partial exemptions concluded that the lack of an audible and visible alarm had not prevented the antitheft device from being effective and that despite the absence of an audible or visible alarm, when placed on vehicle lines as standard equipment, the GM antitheft devices ''continue to be as effective in deterring and reducing motor vehicle theft as compliance with parts-marking requirements.'' Therefore, BMW expects that the X4's antitheft device will be just as effective as parts-marking.

Based on the supporting evidence submitted by BMW, the agency believes that the antitheft device for the BMW X4 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon supporting evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that BMW has provided adequate reasons for its belief that the antitheft device for the X4 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information BMW provided about its device.

For the foregoing reasons, the agency hereby grants in full BMW's petition for exemption for the MY 2015 X4 vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given MY. 49 CFR

543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If BMW decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if BMW wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption.

Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: April 2, 2013.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–08225 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2013–0047]

NHTSA Activities Under the United Nations World Forum for the Harmonization of Vehicle Regulations 1998 Global Agreement

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

ACTION: Notice of activities under the 1998 Global Agreement and request for comments.

SUMMARY: NHTSA is publishing this notice to inform the public of the upcoming scheduled meetings of the World Forum for the Harmonization of Vehicle Regulations (WP.29) and its Working Parties of Experts for calendar year 2013. It also provides the most recent status of activities under the Program of Work of the 1998 Global Agreement (to which the United States is a signatory Contracting Party) and requests comments on those activities. Publication of this information is in accordance with NHTSA's Statement of Policy regarding Agency Policy Goals and Public Participation in the Implementation of the 1998 Global Agreement on Global Technical Regulations (GTR).

DATES: Written comments may be submitted to this agency within 30 days of publication of this notice.

ADDRESSES: You may submit comments identified by DOT Docket No. NHTSA–2013–0010 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. Telephone: 1–800–647–5527.
- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. 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 the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://Docketlnfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Mr. Ezana Wondimneh, Chief, International Policy and Harmonization Division (NVS–133), National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC, 20590; Telephone: (202) 366–0846, fax (202) 493–2280.

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I. Background

On August 23, 2000, NHTSA published in the **Federal Register** (65 FR 51236) a statement of policy regarding the Agency's policy goals and public participation in the implementation of the 1998 Global Agreement, indicating that each calendar year the Agency would provide a list of scheduled meetings of the World Forum for the Harmonization of Vehicle Regulations (WP.29) and the Working Parties of Experts, as well as meetings of the Executive Committee of

the 1998 Global Agreement (AC.3).[1] Further, the Agency stated that it would keep the public informed about the Agreement's Program of Work (i.e., subjects designated for Global Technical Regulation (GTR) development) and seek comment on those subjects on a regular basis. In keeping with the policy, NHTSA has notified the public about the status of activities under the 1998 Global Agreement and sought comments on various issues and proposals through a series of **Federal Register** notices published beginning July 2000.[2]

This notice provides the latest and current status of the Agency's activities at the World Forum for the Harmonization of Vehicle Regulations under the 1998 Global Agreement.

A. WP.29 and Its Working Parties of Experts

1. WP.29

WP.29 was established on June 6, 1952 as the Working Party on the Construction of Vehicles, a subsidiary body of the Inland Transport Committee (ITC) of the United Nations Economic Commission for Europe (UNECE). In March 2000, WP.29 became the ''World Forum for Harmonization of Vehicle Regulations (WP.29).'' The objective of the WP.29 is to initiate and pursue actions aimed at the worldwide harmonization or development of technical regulations for vehicles.[3] Providing uniform conditions for periodical technical inspections and strengthening economic relations worldwide, these regulations are aimed at:

—improving vehicle safety;
—protecting the environment;
—promoting energy efficiency; and
—increasing anti-theft performance.

WP.29 currently administers three UNECE Agreements:

1. UNECE 1958 Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions;

2. UNECE 1998 Agreement concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles;

3. UNECE 1997 Agreement concerning the Adoption of Uniform Conditions for Periodical Technical Inspections of Wheeled Vehicles and the Reciprocal Recognition of such Inspections.

Four committees coordinate the activities of WP.29:

AC.1—Administrative Committee for 1958 Agreement
AC.2—Administrative Committee for the Coordination of Work
AC.3—Executive Committee for 1998 Agreement
AC.4—Administrative Committee for 1997 Agreement

AC.1, AC.3 and AC.4 are the Administrative/Executive Committees for the Agreements administered by WP.29, constituting all Contracting Parties of the respective Agreements.

The coordination of work of the World Forum is managed by a Steering Committee (AC.2) comprising the Chairperson and Secretariat of WP.29, the Chairpersons of the Executive Committees of the 1958, 1997 and 1998 Agreements administered by WP.29, the representatives of the European Community, Japan and the United States of America, and the Chairpersons of WP.29's subsidiary bodies (GRs or Working Parties). The duties of AC.2 are to develop and recommend to WP.29 a Program of Work, to review the reports and recommendations of WP.29's subsidiary bodies, to identify items that require action by WP.29 and the time frame for their consideration, and to provide recommendations to WP.29.

2. Working Parties of Experts

The permanent subsidiary bodies of WP.29, also known as GRs (Groups of Rapporteurs), assist the World Forum for Harmonization of Vehicle Regulations in researching, analyzing and developing requirements for technical regulations in the areas of their expertise. There are six subsidiary bodies:

Working Party on Lighting and Light-Signaling (GRE)
Working Party on Brakes and Running Gear (GRRF)
Working Party on Passive Safety (GRSP)
Working Party on General Safety Provisions (GRSG)
Working Party on Pollution and Energy (GRPE)
Working Party on Noise (GRB)

Each subsidiary body consists of persons whose expertise is relevant to the area covered by the body. All proposals for new regulations or amendments to existing regulations are referred by the World Forum to its relevant subsidiary bodies for the development of technical recommendations. In view of the significance of the role of these subsidiary bodies, they have been given permanent status under the UN and have been designated as permanent and formal ''Working Parties.'' More specifically, the working parties and their areas of expertise are outlined below:

Active Safety of Vehicles and their Parts (Crash Avoidance)
Working Party on Lighting and Light-Signaling (GRE)
Working Party on Brakes and Running Gear (GRRF)

The regulations in this area seek to improve the behavior, handling and equipment of vehicles so as to decrease the likelihood of a road crash. Some of the regulations seek to increase the ability of drivers to detect and avoid hazardous circumstances. Others seek to increase the ability of drivers to maintain control of their vehicles. Specific examples include ones applying to lighting and light-signaling devices, braking, steering, tires and rollover stability. This area of safety technology is rapidly changing. The advent of advanced technologies (e.g., electronic control systems, advanced sensors and communication) is providing opportunities for developing new approaches for helping drivers avoid crashes.

Passive Safety (Crashworthiness)
Working Party on Passive Safety (GRSP)

The regulations in this area seek to minimize the risk and severity of injury for the occupants of a vehicle and/or other road users in the event of a crash. Extensive use is made of crash statistics to identify safety problems for which a regulation or amendment to an existing regulation is needed and define a proper cost/benefit approach when improving performance requirements in this area. This is important, given the overall impact of new requirements on vehicle construction, design and cost. Specific examples of current regulations include ones addressing the ability of the vehicle structure to manage crash energy and resist intrusion into the passenger compartment, occupant restraint and protection systems for children and adults, seat structure, door latches and door retention, pedestrian protection, and for motorcycles, the quality of the protective helmet for the rider. This area of technology also is

[1] This statement of policy is codified in Appendix C of Part 553 of Title 49 of the CFR.

[2] The relevant **Federal Register** notices include: 65 FR 44565, 66 FR 4893, 68 FR 5333, 69 FR 60460, 71 FR 59582, 73 FR 7803, 73 FR 8743, 73 FR 31914, 73 FR 5520, and 77FR 4618.

[3] For general information about WP.29, see the document, ''World Forum for Harmonization of Vehicle Regulations (WP.29)—How It Works, How to Join It,'' available at *http://www.unece.org/transport/resources/publications/publications.html*.

changing rapidly and becoming more complex. Examples include advanced protection devices that adjust their performance in response to the circumstances of individual crashes.

General Safety Considerations

Working Party on General Safety Provisions (GRSG)

The regulations in this area address vehicle and component features which are not directly linked to the above-mentioned subject areas. For example, windshield wipers and washers, controls and displays, and glazing are grouped under this heading. Further, theft prevention and the considerations related to motor-coaches and other mass public transport vehicles are covered under this category.

Environmental Considerations

Working Party on Pollution and Energy (GRPE)

Working Party on Noise (GRB)

In general, the regulations in this area address questions of the pollution of the environment, noise disturbances and conservation of energy (fuel consumption). However, the issue of quiet vehicles' unintended safety consequence related to pedestrian safety is currently being addressed by the Working Party on Noise (GRB) even though this group does not normally address safety issues. This is because the necessary acoustics experts needed to develop a safety regulation to address the issue are part of this group.

Special Technical Considerations

Informal Working Groups (IWGs)

In some cases, a specific problem needs to be solved urgently or needs to be addressed by persons having a special expertise. There are also cases where an issue cuts across multiple GRs or is not specifically relevant to any of them. In such situations, a special informal working group may be entrusted with the analysis of the problem and invited to prepare a proposal for a regulation. Although such cases have traditionally been kept to a minimum, the rapid development of complex new technologies is increasing the necessity for using this approach.

II. List of Provisional Meetings of WP.29 and Its Working Parties of Experts

The following list shows the scheduled meetings of WP.29 and its subsidiary Working Parties of Experts for calendar year 2013. In addition to these meetings, Working Parties of Experts may schedule, if necessary, IWG sessions outside their regular schedule in order to address technical matters specific to GTRs under consideration. The formation and timing of these groups are recommended by the sponsoring Contracting Party and are approved by WP.29 and AC.3. The schedules and places of meetings are made available to interested parties in proposals and periodic reports which are posted on the Web site of WP.29, which can be found at: *http://www.unece.org/trans/main/welcwp29.html.*

2013 Provisional Schedule of Meetings of WP.29 and Its Working Parties of Experts

January

15–18 Working Party on Pollution and Energy (GRPE) (65th session)

February

5–7 Working Party on Noise (GRB) (57th session)

19–22 Working Party on Brakes and Running Gear (GRRF) (74th session)

March

11 Administrative Committee for the Coordination of Work (WP.29/AC.2) (111th session)

12–15 World Forum for Harmonization of Vehicle Regulations (WP.29) (159th session)

April

8–11 Working Party on Lighting and Light-Signalling (GRE) (69th session)

15–19 Working Party on General Safety Provisions (GRSG) (104th session)

May

13–17 Working Party on Passive Safety (GRSP) (53rd session)

June

4–7 Working Party on Pollution and Energy (GRPE) (66th session)

24 Administrative Committee for the Coordination of Work (WP.29/AC.2) (112th session)

25–28 World Forum for Harmonization of Vehicle Regulations (WP.29) (160th session)

September

2–4 Working Party on Noise (GRB) (58th session)

17–19 Working Party on Brakes and Running Gear (GRRF) (75th session)

October

8–11 Working Party on General Safety Provisions (GRSG) (105th session)

21–23 Working Party on Lighting and Light-Signalling (GRE) (70th session)

November

11 Administrative Committee for the Coordination of Work (WP.29/AC.2) (113th session)

12–15 World Forum for Harmonization of Vehicle Regulations (WP.29) (161st session)

14 Working Party on Pollution and Energy (GRPE) (67th session)

December

17–20 Working Party on Passive Safety (GRSP) (54th session)

III. Status of Activities Under the Program of Work of the 1998 Global Agreement

The current Program of Work of the 1998 Global Agreement is listed in the table below. Note that the items listed are for those related to vehicle safety only.

Working party of experts	Subject	Sponsoring contracting party	Chair of informal working group
WP.29	Exchange of Information— Enforcement Working Group	USA	USA
GRRF	GTR on Tires for Light Vehicles	France	UK
GRSP	Phase 2 of GTR No. 7 (Head Restraints)	Japan	UK
	Phase 2 of GTR No. 9 (Pedestrian Safety)	Japan/Germany	Germany/Japan
	GTR on Hydrogen Vehicles—Safety Sub-Group.	USA/Germany/Japan	USA/Japan
	GTR on Pole Side Impact	Australia	Australia
	Exchange of Information on Harmonized Side Impact Dummies.	USA	USA
	Electric Vehicles Safety GTR	USA/Japan/European Commission (EC)/China.	USA/Japan
GRB	GTR on Quiet Road Transport Vehicles	USA/Japan/EC	USA/Japan

A. Status of GTRs Under Development

1. Pedestrian Safety

At the November 2008 session, WP.29 voted to establish [4] GTR 9 [5] on Pedestrian Safety. Implementation of the GTR by the contracting parties would improve pedestrian safety by requiring vehicle hoods and bumpers to absorb energy more efficiently in a 40 kilometer per hour (km/h) vehicle-to-pedestrian crash. Crashes at speeds up to that threshold account for more than 75 percent of crashes in which pedestrians are injured.

The GTR contains two sets of performance criteria applying to: (a) the hood; and (b) the front bumper. Unique test procedures address adult and child head and adult leg impact protection for each of the two crash scenarios. At the time GTR 9 was adopted, a legform impactor developed by TRL (Transport Research Laboratory, UK) was used to evaluate front bumper impact performance. WP.29, however, agreed to consider the future use of a newer legform impactor called Flex-PLI (Flexible Pedestrian Legform Impactor), which may be more biofidelic. At the May 2011 session of GRSP, NHTSA reported research results that raised concerns about the readiness of the Flex-PLI device. As a result, at its June 2011 session, WP.29 agreed to form a new IWG under the sponsorship and chairmanship of Germany and Japan to further refine the Flex-PLI device.

The IWG has updated its terms of references (TOR) and operating principles for the IWG and a first draft UN GTR for information purposes only. The IWG is conducting a series of round robin testing on the Flex-PLI device to further validate its performance. The IWG is also working on the cost and benefit analysis.

Due to this GTR–9 phase II activity, NHTSA is reevaluating how it will proceed with rulemaking on the original GTR.

2. Head Restraints

The GTR for head restraints (GTR 7) was established by WP.29 at its March 2008 session. At that time, the GTR incorporated a dynamic test option to some of the static requirements using the Hybrid III test dummy. It was anticipated that a new dummy, BioRID II, might eventually allow for a full system whiplash evaluation test that incorporates the combined performance of the seat and head restraint, but the dummy was not then sufficiently developed to incorporate even as an option, the way the Hybrid III dummy was incorporated.

Therefore, in November 2009, WP.29 initiated a second phase of development for the GTR by forming a new IWG tasked with the development of a fully developed BioRID II test tool, including test procedures, injury criteria and associated corridors. At the last meeting of the IWG, December 10–11, 2012, the chairman confirmed that the development of a proposal for a certification procedure of the BioRID II was in progress and that the study, which is funded by the EC, identified areas of dummy performance, specifically, reproducibility, still required further investigation. He also reported that the group may have to consider proposing it as an option to Hybrid III rather than a replacement. The goal of the IWG is to submit a proposal for consideration at the December 2013 session of GRSP. If GRSP votes to recommend the amendments at that session, WP.29 could vote on the amendments as early as the May 2014 session.

3. Quiet Electric and Hybrid-Electric Vehicles

In 2009, NHTSA published a report on the incident rates of crashes involving hybrid-electric vehicles and pedestrians under different scenarios.[6] The U.S. study, using crash data collected from several states, compared vehicle to pedestrian crash rates for hybrid electric-vehicles and vehicles with internal combustion engines (ICE). In the study, the agency concluded that there was an increased rate of pedestrian crashes for hybrid electric vehicles versus similarly sized ICE vehicles. In 2010, the agency published a second report that found that the overall sound levels for the hybrid-electric vehicles tested were lower at low speeds than for the peer ICE vehicles tested.[7]

The Japanese Ministry of Land, Infrastructure, Transport and Tourism (MLIT), after studying the feasibility of alert sounds for electric and hybrid-electric vehicles, issued guidelines for pedestrian alert sounds in 2010. MLIT concluded that pedestrian alert sounds should be required only on hybrid-electric vehicles that can run exclusively on an electric motor, electric vehicles and fuel-cell vehicles. MLIT guidelines require that electric and hybrid-electric vehicles generate a pedestrian alert sound whenever the vehicle is moving forward at any speed less than 20 km/h and when the vehicle is operating in reverse. The guidelines do not require vehicles to produce an alert sound when the vehicle is operating, but stopped, such as at a traffic light. Also, manufacturers are allowed to equip the vehicle with a switch to deactivate the alert sound temporarily.

WP.29 also determined that vehicles propelled in whole or in part by electric means, present a danger to pedestrians and consequently adopted guidelines covering alert sounds for electric and hybrid vehicles that are closely based on the Japanese guidelines at its March 2011 meeting. The guidelines were published as an annex to the UNECE Consolidated Resolution on the Construction of Vehicles (R.E.3).

Considering the international interest and work in this new area of safety, the United States, the European Commission (EC) and Japan agreed to work, as co-sponsors, on a new GTR to develop harmonized pedestrian minimum sound requirements for electric and hybrid-electric vehicles under the 1998 Global Agreement.[8] WP.29 is now working to develop a GTR that will consider international safety concerns and leverage expertise and research from around the world. Meetings of the IWG are expected to take place regularly with periodic reporting to WP.29 until the expected establishment date for the new GTR in November 2014. Two meetings of the IWG were held in 2012: (1) Washington DC, in July and (2) Berlin, Germany, in December. The meeting agendas, reports and related documents can be found on the UN Web site for this IWG.[9]

[4] Under the 1998 Global Agreement, GTRs are established by consensus vote of the Agreement's contracting parties present and voting.

[5] While the 1998 Global Agreement obligates contracting parties that vote in favor of establishing a GTR to begin their domestic rulemaking process, it leaves the ultimate decision of whether they adopt the GTR to the parties themselves.

[6] ''Research on Quieter Cars and the Safety of Blind Pedestrians, A Report to Congress'' prepared by National Highway Traffic Safety Administration, U.S. Department of Transportation, October 2009. This report can be found at *http://www.nhtsa.gov/DOT/NHTSA/NVS/Crash%20Avoidance/Technical%20Publications/2010/RptToCongress091709.pdf.*

[7] Garay-Vega, Lisandra; Hastings, Aaron; Pollard, John K.; Zuschlag, Michael; and Stearns, Mary D., Quieter Cars and the Safety of Blind Pedestrians: Phase I, John A. Volpe National Transportation Systems Center, DOT HS 811 304 April 2010, available at *http://www.nhtsa.gov/DOT/NHTSA/NVS/Crash%20Avoidance/Technical%20Publications/2010/811304rev.pdf.*

[8] Additionally, the agency is taking this action because the Pedestrian Safety Enhancement Act requires the agency to issue a standard specifying minimum sound for Hybrid and Electric Vehicles. The agency announced its proposal on January 7, 2013.

[9] *https://www2.unece.org/wiki/display/trans/GTR+for+QRTV.*

4. Electric Vehicles

At the March 2012 session of WP.29, the co-sponsors (the United States, Japan, and the EC) submitted a joint proposal (ECE/Trans/WP.29/2012/36. and its Corr1) to establish two working groups to address the safety and environmental issues associated with electric vehicles (EVs). The WP.29 Executive Committee adopted this proposal as well as approved China, per its request, as the fourth co-sponsor.

The objective of the two working groups is to seek regulatory convergence on the global scale via the work in the framework of the 1998 Agreement. For the safety aspects, an electric vehicle safety (EVS) IWG was formed to begin development of the GTR, which would apply to all types of hybrid and pure electric vehicles, their batteries, and other associated high risk components. The United States chairs the IWG with China and the EU as co-vice chairs, and Japan as the secretary. To the extent possible, the GTR will include performance-based requirements and testing protocols designed to allow for innovation, while ensuring that the unique safety risks posed by electric vehicles are mitigated. The GTR will address the safety of high voltage electrical components, including lithium-ion and other types of batteries, their performance during normal use, after a crash event, and while recharging at a residential or commercial station.

Two EVS IWG meetings were held in 2012: (1) Washington DC, in April and (2) Bonn, Germany, in October. At these meetings, the IWG established the Terms of Reference (TOR), exchanged current regulatory, technical and research information and drafted an outline for the GTR. At the second IWG meeting, the International Organization of Motor Vehicle Manufacturers (OICA) submitted a proposal for the IWG consideration, which included safety requirements for occupant protection against high voltage and rechargeable energy storage systems. It was presented in detail, generating substantial discussion, however, there were also a significant number of questions raised regarding the basis for the requirements and test protocols. As appropriate, the IWG will consider the OICA proposal as well as other existing international standards and regulations and results and recommendations from ongoing research activities as the basis for future discussions and drafting the GTR.

5. Light Vehicle Tires

The IWG for developing a GTR on light vehicle tires began its work in September 2006. The activity is sponsored by France and chaired by the UK. The GTR would apply to radial passenger and light truck tires designed to be used on vehicles with a gross mass of 10,000 pounds or less. Its provisions include five mandatory performance and labeling requirements (tire sidewall markings, tire dimensions, high speed performance, low pressure and endurance performance, and wet grip performance).

In addition, there are two optional modules, with one containing a tire strength test and bead unseating resistance test, and the second containing a tire rolling sound emission test. During the course of the development of the GTR, it became apparent that the requirements for light truck tires would require more time to develop. It was therefore decided by WP.29 to split the work on the GTR into two phases. The first phase covers passenger car tires only, and the second will address the light truck tires.

The IWG expects to continue its work in 2013 (and meet on the margins of upcoming sessions of the GRRF).

B. Status of GTRs Nearing Completion and Establishment by Vote

1. Hydrogen Fuel-Cell Vehicles

In June 2007, WP.29 adopted an Action Plan prepared by the co-sponsors (United States, Germany and Japan) to develop a GTR for compressed gaseous and liquefied hydrogen fuel vehicles.[10] WP.29 formed an IWG to develop a GTR for these types of vehicles with the aim of attaining levels of safety equivalent to those for conventional gasoline-powered vehicles. The GTR will cover the safety of hydrogen fuel containers, hydrogen fuel lines and their related components, as well as the safety of high-voltage components.

The work of the IWG is nearing completion. The draft GTR was recommended by the experts of GRSP at the December 2012 session, and is expected to be submitted for a vote at June 2013 session of WP.29. The last outstanding items were addressed as follows:

(1) Electrical Barrier for High Voltage: This requirement provides the protection from direct contact with high voltage components by the use of a physical barrier i.e., enclosure or insulation. This was proposed as a stand-alone option in addition to the two current options that are widely accepted and have been established in Federal Motor Vehicle Safety Standard (FMVSS) No. 305: absence of high voltage and electrical isolation. While this option provides sufficient protection for in-use application, there are still remaining questions regarding its effectiveness as a stand-alone option for certain post-crash scenarios. Consequently, the IWG decided to establish this as an optional safety requirement that contracting parties may or may not elect to adopt.

(2) Duration of the Localized Fire Test: This requirement in the GTR specifies the duration of a localized fire test, which is a part of the fire protection requirement for fuel containers. The localized fire is followed by an engulfing fire, during which the hydrogen container must not rupture or explode. The IWG agreed to set the duration of the localized fire to nine (9) minutes based on test data from Japan and the United States.

(3) Hydrogen Container Material Compatibility: The research for this critical item has not yet been completed and is expected to continue. Therefore, the IWG has agreed to recommend that the contracting parties continue to use their current regulations and standards, if any, until suitable harmonized provisions can be developed in the second phase of the GTR.

2. Pole Side Impact Protection and Harmonized Side Impact Dummies

In November 2009, an informal meeting was held in Washington, DC among interested experts to discuss international cooperation in the development of harmonized side impact dummies. In June 2010, WP.29 formed an IWG to develop a GTR for pole side impact (PSI) protection under the sponsorship and chairmanship of Australia. At the same time, an IWG on Harmonized Side Impact Dummies was formed under the sponsorship and chairmanship of the United States. As the second group was tasked with supporting the PSI GTR by evaluating and further developing the WorldSID family of dummies, the two groups have generally met in conjunction. The side impact dummy IWG held its first meeting in November of 2009 and the PSI group held its first meeting in November 2010. The first tasks of the PSI IWG included confirming the safety need for the GTR and assessing potential candidate crash test procedures for the GTR. The planned GTR would contain pole side impact test procedures using side impact test dummies representing a 50th percentile adult male and a 5th percentile adult female.

[10] The GTR Action Plan (ECE/TRANS/WP.29/2007/4 I) and GTR proposal (ECE/TRANS/WP.29/AC.3/I 7) can be found at *http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/gen2007.html* and *http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29globproposal.html,* respectively.

Australia has since proposed that the GTR be drafted with a 50th percentile adult male dummy requirement only, and a placeholder for the 5th percentile adult female dummy in a first phase, since the WorldSID dummies will be finalized on different timelines, with the 50th percentile adult male dummy development expected to be completed well ahead of the 5th percentile adult female dummy. This would allow contracting parties to obtain benefits of the 50th percentile adult male without having to wait for the 5th percentile adult female to be finalized. WP.29 agreed to a change of the terms of reference of the IWG to allow this, with the provision that no contracting party would be required to initiate the process to adopt the GTR until both phases were complete, even if it were to vote in favor of the first phase of the GTR.

The IWG is finalizing the evaluation of the 50th percentile male version of WorldSID to allow its incorporation in the Pole Side Impact GTR. While the Pole Side Impact IWG has agreed on injury risk curves for the 50th percentile male dummy and has proposed provisional injury criteria, however, NHTSA has not evaluated how the criteria selected compare to our existing regulation. NHTSA is in a unique situation, compared to other countries, as it has an existing pole side impact regulation which incorporates other side impact dummies. While we would not want to deter other countries from adopting a pole side impact regulation, we believe that the United States needs to evaluate both WorldSID dummies together before we can make a decision about amending our existing regulation. In addition, there are some additional injury criteria the IWG is considering to add to phase 2 of the GTR for the 50th male dummy.

NHTSA is concerned that a GTR, which included requirements for a WorldSID 50th percentile adult but not a smaller adult dummy, such as the SID–IIs, would not provide protection to smaller adults or children. This is because the agency has found that including the smaller 5th percentile dummy is not only important to protect smaller adults, but is also effective in ensuring that air bags and sensors designed for side impact protection work effectively for impacts occurring at any point across vehicle full door widths.

At the GRSP session in December 2012, the expert from Australia, on behalf of the Chairman of the IWG submitted a progress report and a draft UN GTR. The draft GTR incorporates an oblique pole test similar to that in the FMVSS No. 214, ''Side impact protection;'' however, it uses the 50th percentile male WorldSID dummy. The chairman requested comments from GRSP experts in time to allow the draft to be submitted as an official document for the May 2013 session of GRSP, particularly on Annex 2 of Part II of the draft UN GTR. The Annex 2 provides the seating procedure for the test dummy. The seating procedure is adopted from an ISO document which was undergoing balloting in December and which ISO agreed at that time could be incorporated in the GTR. When NHTSA first began evaluating the WorldSID dummies itself, it had to modify the existing FMVSS No. 214 seating procedure to fit the dummy in vehicles, due to its differences from the existing dummy. However, NHTSA tried to keep the modifications as close as possible to our own existing procedure. NHTSA has not yet fully evaluated the differences between our existing seating procedure and the ISO seating procedure and we would particularly request comments on the ISO procedure from those with experience with it.

The third issue which has been controversial within the IWG is the scope of vehicle types. Some contracting parties have wanted to limit the scope because they did not see a safety need relative to some vehicle types in their country. However, the current draft covers all vehicles that would be covered by NHTSA's existing FMVSS No. 214.

It is expected that the draft GTR will be recommended to WP.29 at the May 2013 session, in which case, it could be voted on by WP.29 as early as the November 2013 session.

Concerning the 5th percentile female WorldSID dummy, it appears that issues will significantly increase development time for this dummy. Currently, the effort on the 5th percentile female is expected to be completed by December 2015. Because of this, once Phase 1 of the PSI GTR is complete, the PSI IWG expects to suspend its meetings until the 5th percentile female WorldSID dummy development is complete. At that time it would resume its meetings to complete work on the GTR to incorporate the second dummy.

C. Exchange of Information Item

1. Enforcement Working Group

At the June 2011 session of WP.29, NHTSA proposed that WP.29 consider forming a new working group that would meet to facilitate the regular exchange of non-proprietary or otherwise non-privileged information on enforcement-related activities from around the world to help governments identify and manage incidences of automotive non-compliance or defects more quickly. The participants of WP.29 welcomed and accepted the proposal. To date, three meetings of the IWG have been held, each during the November 2011, June 2012, and November 2012 sessions of WP.29. The IWG is open to all the delegates to WP.29 including the Contracting Parties, Non-Governmental Organizations and industry associations and is expected to meet twice a year going forward (each June and November session of WP.29) subject to the agreement of WP.29.

D. Compendium of Candidate GTRs

Article 5 of the 1998 Global Agreement provides for the creation of a compendium of candidate technical regulations submitted by the Contracting Parties. To date, NHTSA has submitted several FMVSSs for inclusion in this Compendium. These FMVSSs have all been listed in the Compendium after an affirmative vote of the Executive Committee of the 1998 Global Agreement.

The FMVSS listed in the Compendium include:

- FMVSS No. 108: Lamps, Reflective Devices, and Associated Equipment
- FMVSS No. 135: Passenger Car Brake Systems
- FMVSS No. 139: New Pneumatic Radial Tires for Light Vehicles
- FMVSS No. 202a: Head Restraints
- FMVSS No. 205: Glazing Materials
- FMVSS No. 213: Child Restraint Systems
- EPA and DOT programs for Light-duty Vehicle Greenhouse Gas
- EPA and NHTSA Programs for Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium and Heavy-Duty Engines and Vehicles
- EPA and NHTSA Programs for Revisions and Additions to the Motor Vehicle Fuel Economy Label: New Fuel Economy and Environment Labels for a New Generation of Vehicles Emission Standards and Corporate Average Fuel Economy Standards

Additionally, the Compendium contains Japan's submission for its technical standard for fuel leakage entitled ''Regulations for road vehicles in Japan regarding hydrogen and fuel-cell vehicles.''

IV. Request for Comments

NHTSA invites public comments on the various activities outlined in this notice. The agency plans to issue individual Notices of Proposed Rulemaking based on each GTR as it is established by WP.29 and will consider

additional detailed comments at that time. In the event that the public comments provide new information and data that will lead the agency to adopt Final Rules that significantly differ from the GTRs upon which they were initially proposed, NHTSA will consider seeking amendments to those GTRs in an effort to maintain harmonization.

Issued on: April 4, 2013.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–08221 Filed 4–8–13; 8:45 am]

BILLING CODE 4910–59–P

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

AGENCY: United States Institute of Peace.

DATES: *Date/Time:* Friday, April 19, 2013 (9:00 a.m.–3:00 p.m.).

Location: 2301 Constitution Avenue NW., Washington, DC 20037.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: April 19, 2013 Board Meeting; Approval of Minutes of the One Hundred Forty-Sixth Meeting (January 24, 2013) of the Board of Directors; Chairman's Report; President's Report; Status Reports; Congressional Overview; Strategic Plan; Board Executive Session; Other General Issues.

Contact: Tessie F. Higgs, Executive Office, Telephone: (202) 429–3836.

Dated: April 3, 2013.

Michael Graham,

Senior Vice President for Management, United States Institute of Peace.

[FR Doc. 2013–08152 Filed 4–8–13; 8:45 am]

BILLING CODE 6820–AR–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act (5 U.S.C. App. 2) that a meeting of the Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities will be held on April 25–26, 2013, in Room 6W405, 425 I Street NW., Washington, DC. The sessions will be from 9 a.m. until 5 p.m. on April 25 and from 8:30 a.m. until 12:30 p.m. on April 26. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on matters of structural safety in the construction and remodeling of VA facilities and to recommend standards for use by VA in the construction and alteration of its facilities.

On April 25, the Committee will review developments in the fields of fire safety issues and structural design as they relate to seismic and other natural hazards impact on the safety of buildings. On April 26, the Committee will receive appropriate briefings and presentations on current seismic, natural hazards, and fire safety issues that are particularly relevant to facilities owned and leased by the Department. The Committee will also discuss appropriate structural and fire safety recommendations for inclusion in VA's construction standards.

No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments. Comments should be sent to Krishna K. Banga, Senior Structural Engineer, Facilities Standards Service, Office of Construction and Facilities Management (003C2B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or emailed at *Krishna.banga@va.gov.* Those wishing to attend or seeking additional information should contact Mr. Banga at (202) 632–4694.

Dated: April 3, 2013.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

Department of Veterans Affairs

Advisory Committee on Structural Safety of VA Facilities

Workshop: April 25, 2013: 9:00 a.m. to 5:00 p.m. Room 6W.405, 425 I Street NW., Washington, DC 20001

Members:
Mr. Chris D. Poland, SE., Chair
Dr. Gregory G. Deierlein, PE
Mr. B. Todd Gritch, FAIA, CBO, FACHA
Mr. William E. Koffel, PE
Dr. Lelio H. Mejia, PE

VA Staff:
Lloyd H. Siegel, FAIA
Donald L. Myers, AIA
Krishna Banga, PE
Asok Ghosh, Ph.D., PE
Jonathan Gurland, Esq.
Tesfaye Guttema, Ph.D., PE
Lawanda Jones, Prog. Spl.
. David Klein, PE
Fred Lau, PE

Workshop Agenda:

- Greetings by Mr. Lloyd H. Siegel and the Chair, Mr. Chris D. Poland—09:00 a.m.
- Ethics & Financial Disclosure—Jonathan Gurland, General Counsel—09:15 a.m.
- Members' travel related matters—Ms. Lawanda Jones—09:45 a.m.
- General business, including review and discussions of ''Resolutions'' of May 13, 2011, and December 11, 2012 (Tele-Conf.) meetings—10:00 a.m.
- Break for lunch—12:00 p.m.
- Structural and Fire-Safety sub-groups break out (FSG in Room TBD) for detailed discussion of specific items listed in April 26, 2013, Meeting agenda—01:00 p.m.
- Re-group all members in Room 6W.405 for exchange of discussions by sub-groups—02:30 p.m.
- New Business—03:30 p.m.
- Discuss strategy for April 26, 2013, meeting—04:00 p.m.
- ADJOURN—05:00 p.m.

Department of Veterans Affairs

Advisory Committee on Structural Safety of VA Facilities

Annual Meeting: April 26, 2013: 8:30 a.m. to 12:30 p.m. Room 6W.405, 425 I Street NW., Washington, DC 20001

Members:
Mr. Chris D. Poland, SE., Chair
Dr. Gregory G. Deierlein, PE
Mr. B. Todd Gritch, FAIA, CBO, FACHA
Mr. William E. Koffel, PE
Dr. Lelio H. Mejia, PE

Meeting Agenda:

1. Welcome & Remarks by High Level VA Official
2. Introductory remarks by Chair, Mr. Chris D. Poland
3. Issues from May 13, 2011, and December 11, 2012 (Tele Conference) Meetings:

(a) Response to Committee resolutions—Asok Ghosh, Fred Lau, Krishna Banga

(b) Bracing of non-structural elements in buildings located in moderate low seismic zones (Revise section 4.0 to include exemption of non-structural elements in buildings located in moderate low and low seismicity, as prescribed in section 3.7)—Asok Ghosh

(c) Inspection of Facades update—Fred Lau

(d) Status of Physical Security Design Manual Update—Fred Lau

(e) Fire Protection of steel columns in interstitial space of VA Building System—David Klein

(f) Progress Report on Installation of multi-channel seismic instruments installed by USGS in VA building—Krishna Banga

(g) Update on Shake Cast—Krishna Banga

5. New Business

(a) Revise H–18–8 to include:

○ Seismic instrumentation in VA buildings located in moderate high and high seismic zones—Asok Ghosh; and

○ Application of Viscous Dampers for seismic retrofit of existing buildings—Krishna Banga

(a) Fire Safety Issues—David Klein

6. Assignment of new activities

7. Date of next meeting

Adjourn

[FR Doc. 2013–08144 Filed 4–8–13; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that a meeting of the Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities will be held on April 25–26, 2013, in Room 6W405, 425 I Street NW., Washington, DC. The sessions will be from 9 a.m. until 5 p.m. on April 25 and from 8:30 a.m. until 12:30 p.m. on April 26. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on matters of structural safety in the construction and remodeling of VA facilities and to recommend standards for use by VA in the construction and alteration of its facilities.

On April 25, the Committee will review developments in the fields of fire safety issues and structural design as they relate to seismic and other natural hazards impact on the safety of buildings. On April 26, the Committee will receive appropriate briefings and presentations on current seismic, natural hazards, and fire safety issues that are particularly relevant to facilities owned and leased by the Department. The Committee will also discuss appropriate structural and fire safety recommendations for inclusion in VA's construction standards.

No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments. Comments should be sent to Krishna K. Banga, Senior Structural Engineer, Facilities Standards Service, Office of Construction and Facilities Management (003C2B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or emailed at *Krishna.banga@va.gov*. Those wishing to attend or seeking additional information should contact Mr. Banga at (202) 632–4694.

Dated: April 3, 2013.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–08155 Filed 4–8–13; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed 2013–14 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals and Requests for 2015 Spring and Summer Migratory Bird Subsistence Harvest Proposals in Alaska; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2013–0057; FF09M21200–134–FXMB1231099BPP0]

RIN 1018–AY87

Migratory Bird Hunting; Proposed 2013–14 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals and Requests for 2015 Spring and Summer Migratory Bird Subsistence Harvest Proposals in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of supplemental information.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter the Service or we) proposes to establish annual hunting regulations for certain migratory game birds for the 2013–14 hunting season. We annually prescribe outside limits (frameworks) within which States may select hunting seasons. This proposed rule provides the regulatory schedule, describes the proposed regulatory alternatives for the 2013–14 duck hunting seasons, requests proposals from Indian tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands, and requests proposals for the 2015 spring and summer migratory bird subsistence season in Alaska. Migratory game bird hunting seasons provide opportunities for recreation and sustenance; aid Federal, State, and tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions.

DATES: You must submit comments on the proposed regulatory alternatives for the 2013–14 duck hunting seasons on or before June 22, 2013. Following subsequent **Federal Register** notices, you will be given an opportunity to submit comments for proposed early-season frameworks by July 27, 2013, and for proposed late-season frameworks and subsistence migratory bird seasons in Alaska by August 31, 2013. Tribes must submit proposals and related comments on or before June 1, 2013. Proposals from the Co-management Council for the 2015 spring and summer migratory bird subsistence harvest season must be submitted to the Flyway Councils and the Service on or before June 15, 2013.

ADDRESSES: You may submit comments on the proposals by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–MB–2013–0057.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–HQ–MB–2013–0057; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will not accept emailed or faxed comments. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

Send your proposals for the 2015 spring and summer migratory bird subsistence season in Alaska to the Executive Director of the Co-management Council, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503; or fax to (907) 786–3306; or email to *ambcc@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, at: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240; (703) 358–1714. For information on the migratory bird subsistence season in Alaska, contact Donna Dewhurst, (907) 786–3499, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503.

SUPPLEMENTARY INFORMATION:

Background and Overview

Migratory game birds are those bird species so designated in conventions between the United States and several foreign nations for the protection and management of these birds. Under the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Secretary of the Interior is authorized to determine when ''hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any * * * bird, or any part, nest, or egg'' of migratory game birds can take place, and to adopt regulations for this purpose. These regulations are written after giving due regard to ''the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds'' and are updated annually (16 U.S.C. 704(a)). This responsibility has been delegated to the Service as the lead Federal agency for managing and conserving migratory birds in the United States.

The Service develops migratory game bird hunting regulations by establishing the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting. Acknowledging regional differences in hunting conditions, the Service has administratively divided the Nation into four Flyways for the primary purpose of managing migratory game birds. Each Flyway (Atlantic, Mississippi, Central, and Pacific) has a Flyway Council, a formal organization generally composed of one member from each State and Province in that Flyway. The Flyway Councils, established through the International Association of Fish and Wildlife Agencies (IAFWA), also assist in researching and providing migratory game bird management information for Federal, State, and Provincial governments, as well as private conservation agencies and the general public.

The process for adopting migratory game bird hunting regulations, located at 50 CFR part 20, is constrained by three primary factors. Legal and administrative considerations dictate how long the rulemaking process will last. Most importantly, however, the biological cycle of migratory game birds controls the timing of data-gathering activities and thus the dates on which these results are available for consideration and deliberation.

The process includes two separate regulations-development schedules, based on early and late hunting season regulations. Early hunting seasons pertain to all migratory game bird species in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; migratory game birds other than waterfowl (i.e., dove, woodcock, etc.); and special early waterfowl seasons, such as teal or resident Canada geese. Early hunting seasons generally begin before October 1. Late hunting seasons generally start on or after October 1 and include most waterfowl seasons not already established.

There are basically no differences in the processes for establishing either early or late hunting seasons. For each cycle, Service biologists gather, analyze, and interpret biological survey data and provide this information to all those involved in the process through a series of published status reports and presentations to Flyway Councils and other interested parties. Because the Service is required to take abundance of migratory game birds and other factors into consideration, the Service undertakes a number of surveys throughout the year in conjunction with Service Regional Offices, the Canadian Wildlife Service, and State and

Provincial wildlife-management agencies. To determine the appropriate frameworks for each species, we consider factors such as population size and trend, geographical distribution, annual breeding effort, the condition of breeding and wintering habitat, the number of hunters, and the anticipated harvest.

After frameworks, or outside limits, are established for season lengths, bag limits, and areas for migratory game bird hunting, migratory game bird management becomes a cooperative effort of State and Federal governments. After Service establishment of final frameworks for hunting seasons, the States may select season dates, bag limits, and other regulatory options for the hunting seasons. States may always be more conservative in their selections than the Federal frameworks but never more liberal.

Notice of Intent To Establish Open Seasons

This document announces our intent to establish open hunting seasons and daily bag and possession limits for certain designated groups or species of migratory game birds for 2013–14 in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands, under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K of 50 CFR part 20.

For the 2013–14 migratory game bird hunting season, we will propose regulations for certain designated members of the avian families Anatidae (ducks, geese, and swans); Columbidae (doves and pigeons); Gruidae (cranes); Rallidae (rails, coots, moorhens, and gallinules); and Scolopacidae (woodcock and snipe). We describe these proposals under Proposed 2013–14 Migratory Game Bird Hunting Regulations (Preliminary) in this document. We published definitions of waterfowl flyways and mourning dove management units, as well as a description of the data used in and the factors affecting the regulatory process, in the March 14, 1990, **Federal Register** (55 FR 9618).

Regulatory Schedule for 2013–14

This document is the first in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations. We will publish additional supplemental proposals for public comment in the **Federal Register** as population, habitat, harvest, and other information become available. Because of the late dates when certain portions of these data become available, we anticipate abbreviated comment periods on some proposals. Special circumstances limit the amount of time we can allow for public comment on these regulations.

Specifically, two considerations compress the time for the rulemaking process: the need, on one hand, to establish final rules early enough in the summer to allow resource agencies to select and publish season dates and bag limits before the beginning of hunting seasons and, on the other hand, the lack of current status data on most migratory game birds until later in the summer. Because the regulatory process is strongly influenced by the times when information is available for consideration, we divide the regulatory process into two segments: early seasons and late seasons (further described and discussed above in the Background and Overview section).

Major steps in the 2013–14 regulatory cycle relating to open public meetings and **Federal Register** notifications are illustrated in the diagram at the end of this proposed rule. All publication dates of **Federal Register** documents are target dates.

All sections of this and subsequent documents outlining hunting frameworks and guidelines are organized under numbered headings. These headings are:

1. Ducks
   A. General Harvest Strategy
   B. Regulatory Alternatives
   C. Zones and Split Seasons
   D. Special Seasons/Species Management
   i. September Teal Seasons
   ii. September Teal/Wood Duck Seasons
   iii. Black Ducks
   iv. Canvasbacks
   v. Pintails
   vi. Scaup
   vii. Mottled Ducks
   viii. Wood Ducks
   ix. Youth Hunt
   x. Mallard Management Units
   xi. Other
2. Sea Ducks
3. Mergansers
4. Canada Geese
   A. Special Seasons
   B. Regular Seasons
   C. Special Late Seasons
5. White-fronted Geese
6. Brant
7. Snow and Ross's (Light) Geese
8. Swans
9. Sandhill Cranes
10. Coots
11. Moorhens and Gallinules
12. Rails
13. Snipe
14. Woodcock
15. Band-tailed Pigeons
16. Mourning Doves
17. White-winged and White-tipped Doves
18. Alaska
19. Hawaii
20. Puerto Rico
21. Virgin Islands
22. Falconry
23. Other

Later sections of this and subsequent documents will refer only to numbered items requiring your attention. Therefore, it is important to note that we will omit those items requiring no attention, and remaining numbered items will be discontinuous and appear incomplete.

We will publish final regulatory alternatives for the 2013–14 duck hunting seasons in mid-July. We will publish proposed early season frameworks in mid-July and late season frameworks in mid-August. We will publish final regulatory frameworks for early seasons on or about August 16, 2013, and those for late seasons on or about September 14, 2013.

Request for 2015 Spring and Summer Migratory Bird Subsistence Harvest Proposals in Alaska

Background

The 1916 Convention for the Protection of Migratory Birds between the United States and Great Britain (for Canada) established a closed season for the taking of migratory birds between March 10 and September 1. Residents of northern Alaska and Canada traditionally harvested migratory birds for nutritional purposes during the spring and summer months. The 1916 Convention and the subsequent 1936 Mexico Convention for the Protection of Migratory Birds and Game Mammals provide for the legal subsistence harvest of migratory birds and their eggs in Alaska and Canada during the closed season by indigenous inhabitants.

On August 16, 2002, we published in the **Federal Register** (67 FR 53511) a final rule that established procedures for incorporating subsistence management into the continental migratory bird management program. These regulations, developed under a new co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives, established an annual procedure to develop harvest guidelines for implementation of a spring and summer migratory bird subsistence harvest. Eligibility and inclusion requirements necessary to participate in the spring and summer migratory bird subsistence season in Alaska are outlined in 50 CFR part 92.

This proposed rule calls for proposals for regulations that will expire on August 31, 2015, for the spring and summer subsistence harvest of migratory birds in Alaska. Each year, seasons will open on or after March 11 and close before September 1.

Alaska Spring and Summer Subsistence Harvest Proposal Procedures

We will publish details of the Alaska spring and summer subsistence harvest proposals in later **Federal Register** documents under 50 CFR part 92. The general relationship to the process for developing national hunting regulations for migratory game birds is as follows:

(a) *Alaska Migratory Bird Co-Management Council.* The public may submit proposals to the Co-management Council during the period of November 1–December 15, 2013, to be acted upon for the 2015 migratory bird subsistence harvest season. Proposals should be submitted to the Executive Director of the Co-management Council, listed above under the caption **ADDRESSES.**

(b) *Flyway Councils.*

(1) The Co-management Council will submit proposed 2015 regulations to all Flyway Councils for review and comment. The Council's recommendations must be submitted before the Service Regulations Committee's last regular meeting of the calendar year in order to be approved for spring and summer harvest beginning April 2 of the following calendar year.

(2) Alaska Native representatives may be appointed by the Co-management Council to attend meetings of one or more of the four Flyway Councils to discuss recommended regulations or other proposed management actions.

(c) *Service Regulations Committee.* The Co-management Council will submit proposed annual regulations to the Service Regulations Committee (SRC) for their review and recommendation to the Service Director. Following the Service Director's review and recommendation, the proposals will be forwarded to the Department of the Interior for approval. Proposed annual regulations will then be published in the **Federal Register** for public review and comment, similar to the annual migratory game bird hunting regulations. Final spring and summer regulations for Alaska will be published in the **Federal Register** in the preceding winter after review and consideration of any public comments received.

Because of the time required for review by us and the public, proposals from the Co-management Council for the 2015 spring and summer migratory bird subsistence harvest season must be submitted to the Flyway Councils and the Service by June 15, 2014, for Council comments and Service action at the late-season SRC meeting.

Review of Public Comments

This proposed rulemaking contains the proposed regulatory alternatives for the 2013–14 duck hunting seasons. This proposed rulemaking also describes other recommended changes or specific preliminary proposals that vary from the 2012–13 final frameworks (see August 30, 2012, **Federal Register** (77 FR 53118) for early seasons and September 20, 2012, **Federal Register** (77 FR 58444) for late seasons) and issues requiring early discussion, action, or the attention of the States or tribes. We will publish responses to all proposals and written comments when we develop final frameworks for the 2013–14 season. We seek additional information and comments on this proposed rule.

Consolidation of Notices

For administrative purposes, this document consolidates the notice of intent to establish open migratory game bird hunting seasons, the request for tribal proposals, and the request for Alaska migratory bird subsistence seasons with the preliminary proposals for the annual hunting regulations-development process. We will publish the remaining proposed and final rulemaking documents separately. For inquiries on tribal guidelines and proposals, tribes should contact the following personnel:

Region 1 (Idaho, Oregon, Washington, Hawaii, and the Pacific Islands)—Nanette Seto, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, OR 97232–4181; (503) 231–6164.

Region 2 (Arizona, New Mexico, Oklahoma, and Texas)—Greg Hughes, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103; (505) 248–7885.

Region 3 (Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin)—Jane West, U.S. Fish and Wildlife Service, Federal Building, One Federal Drive, Fort Snelling, MN 55111–4056; (612) 713–5432.

Region 4 (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico and Virgin Islands, South Carolina, and Tennessee)—E. J. Williams, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 324, Atlanta, GA 30345; (404) 679–4000.

Region 5 (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia)—Chris Dwyer, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589; (413) 253–8576.

Region 6 (Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming)—Casey Stemler, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Building, Denver, CO 80225; (303) 236–8145.

Region 7 (Alaska)—Pete Probasco, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503; (907) 786–3423.

Region 8 (California and Nevada)—Marie Strassburger, U.S. Fish and Wildlife Service, 2800 Cottage Way, Sacramento, CA 95825–1846; (916) 414–6727.

Requests for Tribal Proposals

Background

Beginning with the 1985–86 hunting season, we have employed guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467) to establish special migratory game bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. We developed these guidelines in response to tribal requests for our recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal and nontribal members throughout their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks, but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, tribal regulations established under the guidelines must be consistent with the annual March 10 to September 1 closed season mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds (Convention). The guidelines are applicable to those tribes that have reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and ceded lands. They also may be applied to the establishment of migratory game bird hunting regulations for nontribal members on all lands within the exterior boundaries of reservations where tribes have full wildlife management authority over such hunting, or where the tribes and affected States otherwise have reached

agreement over hunting by nontribal members on non-Indian lands.

Tribes usually have the authority to regulate migratory game bird hunting by nonmembers on Indian-owned reservation lands, subject to our approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing migratory bird hunting by non-Indians on these lands. In such cases, we encourage the tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, we will consult with a tribe and State with the aim of facilitating an accord. We also will consult jointly with tribal and State officials in the affected States where tribes may wish to establish special hunting regulations for tribal members on ceded lands. It is incumbent upon the tribe and/or the State to request consultation as a result of the proposal being published in the **Federal Register**. We will not presume to make a determination, without being advised by either a tribe or a State, that any issue is or is not worthy of formal consultation.

One of the guidelines provides for the continuation of tribal members' harvest of migratory game birds on reservations where such harvest is a customary practice. We do not oppose this harvest, provided it does not take place during the closed season required by the Convention, and it is not so large as to adversely affect the status of the migratory game bird resource. Since the inception of these guidelines, we have reached annual agreement with tribes for migratory game bird hunting by tribal members on their lands or on lands where they have reserved hunting rights. We will continue to consult with tribes that wish to reach a mutual agreement on hunting regulations for on-reservation hunting by tribal members.

Tribes should not view the guidelines as inflexible. We believe that they provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian tribes while also ensuring that the migratory game bird resource receives necessary protection. The conservation of this important international resource is paramount. Use of the guidelines is not required if a tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

Details Needed in Tribal Proposals

Tribes that wish to use the guidelines to establish special hunting regulations for the 2013–14 migratory game bird hunting season should submit a proposal that includes:

(1) The requested migratory game bird hunting season dates and other details regarding the proposed regulations;

(2) Harvest anticipated under the proposed regulations;

(3) Methods employed to monitor harvest (mail-questionnaire survey, bag checks, etc.);

(4) Steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would seriously impact the migratory game bird resource; and

(5) Tribal capabilities to establish and enforce migratory game bird hunting regulations.

A tribe that desires the earliest possible opening of the migratory game bird season for nontribal members should specify this request in its proposal, rather than request a date that might not be within the final Federal frameworks. Similarly, unless a tribe wishes to set more restrictive regulations than Federal regulations will permit for nontribal members, the proposal should request the same daily bag and possession limits and season length for migratory game birds that Federal regulations are likely to permit the States in the Flyway in which the reservation is located.

Tribal Proposal Procedures

We will publish details of tribal proposals for public review in later **Federal Register** documents. Because of the time required for review by us and the public, Indian tribes that desire special migratory game bird hunting regulations for the 2013–14 hunting season should submit their proposals as soon as possible, but no later than June 1, 2013.

Tribes should direct inquiries regarding the guidelines and proposals to the appropriate Service Regional Office listed above under the caption Consolidation of Notices. Tribes that request special migratory game bird hunting regulations for tribal members on ceded lands should send a courtesy copy of the proposal to officials in the affected State(s).

Public Comments

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments we receive. Such comments, and any additional information we receive, may lead to final regulations that differ from these proposals.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by email or fax or to an address not listed in the **ADDRESSES** section. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

We will post all comments in their entirety—including your personal identifying information—on *http://www.regulations.gov.* 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.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, Room 4107, 4501 North Fairfax Drive, Arlington, VA 22203.

For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments we receive during the comment period and respond to them after the closing date in any final rules.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published notice of availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR

31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement (SEIS) for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March 9, 2006, **Federal Register** (71 FR 12216). We released the draft SEIS on July 9, 2010 (75 FR 39577). The draft SEIS is available either by writing to the address indicated under **FOR FURTHER INFORMATION CONTACT** or by viewing our Web site at *http://www.fws.gov/migratorybirds.*

Endangered Species Act Consideration

Before issuance of the 2013–14 migratory game bird hunting regulations, we will comply with provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; hereinafter the Act), to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under section 7 of the Act may cause us to change proposals in this and future supplemental proposed rulemaking documents.

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. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of $100 million or more on the economy.

Executive Order 13563 reaffirms the principles of E.O. 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. E.O. 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.

An economic analysis was prepared for the 2008–09 season. This analysis was based on data from the 2006 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) Issue restrictive regulations allowing fewer days than those issued during the 2007–08 season, (2) Issue moderate regulations allowing more days than those in alternative 1, and (3) Issue liberal regulations identical to the regulations in the 2007–08 season. For the 2008–09 season, we chose alternative 3, with an estimated consumer surplus across all flyways of $205–$270 million. We also chose alternative 3 for the 2009–10, the 2010–11, and the 2012–13 seasons. At this time, we are proposing no changes to the season frameworks for the 2013–14 season, and as such, we will again consider these three alternatives. However, final frameworks will be dependent on population status information available later this year. For these reasons, we have not conducted a new economic analysis, but the 2008–09 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2013–0057.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, and 2008. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2008 Analysis was based on the 2006 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.2 billion at small businesses in 2008. Copies of the Analysis are available upon request from the Division of Migratory Bird Management (see **FOR FURTHER INFORMATION CONTACT**) or from our Web site at *http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2013–0057.

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule would have an annual effect on the economy of $100 million or more. However, because this rule would establish hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these proposed regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of our Migratory Bird Surveys and assigned control number 1018–0023 (expires 4/30/2014). This

information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations.

OMB has also approved the information collection requirements of the Alaska Subsistence Household Survey, an associated voluntary annual household survey used to determine levels of subsistence take in Alaska, and assigned control number 1018–0124 (expires 4/30/2013). A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 et seq., that this proposed rulemaking would not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this proposed rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules would allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally-recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in this proposed rule, we solicit proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2013–14 migratory bird hunting season. The resulting proposals will be contained in a separate proposed rule. By virtue of these actions, we have consulted with Tribes affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism impact summary statement.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Authority: The rules that eventually will be promulgated for the 2013–14 hunting season are authorized under 16 U.S.C. 703–711, 16 U.S.C. 712, and 16 U.S.C. 742 a–j.

Dated: March 25, 2013.

Michael J. Bean,

Counselor to the Assistant Secretary for Fish and Wildlife and Parks.

Proposed 2013–14 Migratory Game Bird Hunting Regulations (Preliminary)

Pending current information on populations, harvest, and habitat conditions, and receipt of recommendations from the four Flyway Councils, we may defer specific regulatory proposals. No changes from the final 2012–13 frameworks established on August 30 and September 20, 2012 (77 FR 53118 and 77 FR 58444) are being proposed at this time. Other issues requiring early discussion, action, or the attention of the States or tribes are contained below:

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. Only those containing substantial recommendations are discussed below.

A. General Harvest Strategy

We propose to continue using adaptive harvest management (AHM) to help determine appropriate duck-hunting regulations for the 2013–14 season. AHM permits sound resource decisions in the face of uncertain regulatory impacts and provides a mechanism for reducing that uncertainty over time. We use AHM to evaluate four alternative regulatory levels for duck hunting based on the population status of mallards. (We enact special hunting restrictions for species of special concern, such as canvasbacks, scaup, and pintails).

Pacific, Central and Mississippi Flyways

Until 2008, we based the prescribed regulatory alternative for the Pacific, Central, and Mississippi Flyways on the status of mallards and breeding-habitat conditions in central North America (Federal survey strata 1–18, 20–50, and 75–77, and State surveys in Minnesota, Wisconsin, and Michigan). In 2008, we based hunting regulations upon the breeding stock that contributes primarily to each Flyway. In the Pacific Flyway, we set hunting regulations based on the status and dynamics of a newly defined stock of ''western'' mallards. Western mallards are those breeding in Alaska and the northern Yukon Territory (as based on Federal surveys in strata 1–12), and in California and Oregon (as based on State-conducted surveys). In the Central and

Mississippi Flyways, we set hunting regulations based on the status and dynamics of mid-continent mallards. Mid-continent mallards are those breeding in central North America not included in the Western mallard stock, as defined above.

For the 2013–14 season, we recommend continuing to use independent optimization to determine the optimum regulations. This means that we would develop regulations for mid-continent mallards and western mallards independently, based upon the breeding stock that contributes primarily to each Flyway. We detailed implementation of this new AHM decision framework in the July 24, 2008, **Federal Register** (73 FR 43290).

Atlantic Flyway

Since 2000, we have prescribed a regulatory alternative for the Atlantic Flyway annually using an eastern mallard AHM decision framework that is based on the population status of mallards breeding in eastern North America (Federal survey strata 51–54 and 56, and State surveys in New England and the mid-Atlantic region). We recommend continuation of the AHM process for the 2013–14 season.

Last year, we proposed and subsequently implemented several changes related to the population models used in the eastern mallard AHM protocol. For the benefit of the reader, we reiterate those changes implemented here. Until last year, the AHM process used to set harvest regulations for eastern mallards was based on an objective of maximizing long-term cumulative harvest and using predictions from six population models representing different hypotheses about the recruitment process and sources of bias in population predictions. The Atlantic Flyway Council and the Service evaluated the performance of the model set used to support eastern mallard AHM and found that the then current models used to predict survival (as a function of harvest) and recruitment (as a function of breeding population size) did not perform adequately, resulting in a consistent over-prediction of mallard population size in most years. Consequently, we stated then that we believed it was necessary to update those population models with more contemporary survival and recruitment information and revised hypotheses about the key factors affecting eastern mallard population dynamics. Further, the Flyway is also reconsidering harvest management objectives and assessing the spatial designation of the eastern mallard breeding population. Recognizing that the development of a fully revised AHM protocol would likely take several years to complete, we developed a revised model set to inform eastern mallard harvest decisions until all of the updates to the eastern mallard AHM protocol are completed. We propose to again use this model set to inform eastern mallard harvest regulations until a fully revised AHM protocol is finalized. Further details on the revised models and results of simulations of this interim harvest policy are available on our Web site at *http://www.fws.gov/migratorybirds,* or at *http://www.regulations.gov.*

Final 2013–14 AHM Protocol

We will detail the final AHM protocol for the 2013–14 season in the early-season proposed rule, which we will publish in mid-July (see Schedule of Regulations Meetings and **Federal Register** Publications at the end of this proposed rule for further information). We will propose a specific regulatory alternative for each of the Flyways during the 2013–14 season after survey information becomes available in late summer. More information on AHM is located at *http://www.fws.gov/migratorybirds/CurrentBirdIssues/Management/AHM/AHM-intro.htm.*

B. Regulatory Alternatives

The basic structure of the current regulatory alternatives for AHM was adopted in 1997. In 2002, based upon recommendations from the Flyway Councils, we extended framework dates in the ''moderate'' and ''liberal'' regulatory alternatives by changing the opening date from the Saturday nearest October 1 to the Saturday nearest September 24; and changing the closing date from the Sunday nearest January 20 to the last Sunday in January. These extended dates were made available with no associated penalty in season length or bag limits. At that time we stated our desire to keep these changes in place for 3 years to allow for a reasonable opportunity to monitor the impacts of framework-date extensions on harvest distribution and rates of harvest before considering any subsequent use (67 FR 12501; March 19, 2002).

For 2013–14, we are proposing to maintain the same regulatory alternatives that were in effect last year (see accompanying table for specifics of the proposed regulatory alternatives). Alternatives are specified for each Flyway and are designated as ''RES'' for the restrictive, ''MOD'' for the moderate, and ''LIB'' for the liberal alternative. We will announce final regulatory alternatives in mid-July. We will accept public comments until June 22, 2013, and you should send your comments to an address listed under the caption **ADDRESSES**.

D. Special Seasons/Species Management

i. September Teal Seasons

In 2009, we agreed to allow an additional 7 days during the special September teal season in the Atlantic Flyway (74 FR 43009). In addition, we requested that a new assessment of the cumulative effects of all teal harvest, including harvest during special September seasons be conducted. Furthermore, we indicated that we would not agree to any further modifications of special September teal seasons or other special September duck seasons until a thorough assessment of the harvest potential had been completed for both blue-winged and green-winged teal, as well as an assessment of the impacts of current special September seasons on these two species. Cinnamon teal were subsequently included in this assessment.

We recognize the long-standing interest by the Flyway Councils to pursue additional teal harvest opportunity, and the final report of the working group indicates that additional opportunity likely can be supported by at least some of the teal species. However, we note that the working group was not charged with assessing how additional harvest opportunity could be provided. Last year, we indicated our willingness to work with the Flyways to explore ways to provide that opportunity. Previous attempts at providing additional teal harvest opportunity have included special September teal seasons, provision of bonus teal during the regular season, September duck seasons (e.g. Iowa), and September teal/wood duck seasons. Past Service policy has discontinued the use of September teal seasons in production States, eliminated bonus teal options, and limited the use of September duck seasons to the State of Iowa. Furthermore, September teal/wood duck seasons are limited to Florida, Kentucky, and Tennessee. Based on these past actions and assessments that supported them, we believe that the Flyways would need to provide some compelling new information to warrant reconsideration of these approaches. However, we recognize such reconsideration may be warranted and look forward to further dialogue with the Flyways on what method or methods might be best employed to take advantage of the additional teal harvest

potential documented by our joint assessment.

Also, we believe that substantial technical work will still need to be completed by the Flyways and the Service before such opportunities can be offered. Furthermore, we believe a comprehensive approach should be taken and that any expansion of teal opportunities should be treated on an experimental basis with the requirement they be fully evaluated in a geographically comprehensive manner and be coordinated within and among Flyways, including consideration of teal harvest allocation. Lastly, our long standing policy regarding harvest strategies has been to review and approve any new, or changes to existing, plans prior to any SRC meeting discussing potential implementation of the strategy. We do not believe the complex technical work required can be completed and vetted with all four flyways during the 2013–14 regulatory cycle in accordance with this policy prior to any discussion of potential implementation of the strategy for the 2013–14 season.

As we have previously stated, teal harvest evaluation plans must include study objectives, experimental design, decision criteria, and identification of data needs. The evaluation plan should address not only potential impacts to teal populations, but also impacts to non-target species and the ability of hunters to comply with special teal regulations. Any expansion of teal opportunities should be limited to teal and not expanded to include other species, as has been contained in previous Flyway Council proposals. Further, because of the historical differences between northern and southern States regarding how teal harvest regulations have been provided, we expect that reaching broad-based agreement on issues such as management objectives, appropriate regulatory alternatives, and models to be used to predict the effects of the regulatory alternatives on the status of the impacted teal species will take a substantial amount of time and effort by both the Flyways and the Service. We are willing to work with the Flyway Councils to collaboratively develop the evaluation framework.

A copy of the working groups' final report is available on our Web site at *http://www.fws.gov/migratorybirds,* or at *http://www.regulations.gov.*

vi. Scaup

In 2008, we implemented an AHM decision-making framework to inform scaup harvest regulations (73 FR 43290; July 24, 2008). At that time, restrictive, moderate, and liberal scaup regulatory alternatives were defined and implemented in all four Flyways according to guidelines established in 2007 (see *http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/BySpecies/scaup_regs_scoping_draftVI.pdf* or *www.regulations.gov* for a copy of the guidelines). Subsequent comment from the Flyway Councils led us to further clarify criteria associated with the establishment of ''hybrid seasons'' (74 FR 16339; April 10, 2009) and to allow additional modifications of the alternatives for each Flyway. The resulting updated regulatory alternatives were then adopted on July 24, 2009 (74 FR 36870) for use during the 2009–10 season. Because of the considerable uncertainty involved with predicting scaup harvest, we agreed with the Flyways to keep these packages in place for at least 3 years. Since we now have scaup harvest information available for the first 3 years of the new packages (2009–11 seasons), Flyways have the option to make changes to the scaup regulatory alternatives for the 2013–14 season consistent with the process and evaluation criteria finalized in 2008 and clarified in 2009.

4. Canada Geese

B. Regular Seasons

In 2011, we denied a request by the Central Flyway Council to increase the bag limit of Canada geese from 3 to 5 in the East-Tier States during the regular season. At that time, we stated that because the birds impacted by this regulations change, the Tall Grass Prairie (TGP) population, was shared with the Mississippi Flyway, progress needed to be made regarding revising the TGP management plan (76 FR 58682; September 21, 2011). At a minimum, agreement between the two Flyways on management objectives must be reached.

Last year, the Central Flyway Council again requested an increase in the daily bag limit of Canada geese from 3 to 5 in the East-Tier States during the regular season. Based on discussions at the meetings, we stated it was apparent that the dialogue between the Flyways had just begun, and that progress on developing agreed-upon objectives and the plan revision was limited (77 FR 58448; September 20, 2012). Thus, we did not approve the Council's recommendation.

At the February 6, 2013, SRC meeting, the Central Flyway indicated that technical representatives from the two Flyways had been working on a revised management plan for the TGP since last fall, and expects that the new plan be adopted during upcoming March Flyway Council meetings. If the two Flyways can reach agreement on objectives for the TGP during this regulations cycle, we would consider a new recommendation by the Central Flyway Council to increase the bag limit on Canada geese in the East Tier States during the regular Canada goose season.

16. Mourning Doves

In 2003, all four Flyway Councils approved the Mourning Dove National Strategic Harvest Plan (Plan). The Plan represented a new, more informed means of decision-making for dove harvest management besides relying solely on traditional roadside counts of mourning doves as indicators of population trend. However, recognizing that a more comprehensive, national approach would take time to develop, we requested the development of interim harvest strategies, by management unit, until the elements of the Plan could be fully implemented. In 2004, each management unit submitted its respective strategy, but the strategies used different datasets and different approaches or methods. After initial submittal and review in 2006, we requested that the strategies be revised, using similar, existing datasets among the management units along with similar decision-making criteria. In 2008, we accepted and endorsed the interim mourning dove harvest strategies for the Central, Eastern, and Western Management Units (73 FR 50678; August 27, 2008). In 2009, the interim harvest strategies were successfully employed and implemented in all three Management Units (74 FR 36870; July 24, 2009). For the 2013–14 season, we propose continuing to use the interim harvest strategies to determine mourning dove hunting regulations.

Since 2003, much progress has been made on the development of a National Mourning Dove harvest strategy which makes use of new monitoring data and demographics models. We hope to discuss and approve the new national mourning dove harvest strategy at the June SRC meeting. A copy of the new strategy is available at available on our Web site at *http://www.fws.gov/migratorybirds,* or at *http://www.regulations.gov.*

23. Other

In the September 23, 2010, **Federal Register** (75 FR 58250), we stated that we were generally supportive of the Flyways' interest in increasing the possession limits for migratory game

birds and appreciated the discussions to frame this important issue. At that time, we also stated that we believed there were many unanswered questions regarding how this interest could be fully articulated in a proposal that satisfies the harvest management community, while fostering the support of the law enforcement community and informing the general hunting public. Thus, we proposed the creation of a cross-agency Working Group, chaired by the Service, and comprised of staff from the Service's Migratory Bird Program, State Wildlife Agency representatives, and Federal and State law enforcement staff, to begin to frame a recommendation that fully articulates a potential change in possession limits. This effort would include a discussion of the current status and use of possession limits, which populations and/or species/species groups should not be included in any proposed modification of possession limits, potential law enforcement issues, and a reasonable timeline for the implementation of any such proposed changes.

After discussions last year at the January SRC meeting and March and July Flyway Council meetings, the Atlantic, Central, and Pacific Flyway Councils recommended that the Service increase the possession limit from 2 times to 3 times the daily bag limit for all migratory game bird species and seasons except for those species that currently have possession limits of less than 2 times the daily bag limit (e.g., rails), permit hunts (e.g., cranes and swans), and for overabundant species for which no current possession limits are assigned (e.g., light geese), beginning in the 2013–14 season (77 FR 58444; September 20, 2012). These recommendations from the three Councils are one such outgrowth of the efforts started in 2010, and we look forward to additional input from the Mississippi Flyway Council. Once we receive the Mississippi Flyway Council's input, we plan to discuss these recommendations with the Working Group and present recommendations to the SRC this spring. We would present any resulting proposal for the SRC's consideration at the June SRC meeting (see 2013 Schedule of Regulations Meetings and **Federal Register** Publications at the end of this proposed rule for further information), with proposed implementation during the 2013–14 hunting seasons.

Additionally, when our initial review of possession limits was instituted in 2010, we also realized that any review of possession limits could not be adequately conducted without expanding the initial review to include possession and possession-related regulations. In particular, it was our belief that any potential increase in the possession limits should be done in concert with a review and update of the wanton waste regulations in 50 CFR 20.25. We believed it prudent to review some of the long-standing sources of confusion (for both hunters and law enforcement) regarding wanton waste. A review of the current Federal wanton waste regulations, along with various State wanton waste regulations, has been recently completed and we anticipate publishing a proposed rule this spring/summer to revise 50 CFR 20.25.

Lastly, we also recognize that there are other important issues surrounding possession, such as termination of possession, that need to be reviewed. However, that review is a much larger and more complex review than the wanton waste regulations and the possession limit regulations. We anticipate starting that review upon completion of the wanton waste and possession limits aspects of our overall review.

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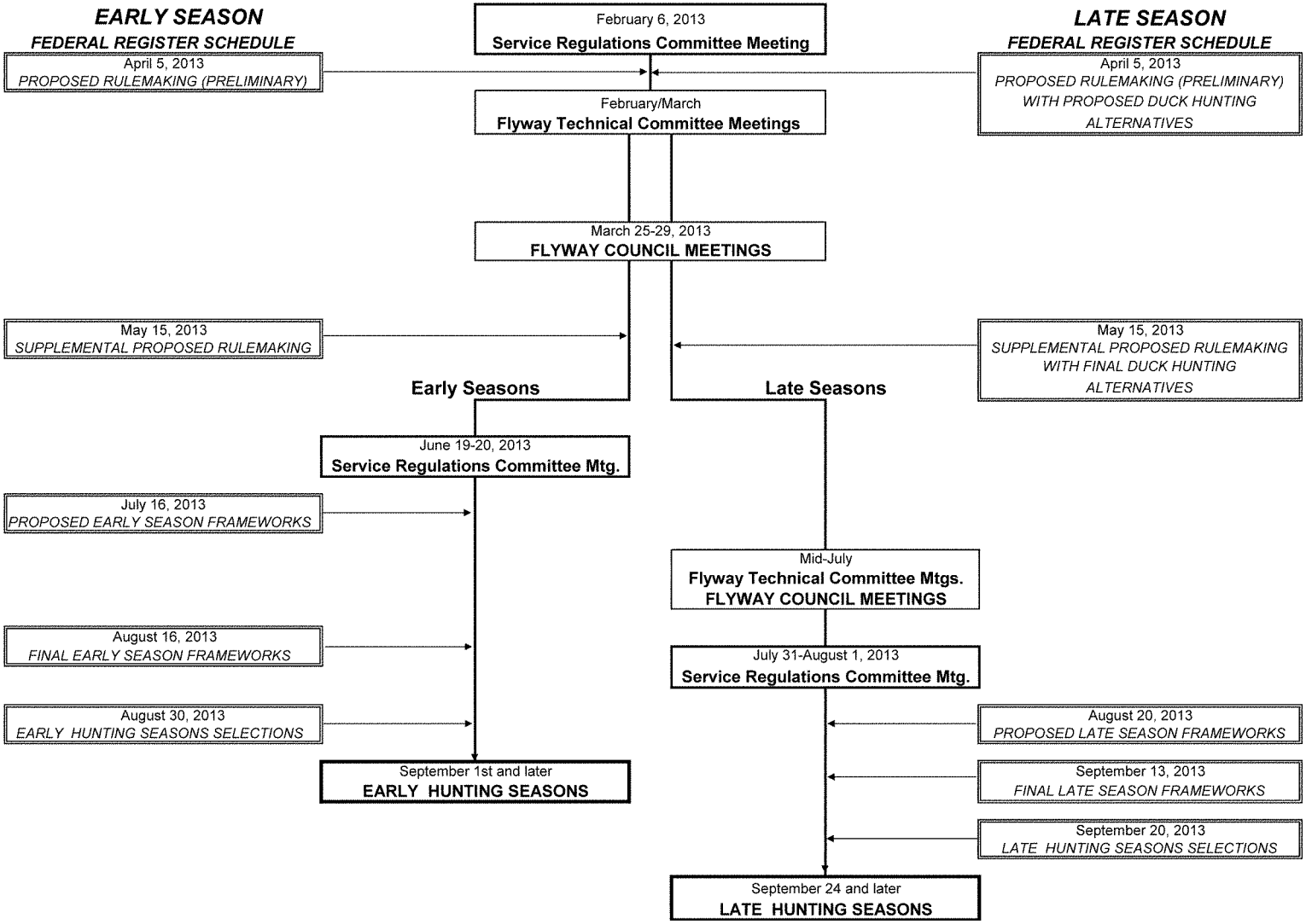
2013 SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS



PROPOSED REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 2013-14 SEASON

	ATLANTIC FLYWAY			MISSISSIPPI FLYWAY			CENTRAL FLYWAY (a)			PACIFIC FLYWAY (b)(c)		
	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB
Beginning Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24
Closing Date	Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.
Season Length (in days)	30	45	60	30	45	60	39	60	74	60	86	107
Daily Bag/	3	6	6	3	6	6	3	6	6	4	7	7
Species/Sex Limits within the Overall Daily Bag Limit												
Mallard (Total/Female)	3/1	4/2	4/2	2/1	4/1	4/2	3/1	5/1	5/2	3/1	5/2	7/2

(a) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway, with the exception of season length. Additional days would be allowed under the various alternatives as follows: restrictive - 12, moderate and liberal - 23. Under all alternatives, additional days must be on or after the Saturday nearest December 10.

(b) In the Columbia Basin Mallard Management Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all alternatives except the liberal alternative, an additional 7 days would be allowed.

(c) In Alaska, framework dates, bag limits, and season length would be different from the remainder of the Pacific Flyway. The bag limit would be 5-8 under the restrictive alternative, and 7-10 under the moderate and liberal alternatives. Under all alternatives, season length would be 107 days and framework dates would be Sep. 1 - Jan. 26.

[FR Doc. 2013–08212 Filed 4–8–13; 8:45 am]

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