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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

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580–AB13

Fees for Official Inspection and Official Weighing Services Under the United States Grain Standards Act (USGSA)

AGENCY: Grain Inspection Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA), Grain Inspection, Packers and Stockyards Administration (GIPSA) is revising the fee schedule for official inspection and weighing services performed under the United States Grain Standards Act (USGSA), as amended. The USGSA provides GIPSA's Federal Grain Inspection Service (FGIS) with the authority to charge and collect reasonable fees to cover the cost of performing official services. The fees also cover the costs associated with managing the program.

After a financial review of GIPSA's Fees for Official Inspection and Weighing Services, including a comparison of the costs and revenues associated with official inspection and weighing services, GIPSA is revising local and national tonnage fees (assessed in addition to all other applicable fees) for all export grain shipments serviced by GIPSA field offices.

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

FOR FURTHER INFORMATION CONTACT: Patrick McCluskey at GIPSA, USDA, 10383 N. Ambassador Drive, Kansas City, MO 64153; Telephone (816) 659–8403; Fax Number (816) 872–1258; email *Patrick.J.McCluskey@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The USGSA (7 U.S.C. 71–81k) authorizes GIPSA to provide official grain inspection and weighing services, and to charge and collect reasonable fees for performing these services. The fees collected are to cover, as nearly as practicable, GIPSA's costs for performing these services, including associated administrative and supervisory costs.

The fees for official inspection and weighing services were last amended on May 13, 2004, and became effective on June 14, 2004 (69 FR 26476). After considering several alternatives in 2004, GIPSA adopted a fee structure to cover program-related costs based on a projected average tonnage of export grain inspected and/or weighed. This fee structure was adopted so that local export facilities financially support their field office administrative costs by evaluating field offices independently and encouraging FGIS customers to work directly with each field office to maximize grain handling efficiencies while raising the awareness of location program costs. In addition, national costs are collected regardless of where the grain is exported by assessing an identical fee to each field office to cover every ton of export grain inspected and/or weighed. This action was also taken to foster the further development and implementation of grain handling efficiencies by grain companies, to reduce the cost of GIPSA official grain inspection and weighing services, and to make GIPSA program costs more transparent to the grain industry.

When the current fee structure was established in 2004, GIPSA developed a fee rate to collect sufficient revenue to immediately cover operating expenses, while striving to create an operating reserve by fiscal year 2010. This fee structure was designed to collect sufficient revenue through fiscal year 2007 to achieve an average $1,000,000 balance annually. When GIPSA established the tonnage fees, certain assumptions were made to establish those fees, including the historic volume of grain moving through U.S. export facilities, and export projections. At the time, GIPSA assumed that the inspection volume would be based on 80 million metric tons (MMT) of grain exports inspected and/or weighed per year. The inspection volume however, has fallen well short of the 80 MMT baseline, resulting in a revenue shortfall, precluding the maintenance of an operating reserve. For fiscal years 2006 to 2011, GIPSA inspected an average of 78.0 MMT of export grain. However, in fiscal year 2012, GIPSA only inspected 63.9 MMT, and anticipates inspecting 59.8 MMT during fiscal year 2013 and an average of 65.00 MMT for fiscal years 2014 to 2017.

GIPSA regularly reviews its user-fee programs to determine if the fees adequately cover the costs of program delivery. While GIPSA continuously seeks to reduce its operating costs, GIPSA has determined that the existing fee structure will not generate sufficient revenue to cover program costs through fiscal year 2017.

In fiscal year 2009, GIPSA's official inspection and weighing services program revenue was $31.2 million with program costs of $33.3 million, resulting in a $2.1 million program deficit. In fiscal year 2010, GIPSA revenue was $36.9 million with costs of $35.5 million, resulting in a $1.4 million margin. In fiscal year 2011, GIPSA revenue was $37.7 million with costs of $36.6 million, resulting in a $1.1 million margin. In fiscal year 2012, GIPSA revenue was $28.7 million and costs at $35.1 million, resulting in a $6.4 million program deficit. Program costs for fiscal years 2013 to 2017 are projected at $35.1 million. The costs include employee salaries and benefits including estimated annual cost of living adjustments, and future costs to replace and maintain aging program equipment in GIPSA offices. These fees also cover GIPSA's administrative and supervisory costs for the performance of GIPSA's official inspection and weighing services, including personnel compensation and benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment. Given the above discussion, GIPSA believes that the current fee structure will not fully fund the delivery of GIPSA's official inspection and weighing services in future fiscal years and will result in program deficits.

Discussion of Comments

On January 14, 2013, GIPSA published a notice of proposed rulemaking in the **Federal Register** (78 FR 2627–2644), inviting comments to our proposal that would change the fees for official inspection and weighing

services to (1) revise and reallocate national and local administrative tonnage fees to existing GIPSA field offices and levy the national administrative tonnage fee on all grain export inspections performed by official agencies; (2) align fees charged by GIPSA for services performed in Canada with those fees charged in the U.S. to reflect the change in delivery of services from the Canadian Grain Commission to GIPSA; (3) revise stowage exam to be commensurate with fees charged for other programs; (4) revise scale testing fees to more accurately capture the cost of providing service, including building improvements and test car replacement; and (5) revise daily fees for consultative services not associated with official inspection and weighing services (*i.e.* foreign travel) to more accurately capture costs.

GIPSA received five comments from wheat producer organizations, grain processor organizations, grain handlers, market developers, and others during the 30-day comment period. No comments were received in opposition to the rule as proposed.

One commenter, a market development organization representing American wheat producers supported the proposed rule, stating that the organization's ''Board of Directors overwhelmingly approved a motion to support the fee increase as proposed by GIPSA.'' Further, the comment stated that ''All growers benefit directly from an open and well functioning market. FGIS provides key services that contribute to efficient price discovery and the orderly marketing of U.S. grain.'' The commenter also stated ''Presently, overseas buyers are willing to pay more for U.S. wheat because they have confidence in our industry, growers and the grain grading system.

Three other commenters also supported the proposed rule. One commenter stated that: ''The inspection and weighing services performed by GIPSA are necessary to the export of U.S. grains and oilseeds. It is critical that our international customers can continue to rely on the applications of standards to the U.S. grain and oil seed production and marketing system that facilitate international commerce.'' The comment also recognized that ''exporters can only deal with increased costs by recouping them from the cash bids offered for commodities purchased from farmers.''

Another commenter, representing American soybean producers stated they ''* * * support the agency's proposed changes to the fee schedule and further encourage adoption of the recommendations to the fee schedule contained in the proposed rule to modify the overall structure of the current user fee system.''

One comment was filed jointly by associations that represent grain handling and merchandising companies. Their joint comment supported the proposal with certain conditions. The comment stated ''Rather than continuing to rely only on the subjective and time- and resource-consuming rulemaking process to modify fees, we suggest that GIPSA approach the establishment of fees as an ongoing and market-responsive process.'' The conditions are discussed herein.

The joint commenters support using a rolling five-year average as the basis for the tonnage user fee calculation for adjusting fees continually and more accurately. GIPSA does not agree with the use of a five-year rolling average as historically it has been less reliable as a predictive model due to actual fluctuations year over year when compared to the econometric model used by GIPSA. The following table demonstrates the outcome of a five-year rolling average approach.

Fiscal year	Actual tonnage	Rolling 5 year average	Years used
2004	76.3	.....	.....
2005	69.9	.....	.....
2006	75.3	.....	.....
2007	76.9	.....	.....
2008	81.4	.....	.....
2009	71.4	76.0	04–08
2010	77.7	75.0	05–09
2011	81.2	76.5	06–10
2012	63.9	77.7	07–11
*2013**	*59.8*	*75.1*	*08–12*

*Based on actual exports through February 28, 2013 and projected tonnage from the econometric model using USDA-World Agriculture Supply and Demand Estimates data.

GIPSA believes the use of a rolling five-year average does not offer sufficient assurance that it will have adequate funds to operate the program in a sustainable manner particularly in light of declining exports. Further, GIPSA believes that a schedule of fees for a five year period, which are known to stakeholders, allows them to more accurately plan and budget for known expenses like GIPSA's fees for service. Finally, GIPSA is required to engage in the notice and comment rulemaking process prior to making changes to its fee structure to give stakeholders the opportunity to participate in crafting a final rule. Therefore, GIPSA is making no change to the final rule based on this comment.

The joint commenters suggested a maximum three-month operating reserve with an immediate fee reduction when/if the operating reserve fund were to reach that cap. GIPSA's goal is to maintain a minimum of three months of retained earnings as opposed to a maximum level. GIPSA believes proper business acumen suggests that modifying fees when the retained earnings reach a 3-month level should be undertaken only after considering USDA official projections for the upcoming export marketing year. GIPSA closely monitors the export program costs and revenue on a monthly basis. GIPSA supports the suggestion to the extent that when retained earnings reach a 3-month level and future exports are predicted to surpass expectations, GIPSA would then consider proposing fee structure modifications through the notice and comment rulemaking process. Accordingly, we are making no change to the final rule based on this comment.

The joint commenters further suggest that GIPSA should determine what programs can be terminated, scaled back or consolidated to reduce its administrative overhead further. GIPSA agrees that reviewing programs to extract maximum value from revenue generated is prudent. Because GIPSA has already cut program costs where possible without detracting from GIPSA's ability to perform its mission, and continues to seek additional cost efficiencies, we are making no change to the final rule based on this comment.

The joint commenters went on to propose that GIPSA should aggressively seek ways to reduce indirect employee expenses, such as workers compensation, which is being reallocated from the national office to local offices. GIPSA believes that workers compensation costs should be allocated to the local area where the costs originated and are incurred. GIPSA agrees that undertaking activity to reduce workers compensation claims through enhanced safety training and education is a worthy objective, and GIPSA is moving forward with initiatives to improve its safety training plan to include fall protection training, a job safety training outline with an annual completion requirement, and the development of a fall hazard assessment that will be required for all railcar and rolling stock locations. Based on the initiatives GIPSA has undertaken, GIPSA is making no change to the final rule based on this comment.

The joint commenters contend that GIPSA should review cooperative agreements it has with other federal agencies such as the Animal and Plant Health Inspection Service (APHIS), and GIPSA needs to give serious

consideration as to how to recover costs from APHIS and impose them on the export sector through higher official fees. While GIPSA concurs with the commenter that a review of these fees may be warranted, GIPSA believes that this suggestion is outside the scope of this rulemaking and is making no change to the final rule based on this comment.

Finally, GIPSA received one comment from a stakeholder suggesting GIPSA establish contract and non-contract rates for unit fees. Because GIPSA believes that the cost to administer such fees would exceed the administrative benefit of imposing them, we are making no change to the final rule based on this comment.

Final Action

This final rule revises local and national tonnage fees (assessed in addition to all other applicable fees) for all export shipments serviced by GIPSA field offices. In fiscal year 2013, GIPSA is increasing the local tonnage fees for (1) League City, Texas from $0.115 to $0.125 per metric ton; (2) New Orleans, Louisiana from $0.015 to $0.033 per metric ton; (3) Portland, Oregon from $0.084 to $0.124 per metric ton and; (4) Toledo, Ohio from $0.132 to $0.233 per metric ton.

This final rule increases the national tonnage fee approximately 5 percent in fiscal year 2013 from $0.052 to $0.055 per metric ton of export grain inspected and/or weighed and approximately 2 percent per year for fiscal years 2014 to 2017. In addition, workers compensation costs are being shifted from the national to the local level in order to fully reflect where those program costs originate. GIPSA will now charge the national tonnage fee of $0.055 per metric ton on export grain inspected and/or weighed (excluding land carrier shipments to Canada and Mexico) from delegated states and designated agencies.

GIPSA is amending the fees for official inspection and weighing services performed in Canada. As a result, the separate unit fees for official inspection and weighing services performed in Canada are changed to that of the prevailing U.S. non-contract rate, plus the prevailing Toledo field office tonnage fee, plus the actual cost of travel. GIPSA is also replacing the ''Vomitoxin Qualitative'' and ''Vomitoxin Quantitative'' fees with one fee, ''All other Mycotoxins,'' in order to simplify the fee schedule for the testing of mycotoxins, other than aflatoxin, GIPSA is creating separate fees for applicants that provide test kits for aflatoxin and all other mycotoxin testing. The existing Schedule B is deleted and the existing Schedule C is now Schedule B.

Fees for foreign travel are being changed from the current daily rate of $510.00 to the same established hourly fee for special projects and the actual cost of travel, per diem, and related expenditures. All remaining fees (except those fees for FGIS supervision of domestic official inspection and weighing services, including land carrier shipments to Canada and Mexico, performed by delegated States and/or designated agencies) are being increased approximately 5 percent for the remainder of fiscal year 2013 and approximately 2 percent in fiscal years 2014 to 2017 to cover projected costs.

This action is authorized under the USGSA which provides for the establishment and collection of fees that are reasonable and, as nearly as practicable, cover the costs of the services rendered, including associated administrative and supervisory costs. These fees cover the GIPSA administrative and supervisory costs for the performance of GIPSA's official inspection and weighing services, including personnel compensation and benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), GIPSA has considered the economic impact of this final rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. This final rule is being implemented because additional user fee revenue is needed to cover the costs of providing current and future program operations and services.

The Small Business Administration (SBA) defines small businesses by their North American Industry Classification System Codes (NAICS).[1] This final rule affects customers of GIPSA's official inspection and weighing services in the domestic and export grain markets (NAICS code 115114). Fees for that program are in Schedules A (Tables 1–3), B, and C of § 800.71 of the USGSA regulations (7 CFR 800.71).

Under the provisions of the USGSA, grain exported from the U.S. must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA at 40 export facilities and by delegated States at 11 facilities, and seven facilities for U.S. grain transshipped through Canadian ports. All of these facilities are owned by multi-national corporations, large cooperatives, or public entities that do not meet the requirements for small entities established by the SBA. Regardless, the regulations are applied equally to all entities, large or small. The USGSA (7 U.S.C. 87f–1) requires the registration of all persons engaged in the business of buying grain for sale in foreign commerce. In addition, those persons who handle, weigh, or transport grain for sale in foreign commerce must also register. Section 800.30 of the USGSA regulations (7 CFR 800.30) defines a foreign commerce grain business as a person who regularly engage in buying for sale, handling, weighing, or transporting grain totaling 15,000 metric tons or more during the preceding or current calendar year. At present, there are 129 registrants registered to export grain. While most of the 129 registrants are large businesses, we believe that some may be considered small.

GIPSA also provides domestic and miscellaneous inspection and weighing services at locations other than export locations. Approximately 217 different applicants receive domestic inspection services each year and approximately 26 different locations receive track scale tests as a miscellaneous service each year. Most of these applicants are large businesses. Nonetheless, we believe these increases will not significantly affect small businesses requesting these official services. Furthermore, any applicant may use an alternative source for these services. This decision will not prevent the business from marketing its product or conducting business as usual.

GIPSA has determined that the total cost to the grain industry to implement these changes will be approximately $5.3 million per year. These calculations are based on the assumption that GIPSA will collect revenue from 59.8 MMT in fiscal year 2013 and an average of 65.0 MMT per year for fiscal years 2014 to 2017, which was used to establish the tonnage fee.

Most users of official inspection and weighing services do not meet the requirements for small entities. Further, GIPSA is required by statute to make services available and to recover, as

[1] *See: http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf.*

nearly as practicable, the costs of providing such services. There will be no additional reporting, record keeping, or other compliance requirements imposed upon small entities as a result of this final rule. GIPSA has not identified any other Federal rules which may duplicate, overlap or conflict with this final rule. Accordingly, GIPSA has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the RFA.

GIPSA regularly reviews its user-fee financed programs to determine if the fees are adequate. GIPSA has and will continue to seek out cost saving measures and implement appropriate changes to reduce its costs. Such actions can provide alternatives to fee increases. Even with these efforts, however, GIPSA's existing fee schedule will not generate sufficient revenue to cover program costs. In fiscal year 2009, GIPSA's official inspection and weighing services program revenue was $31.2 million with program costs of $33.3 million, resulting in a $2.1 million program deficit. In fiscal year 2010, GIPSA revenue was $36.9 million with costs of $35.5 million, resulting in a $1.4 million margin. In fiscal year 2011, GIPSA revenue was $37.7 million with costs of $36.6 million, resulting in a $1.1 million margin. In fiscal year 2012, GIPSA revenue was $28.7 million and costs at $35.1 million, resulting in a $6.4 million program deficit. Program costs for fiscal years 2013 to 2017 are projected at $35.1 million. These costs include employee salaries and benefits including estimated annual cost of living adjustments if authorized by Congress, future costs to replace and maintain aging official inspection and weighing services equipment in GIPSA offices. These fees also cover GIPSA's administrative and supervisory costs for the performance of GIPSA's official inspection and weighing services, including personnel compensation and benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment. The current fee structure will not fully fund GIPSA's official inspection and weighing services in future fiscal years, resulting in program deficits.

This new fee increase will initially increase program revenue in fiscal year 2013, however this one time increase will not provide sufficient funds through fiscal year 2017. GIPSA needs to increase fees by approximately 5 percent in fiscal year 2013 and approximately 2 percent per year in fiscal years 2014 to 2017 in order to cover the program's operating cost and build an adequate operating reserve. The annual increases would apply to all fees (except for those fees charged for FGIS supervision of domestic official inspection and weighing services, including land carrier shipments to Canada and Mexico, performed by delegated States and/or designated agencies). GIPSA believes that an initial increase in fees followed by annual incremental increases is appropriate at this time. To minimize the impact of a fee increase, GIPSA has created a fee structure that will collect sufficient revenue over time to cover operating expenses, while striving to build an operating reserve by fiscal year 2017. GIPSA will continue to evaluate the financial status of the official inspection and weighing services to determine if it is meeting the goal of building an operating reserve and if other adjustments to the fee structure are necessary.

Without this fee increase, the operating reserve for GIPSA's official inspection and weighing services is projected to equal negative 1.6 months of program obligations at the end of fiscal year 2013 and decline to negative 10.6 months of program obligations by the end of fiscal year 2017. Financial projections indicate that implementing these fees will allow GIPSA's official inspection and weighing services program to cover its costs while building an operating reserve to ensure the financial stability of the FGIS program.

This final rule revises local and national tonnage fees (assessed in addition to all other applicable fees) for all export shipments serviced by GIPSA field offices. For the remainder of fiscal year 2013, GIPSA is increasing the local tonnage fees for (1) League City, Texas from $0.115 to $0.125 per metric ton; (2) New Orleans, Louisiana from $0.015 to $0.033 per metric ton; (3) Portland, Oregon from $0.084 to $0.124 per metric ton and; (4) Toledo, Ohio from $0.132 to $0.233 per metric ton.

This final rule increases the national tonnage fee approximately 5 percent for the remainder of fiscal year 2013 from $0.052 to $0.055 per metric ton of export grain inspected and/or weighed and approximately 2 percent per year for fiscal years 2014 to 2017. In addition, workers compensation costs are being shifted from the national to the local level in order to fully reflect where those program costs originate. GIPSA will now charge the national tonnage fee of $0.055 per metric ton on export grain inspected and/or weighed (excluding land carrier shipments to Canada and Mexico) from delegated states and designated agencies.

GIPSA is amending the fees for official inspection and weighing services performed in Canada. These fees currently appear in Schedule B of § 800.71. As a result, the separate unit fees for official inspection and weighing services performed in Canada are being changed to that of the prevailing U.S. non-contract rate, plus the prevailing Toledo field office tonnage fee, plus the actual cost of travel. GIPSA is also replacing the ''Vomitoxin Qualitative'' and ''Vomitoxin Quantitative'' fees with one fee, ''All other Mycotoxins,'' in order to simplify the fee schedule for the testing of mycotoxins, other than aflatoxin. GIPSA is creating separate fees for applicants that provide test kits for aflatoxin and all other mycotoxin testing. The existing Schedule B is being deleted and the existing Schedule C is becoming Schedule B.

Fees for foreign travel are being changed from the current daily rate of $510.00 to the same established hourly fee for special projects and the actual cost of travel, per diem, and related expenditures. All remaining fees (except those fees for FGIS supervision of domestic official inspection and weighing services, including land carrier shipments to Canada and Mexico, performed by delegated States and/or designated agencies) are being increased approximately 5 percent in fiscal year 2013 and approximately 2 percent in fiscal years 2014 to 2017 to cover projected costs.

This action is authorized under the USGSA which provides for the establishment and collection of fees that are reasonable and, as nearly as practicable, cover the costs of the services rendered, including associated administrative and supervisory costs. These fees cover the GIPSA administrative and supervisory costs for the performance of GIPSA's official inspection and weighing services, including personnel compensation and benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. The USGSA provides in section 87g that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the USGSA. Otherwise, this rule will not preempt any State or local laws, or regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must

be exhausted prior to any judicial challenge to the provisions of this rule.

Executive Order 13175

This final rule has been reviewed with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. This rule will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and record keeping requirements included in this final rule have been approved by the OMB under control number 0580–0013.

GIPSA is committed to complying with the Government Paperwork Elimination Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

E-Government Compliance

GIPSA 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 800

Administrative practice and procedure, exports, grains, reporting and recordkeeping requirements.

For reasons set out in the preamble, 7 CFR part 800 is amended as follows:

PART 800—GENERAL REGULATIONS

■ 1. The authority citation for part 800 continues to read as follows:

Authority: 7 U.S.C. 71–87k.

■ 2. Section 800.71 is revised to read as follows:

§ 800.71 Fees assessed by the Service.

(a) *Official inspection and weighing services.* The fees shown in Schedule A apply to official inspection and weighing services performed by FGIS in the U.S. and Canada. The fees shown in Schedule B apply to official domestic inspection and weighing services performed by delegated States and designated agencies, including land carrier shipments to Canada and Mexico. The fees charged to delegated States by the Service are set forth in the State's Delegation of Authority document. Failure of a delegated State or designated agency to pay the appropriate fees to the Service within 30 days after becoming due will result in an automatic termination of the delegation or designation. The delegation or designation may be reinstated by the Service if fees that are due, plus interest and any further expenses incurred by the Service because of the termination, are paid within 60 days of the termination.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States and Canada [1]

Effective May 1, 2013 Through September 30, 2013

(Fiscal Year 2013)

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [3]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract ($ per hour)	$37.80	$39.50	$45.20	$67.20
Noncontract ($ per hour)	67.20	67.20	67.20	67.20
(2) Additional Tests (cost per test, assessed in addition to the hourly rate): [4]				
(i) Aflatoxin (rapid test kit method)				10.50
(ii) Aflatoxin (rapid test kit method-applicant provides kit) [5]				8.50
(iii) All other Mycotoxins (rapid test kit method)				19.50
(iv) All other Mycotoxins (rapid test kit method-applicant provides kit) [5]				17.50
(v) NIR or NMR Analysis (protein, oil, starch, etc.)				2.40
(vi) Waxy corn (per test)				2.40
(vii) Fees for other tests not listed above will be based on the lowest noncontract hourly rate				
(viii) Other services:				
(a) Class Y Weighing (per carrier):				
(1) Truck/container				0.40
(2) Railcar				1.40
(3) Barge				2.70
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				
(a) League City				0.180
(b) New Orleans				0.088
(c) Portland				0.179
(d) Toledo				0.288
(e) Delegated States [6]				0.055
(f) Designated Agencies [6]				0.055

[1] Canada fees include the noncontract hourly rate, the Toledo field office administrative fee, and the actual cost of travel.

[2] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

[3] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.
[4] Appeal and re-inspection services will be assessed the same fee as the original inspection service.
[5] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[6] Administrative fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY[1] [2]

(1) Original Inspection and Weighing (Class X) Services:	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	$21.00
(b) Railcar (per carrier)	31.20
(c) Barge (per carrier)	196.90
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.05
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	12.60
(b) Railcar (per carrier)	26.30
(c) Barge (per carrier)	134.60
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.05
(iv) Other services:	
(a) Submitted sample (per sample—grade and factor)	12.60
(b) Warehouseman inspection (per sample)	22.10
(c) Factor only (per factor—maximum 2 factors)	6.00
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.05
(e) Re-inspection (grade and factor only. Sampling service additional, item (i) above)	13.70
(f) Class X Weighing (per hour per service representative)	67.20
(v) Additional tests (excludes sampling):	
(a) Aflatoxin (rapid test kit method)	31.50
(b) Aflatoxin (rapid test kit method-applicant provides kit)[3]	29.50
(c) All other Mycotoxins (rapid test kit method)	40.50
(d) All other Mycotoxins (rapid test kit method-applicant provides kit)[3]	38.50
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	10.50
(f) Waxy corn (per test)	10.50
(g) Canola (per test-00 dip test)	10.50
(h) Pesticide Residue Testing:[4]	
(1) Routine Compounds (per sample)	226.80
(2) Special Compounds (Subject to availability)	120.80
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service.[5]	
(i) Board Appeals and Appeals (grade and factor)	86.10
(a) Factor only (per factor—max 2 factors)	45.20
(b) Sampling service for Appeals additional (hourly rates from Table 1).	
(ii) Additional tests (assessed in addition to all other applicable tests):	
(a) Aflatoxin (rapid test kit method)	31.50
(b) Aflatoxin (rapid test kit method-applicant provides kit)[3]	29.50
(c) All other Mycotoxins (rapid test kit method)	49.40
(d) All other Mycotoxins (rapid test kit method-applicant provides kit)[3]	47.40
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	18.60
(f) Sunflower oil (per test)	18.60
(g) Mycotoxin (per test-HPLC)	148.10
(h) Pesticide Residue Testing:[4]	
(1) Routine Compounds (per sample)	226.80
(2) Special Compounds (Subject to availability)	120.80
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	86.80
(3) Stowage examination (service-on-request):[4]	
(i) Ship (per stowage space) (minimum $268.00 per ship)	53.60
(ii) Subsequent ship examinations (same as original) (minimum $160.80 per ship)	53.60
(iii) Barge (per examination)	43.10
(iv) All other carriers (per examination)	16.80

[1] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).
[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).
[3] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[4] If performed outside of normal business, 1½ times the applicable unit fee will be charged.
[5] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.20 per sample by the Service.

TABLE 3—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$67.20
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	67.20
(3) Special weighing services (per hour per service representative): [2]	
(i) Scale testing and certification	87.40
(ii) Scale testing and certification of railroad track scales	87.40
(iii) Evaluation of weighing and material handling systems	87.40
(iv) NTEP Prototype evaluation (other than Railroad Track Scales)	87.40
(v) NTEP Prototype evaluation of Railroad Track Scale	87.40
(vi) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.)	525.00
(vii) Mass standards calibration and re-verification	87.40
(viii) Special projects	87.40
(4) Foreign travel (hourly fee) [3]	87.40
(5) Online customized data service:	
(i) One data file per week for 1 year	525.00
(ii) One data file per month for 1 year	315.00
(6) Samples provided to interested parties (per sample)	3.20
(7) Divided-lot certificates (per certificate)	1.90
(8) Extra copies of certificates (per certificate)	1.90
(9) Faxing (per page)	1.90
(10) Special mailing	Actual cost
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

[1] Any requested service that is not listed will be performed at $67.20 per hour.
[2] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate. (See § 800.0(b)(14) for definition of "business day.")
[3] Foreign travel charged hourly fee of $87.40 plus travel, per diem, and related expenditures.

Schedule B—Fees for FGIS Supervision of Official Inspection and Weighing Services Performed by Delegated States and/or Designated Agencies in the U.S.

The supervision fee charged by the Service is $0.011 per metric ton of domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico.

(a) *Registration certificates and renewals.* (1) The nature of your business will determine the fees that your business must pay for registration certificates and renewals:

(i) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce, you must pay $135.00.

(ii) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce and you are also in a control relationship (see definition in section 17A(b)(2) of the Act) with respect to a business that buys, handles, weighs, or transports grain for sale in interstate commerce, you must pay $270.00.

(2) If you request extra copies of registration certificates, you must pay $1.90 for each copy.

(b) *Designation amendments.* If you submit an application to amend a designation, you must pay $75.00.

(c) If you submit an application to operate as a scale testing organization, you must pay $250.00.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States and Canada [1]

Effective October 1, 2013 through September 30, 2014

(Fiscal Year 2014)

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [3]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract ($ per hour)	$38.60	$40.30	$46.20	$68.60
Noncontract ($ per hour)	68.60	68.60	68.60	68.60
(2) Additional Tests (cost per test, assessed in addition to the hourly rate): [4]				
(i) Aflatoxin (rapid test kit method)				10.80
(ii) Aflatoxin (rapid test kit method-applicant provides kit) [5]				8.80
(iii) All other Mycotoxins (rapid test kit method)				19.90
(iv) All other Mycotoxins (rapid test kit method-applicant provides kit) [5]				17.90
(v) NIR or NMR Analysis (protein, oil, starch, etc.)				2.50
(vi) Waxy corn (per test)				2.50
(vii) Fees for other tests not listed above will be based on the lowest noncontract hourly rate.				
(viii) Other services				
(a) Class Y Weighing (per carrier):				
(1) Truck/container				0.50
(2) Railcar				1.50
(3) Barge				2.80
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]—Continued

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [3]	Holidays
(a) League City				0.184
(b) New Orleans				0.090
(c) Portland				0.183
(d) Toledo				0.294
(e) Delegated States [6]				0.057
(f) Designated Agencies [6]				0.057

[1] Canada fees include the noncontract hourly rate, the Toledo field office administrative fee, and the actual cost of travel.
[2] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).
[3] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.
[4] Appeal and re-inspection services will be assessed the same fee as the original inspection service.
[5] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[6] Administrative fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1] [2]

(1) Original Inspection and Weighing (Class X) Services:	
(i) Sampling only (use hourly rates from Table 1).	
(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	$21.50
(b) Railcar (per carrier)	31.90
(c) Barge (per carrier)	200.90
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.06
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	12.90
(b) Railcar (per carrier)	26.90
(c) Barge (per carrier)	137.30
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.06
(iv) Other services:	
(a) Submitted sample (per sample—grade and factor)	12.90
(b) Warehouseman inspection (per sample)	22.60
(c) Factor only (per factor—maximum 2 factors)	6.20
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.06
(e) Re-inspection (grade and factor only. Sampling service additional, item (i) above)	14.00
(f) Class X Weighing (per hour per service representative)	68.60
(v) Additional tests (excludes sampling):	
(a) Aflatoxin (rapid test kit method)	32.20
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	30.20
(c) All other Mycotoxins (rapid test kit method)	41.40
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	39.40
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	10.80
(f) Waxy corn (per test)	10.80
(g) Canola (per test-00 dip test)	10.80
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	231.40
(2) Special Compounds (Subject to availability)	123.30
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service.[5]	
(i) Board Appeals and Appeals (grade and factor)	87.90
(a) Factor only (per factor—max 2 factors)	46.20
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable tests):	
(a) Aflatoxin (rapid test kit method)	32.20
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	30.20
(c) All other Mycotoxins (rapid test kit method)	50.40
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	48.40
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	19.00
(f) Sunflower oil (per test)	19.00
(g) Mycotoxin (per test-HPLC)	151.10
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	231.40
(2) Special Compounds (Subject to availability)	123.30
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	88.60
(3) Stowage examination (service-on-request): [4]	
(i) Ship (per stowage space) (minimum $273.50 per ship)	54.70

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY[1 2]—Continued

(ii) Subsequent ship examinations (same as original) (minimum $164.10 per ship)	54.70
(iii) Barge (per examination)	44.00
(iv) All other carriers (per examination)	17.20

[1] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).
[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).
[3] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[4] If performed outside of normal business, 1½ times the applicable unit fee will be charged.
[5] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.30 per sample by the Service.

TABLE 3—MISCELLANEOUS SERVICES[1]

(1) Grain grading seminars (per hour per service representative)[2]	$68.60
(2) Certification of diverter-type mechanical samplers (per hour per service representative)[2]	68.60
(3) Special weighing services (per hour per service representative):[2]	
(i) Scale testing and certification	89.20
(ii) Scale testing and certification of railroad track scales	89.20
(iii) Evaluation of weighing and material handling systems	89.20
(iv) NTEP Prototype evaluation (other than Railroad Track Scales)	89.20
(v) NTEP Prototype evaluation of Railroad Track Scale	89.20
(vi) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.)	535.50
(vii) Mass standards calibration and re-verification	89.20
(viii) Special projects	89.20
(4) Foreign travel (hourly fee)[3]	89.20
(5) Online customized data service:	
(i) One data file per week for 1 year	535.50
(ii) One data file per month for 1 year	321.30
(6) Samples provided to interested parties (per sample)	3.30
(7) Divided-lot certificates (per certificate)	2.00
(8) Extra copies of certificates (per certificate)	2.00
(9) Faxing (per page)	2.00
(10) Special mailing	Actual cost
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

[1] Any requested service that is not listed will be performed at $68.60 per hour.
[2] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate. (See § 800.0(b)(14) for definition of "business day.")
[3] Foreign travel charged hourly fee of $89.20 plus travel, per diem, and related expenditures.

Schedule B—Fees for FGIS Supervision of Official Inspection and Weighing Services Performed by Delegated States and/or Designated Agencies in the U.S.

The supervision fee charged by the Service is $0.011 per metric ton of domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico.

(a) *Registration certificates and renewals.* (1) The nature of your business will determine the fees that your business must pay for registration certificates and renewals:

(i) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce, you must pay $135.00.

(ii) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce and you are also in a control relationship (see definition in section 17A(b)(2) of the Act) with respect to a business that buys, handles, weighs, or transports grain for sale in interstate commerce, you must pay $270.00.

(2) If you request extra copies of registration certificates, you must pay $2.00 for each copy.

(b) *Designation amendments.* If you submit an application to amend a designation, you must pay $75.00.

(c) If you submit an application to operate as a scale testing organization, you must pay $250.00.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States and Canada[1]

Effective October 1, 2014 Through September 30, 2015

(Fiscal Year 2015)

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY[2]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime[3]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract ($ per hour)	$39.40	$41.20	$47.20	$70.00
Noncontract ($ per hour)	70.00	70.00	70.00	70.00

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]—Continued

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [3]	Holidays
(2) Additional Tests (cost per test, assessed in addition to the hourly rate): [4]				
(i) Aflatoxin (rapid test kit method)				11.10
(ii) Aflatoxin (rapid test kit method-applicant provides kit) [5]				9.10
(iii) All other Mycotoxins (rapid test kit method)				20.30
(iv) All other Mycotoxins (rapid test kit method-applicant provides kit) [5]				18.30
(v) NIR or NMR Analysis (protein, oil, starch, etc.)				2.60
(vi) Waxy corn (per test)				2.60
(vii) Fees for other tests not listed above will be based on the lowest noncontract hourly rate:				
(viii) Other services:				
(a) Class Y Weighing (per carrier):				
(1) Truck/container				0.60
(2) Railcar				1.60
(3) Barge				2.90
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				
(a) League City				0.188
(b) New Orleans				0.092
(c) Portland				0.187
(d) Toledo				0.300
(e) Delegated States [6]				0.059
(f) Designated Agencies [6]				0.059

[1] Canada fees include the noncontract hourly rate, the Toledo field office administrative fee, and the actual cost of travel.
[2] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).
[3] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.
[4] Appeal and re-inspection services will be assessed the same fee as the original inspection service.
[5] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[6] Administrative fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1] [2]

(1) Original Inspection and Weighing (Class X) Services:	
(i) Sampling only (use hourly rates from Table 1).	
(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	$22.00
(b) Railcar (per carrier)	32.60
(c) Barge (per carrier)	205.00
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.07
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	13.20
(b) Railcar (per carrier)	27.50
(c) Barge (per carrier)	140.10
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.07
(iv) Other services	
(a) Submitted sample (per sample—grade and factor)	13.20
(b) Warehouseman inspection (per sample)	23.10
(c) Factor only (per factor—maximum 2 factors)	6.40
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.07
(e) Re-inspection (grade and factor only. Sampling service additional, item (i) above)	14.30
(f) Class X Weighing (per hour per service representative)	70.00
(v) Additional tests (excludes sampling):	
(a) Aflatoxin (rapid test kit method)	32.90
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	30.90
(c) All other Mycotoxins (rapid test kit method)	42.30
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	40.30
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	11.10
(f) Waxy corn (per test)	11.10
(g) Canola (per test-00 dip test)	11.10
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	236.10
(2) Special Compounds (Subject to availability)	125.80
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service.[5]	
(i) Board Appeals and Appeals (grade and factor)	89.70

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1] [2]—Continued

(a) Factor only (per factor—max 2 factors)	47.20
(b) Sampling service for Appeals additional (hourly rates from Table 1).	
(ii) Additional tests (assessed in addition to all other applicable tests):	
(a) Aflatoxin (rapid test kit method)	32.90
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	30.90
(c) All other Mycotoxins (rapid test kit method)	51.50
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	49.50
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	19.40
(f) Sunflower oil (per test)	19.40
(g) Mycotoxin (per test-HPLC)	154.20
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	236.10
(2) Special Compounds (Subject to availability)	125.80
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	90.40
(3) Stowage examination (service-on-request): [4]	
(i) Ship (per stowage space) (minimum $279.00 per ship)	55.80
(ii) Subsequent ship examinations (same as original) (minimum $167.40 per ship)	55.80
(iii) Barge (per examination)	44.90
(iv) All other carriers (per examination)	17.60

[1] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).

[3] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

[4] If performed outside of normal business, 1½ times the applicable unit fee will be charged.

[5] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.40 per sample by the Service.

TABLE 3—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$70.00
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	70.00
(3) Special weighing services (per hour per service representative): [2]	
(i) Scale testing and certification	91.00
(ii) Scale testing and certification of railroad track scales	91.00
(iii) Evaluation of weighing and material handling systems	91.00
(iv) NTEP Prototype evaluation (other than Railroad Track Scales)	91.00
(v) NTEP Prototype evaluation of Railroad Track Scale	91.00
(vi) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.)	546.30
(vii) Mass standards calibration and re-verification	91.00
(viii) Special projects	91.00
(4) Foreign travel (hourly fee) [3]	91.00
(5) Online customized data service:	
(i) One data file per week for 1 year	546.30
(ii) One data file per month for 1 year	327.80
(6) Samples provided to interested parties (per sample)	3.40
(7) Divided-lot certificates (per certificate)	2.10
(8) Extra copies of certificates (per certificate)	2.10
(9) Faxing (per page)	2.10
(10) Special mailing	Actual Cost
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

[1] Any requested service that is not listed will be performed at $70.00 per hour.

[2] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate. (See § 800.0(b)(14) for definition of "business day.")

[3] Foreign travel charged hourly fee of $91.00 plus travel, per diem, and related expenditures.

Schedule B—Fees for FGIS Supervision of Official Inspection and Weighing Services Performed by Delegated States and/or Designated Agencies in the U.S.

The supervision fee charged by the Service is $0.011 per metric ton of domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico.

(a) *Registration certificates and renewals.* (1) The nature of your business will determine the fees that your business must pay for registration certificates and renewals:

(i) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce, you must pay $135.00.

(ii) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce and you are also in a control relationship (see definition in section 17A(b)(2) of the Act) with respect to a business that buys, handles, weighs, or transports grain for sale in interstate commerce, you must pay $270.00.

(2) If you request extra copies of registration certificates, you must pay $2.10 for each copy.

(b) *Designation amendments.* If you submit an application to amend a designation, you must pay $75.00.

(c) If you submit an application to operate as a scale testing organization, you must pay $250.00.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States and Canada [1]

Effective October 1, 2015 Through September 30, 2016

(Fiscal Year 2016)

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [3]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract ($ per hour)	$40.20	$42.10	$48.20	$71.40
Noncontract ($ per hour)	71.40	71.40	71.40	71.40
(2) Additional Tests (cost per test, assessed in addition to the hourly rate): [4]				
(i) Aflatoxin (rapid test kit method)				11.40
(ii) Aflatoxin (rapid test kit method-applicant provides kit) [5]				9.40
(iii) All other Mycotoxins (rapid test kit method)				20.80
(iv) All other Mycotoxins (rapid test kit method-applicant provides kit) [5]				18.80
(v) NIR or NMR Analysis (protein, oil, starch, etc.)				2.70
(vi) Waxy corn (per test)				2.70
(vii) Fees for other tests not listed above will be based on the lowest noncontract hourly rate.				
(viii) Other services.				
(a) Class Y Weighing (per carrier):				
(1) Truck/container				0.70
(2) Railcar				1.70
(3) Barge				3.00
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				
(a) League City				0.192
(b) New Orleans				0.094
(c) Portland				0.191
(d) Toledo				0.306
(e) Delegated States [6]				0.061
(f) Designated Agencies [6]				0.061

[1] Canada fees include the noncontract hourly rate, the Toledo field office administrative fee, and the actual cost of travel.
[2] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).
[3] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.
[4] Appeal and re-inspection services will be assessed the same fee as the original inspection service.
[5] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.
[6] Administrative fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1] [2]

(1) Original Inspection and Weighing (Class X) Services:	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	$22.50
(b) Railcar (per carrier)	33.30
(c) Barge (per carrier)	209.10
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.08
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	13.50
(b) Railcar (per carrier)	28.10
(c) Barge (per carrier)	143.00
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.08
(iv) Other services:	
(a) Submitted sample (per sample—grade and factor)	13.50
(b) Warehouseman inspection (per sample)	23.60
(c) Factor only (per factor—maximum 2 factors)	6.60
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.08
(e) Re-inspection (grade and factor only. Sampling service additional, item (i) above)	14.60
(f) Class X Weighing (per hour per service representative)	71.40

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY[1 2]—Continued

(v) Additional tests (excludes sampling):	
(a) Aflatoxin (rapid test kit method)	33.60
(b) Aflatoxin (rapid test kit method-applicant provides kit)[3]	31.60
(c) All other Mycotoxins (rapid test kit method)	43.20
(d) All other Mycotoxins (rapid test kit method-applicant provides kit)[3]	41.20
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	11.40
(f) Waxy corn (per test)	11.40
(g) Canola (per test-00 dip test)	11.40
(h) Pesticide Residue Testing:[4]	
(1) Routine Compounds (per sample)	240.90
(2) Special Compounds (Subject to availability)	128.40
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1..	
(2) Appeal inspection and review of weighing service.[5]	
(i) Board Appeals and Appeals (grade and factor)	91.50
(a) Factor only (per factor—max 2 factors)	48.20
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable tests):	
(a) Aflatoxin (rapid test kit method)	33.60
(b) Aflatoxin (rapid test kit method-applicant provides kit)[3]	31.60
(c) All other Mycotoxins (rapid test kit method)	52.60
(d) All other Mycotoxins (rapid test kit method-applicant provides kit)[3]	50.60
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	19.80
(f) Sunflower oil (per test)	19.80
(g) Mycotoxin (per test-HPLC)	157.30
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	240.90
(2) Special Compounds (Subject to availability)	128.40
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	92.30
(3) Stowage examination (service-on-request): [4]	
(i) Ship (per stowage space) (minimum $285.00 per ship)	57.00
(ii) Subsequent ship examinations (same as original) (minimum $171.00 per ship)	57.00
(iii) Barge (per examination)	45.80
(iv) All other carriers (per examination)	18.00

[1] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).

[3] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

[4] If performed outside of normal business, 1½ times the applicable unit fee will be charged.

[5] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.50 per sample by the Service.

TABLE 3—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$71.40
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	71.40
(3) Special weighing services (per hour per service representative): [2]	
(i) Scale testing and certification	92.90
(ii) Scale testing and certification of railroad track scales	92.90
(iii) Evaluation of weighing and material handling systems	92.90
(iv) NTEP Prototype evaluation (other than Railroad Track Scales)	92.90
(v) NTEP Prototype evaluation of Railroad Track Scale	92.90
(vi) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.)	557.30
(vii) Mass standards calibration and re-verification	92.90
(viii) Special projects	92.90
(4) Foreign travel (hourly fee) [3]	92.90
(5) Online customized data service:	
(i) One data file per week for 1 year	557.30
(ii) One data file per month for 1 year	334.40
(6) Samples provided to interested parties (per sample)	3.50
(7) Divided-lot certificates (per certificate)	2.20
(8) Extra copies of certificates (per certificate)	2.20
(9) Faxing (per page)	2.20
(10) Special mailing	Actual Cost
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

[1] Any requested service that is not listed will be performed at $71.40 per hour.

[2] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate. (See § 800.0(b)(14) for definition of "business day.")

[3] Foreign travel charged hourly fee of $92.90 plus travel, per diem, and related expenditures.

Schedule B—Fees for FGIS Supervision of Official Inspection and Weighing Services Performed by Delegated States and/or Designated Agencies in the U.S.

The supervision fee charged by the Service is $0.011 per metric ton of domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico.

(a) *Registration certificates and renewals.* (1) The nature of your business will determine the fees that your business must pay for registration certificates and renewals:

(i) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce, you must pay $135.00.

(ii) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce and you are also in a control relationship (see definition in section 17A(b)(2) of the Act) with respect to a business that buys, handles, weighs, or transports grain for sale in interstate commerce, you must pay $270.00.

(2) If you request extra copies of registration certificates, you must pay $2.20 for each copy.

(b) *Designation amendments.* If you submit an application to amend a designation, you must pay $75.00.

(c) If you submit an application to operate as a scale testing organization, you must pay $250.00.

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States and Canada [1]

Effective October 1, 2016 Through September 30, 2017

(Fiscal Year 2017)

TABLE 1—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [2]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [3]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative):				
1-year contract ($ per hour)	$41.10	$43.00	$49.20	$72.90
Noncontract ($ per hour)	72.90	72.90	72.90	72.90
(2) Additional Tests (cost per test, assessed in addition to the hourly rate): [4]				
(i) Aflatoxin (rapid test kit method)				11.70
(ii) Aflatoxin (rapid test kit method-applicant provides kit) [5]				9.70
(iii) All other Mycotoxins (rapid test kit method)				21.30
(iv) All other Mycotoxins (rapid test kit method-applicant provides kit) [5]				19.30
(v) NIR or NMR Analysis (protein, oil, starch, etc.)				2.80
(vi) Waxy corn (per test)				2.80
(vii) Fees for other tests not listed above will be based on the lowest noncontract hourly rate				
(viii) Other services				
(a) Class Y Weighing (per carrier)				
(1) Truck/container				0.80
(2) Railcar				1.80
(3) Barge				3.10
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier):				
(i) All outbound carriers serviced by the specific field office (per-metric ton):				
(a) League City				0.196
(b) New Orleans				0.096
(c) Portland				0.195
(d) Toledo				0.313
(e) Delegated States [6]				0.063
(f) Designated Agencies [6]				0.063

[1] Canada fees include the noncontract hourly rate, the Toledo field office administrative fee, and the actual cost of travel.

[2] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

[3] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.

[4] Appeal and re-inspection services will be assessed the same fee as the original inspection service.

[5] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

[6] Administrative fee is assessed on export grain inspected and/or weighed, excluding land carrier shipments to Canada and Mexico.

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1 2]

(1) Original Inspection and Weighing (Class X) Services:	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading):	
(a) Truck/trailer/container (per carrier)	$23.00
(b) Railcar (per carrier)	34.00
(c) Barge (per carrier)	213.30
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.09
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	13.80
(b) Railcar (per carrier)	28.70
(c) Barge (per carrier)	145.90
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.09

TABLE 2—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1] [2]—Continued

(iv) Other services:	
(a) Submitted sample (per sample—grade and factor)	13.80
(b) Warehouseman inspection (per sample)	24.10
(c) Factor only (per factor—maximum 2 factors)	6.80
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.09
(e) Re-inspection (grade and factor only. Sampling service additional, item (i) above)	14.90
(f) Class X Weighing (per hour per service representative)	72.90
(v) Additional tests (excludes sampling):	
(a) Aflatoxin (rapid test kit method)	34.30
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	32.30
(c) All other Mycotoxins (rapid test kit method)	44.10
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	42.10
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	11.70
(f) Waxy corn (per test)	11.70
(g) Canola (per test-00 dip test)	11.70
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	245.80
(2) Special Compounds (Subject to availability)	131.00
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service.[5]	
(i) Board Appeals and Appeals (grade and factor)	93.40
(a) Factor only (per factor—max 2 factors)	49.20
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable tests):	
(a) Aflatoxin (rapid test kit method)	34.30
(b) Aflatoxin (rapid test kit method-applicant provides kit) [3]	32.30
(c) All other Mycotoxins (rapid test kit method)	53.70
(d) All other Mycotoxins (rapid test kit method-applicant provides kit) [3]	51.70
(e) NIR or NMR Analysis (protein, oil, starch, etc.)	20.20
(f) Sunflower oil (per test)	20.20
(g) Mycotoxin (per test-HPLC)	160.50
(h) Pesticide Residue Testing: [4]	
(1) Routine Compounds (per sample)	245.80
(2) Special Compounds (Subject to availability)	131.00
(i) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	94.20
(3) Stowage examination (service-on-request): [4]	
(i) Ship (per stowage space) (minimum $291.00 per ship)	58.20
(ii) Subsequent ship examinations (same as original) (minimum $174.60 per ship)	58.20
(iii) Barge (per examination)	46.80
(iv) All other carriers (per examination)	18.40

[1] Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).

[3] Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

[4] If performed outside of normal business, 1½ times the applicable unit fee will be charged.

[5] If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of $3.60 per sample by the Service.

TABLE 3—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$72.90
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	72.90
(3) Special weighing services (per hour per service representative): [2]	
(i) Scale testing and certification	94.80
(ii) Scale testing and certification of railroad track scales	94.80
(iii) Evaluation of weighing and material handling systems	94.80
(iv) NTEP Prototype evaluation (other than Railroad Track Scales)	94.80
(v) NTEP Prototype evaluation of Railroad Track Scale	94.80
(vi) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.)	568.50
(vii) Mass standards calibration and re-verification	94.80
(viii) Special projects	94.80
(4) Foreign travel (hourly fee) [3]	94.80
(5) Online customized data service:	
(i) One data file per week for 1 year	568.50
(ii) One data file per month for 1 year	341.10
(6) Samples provided to interested parties (per sample)	3.60
(7) Divided-lot certificates (per certificate)	2.30
(8) Extra copies of certificates (per certificate)	2.30
(9) Faxing (per page)	2.30

TABLE 3—MISCELLANEOUS SERVICES [1]—Continued

(10) Special mailing	Actual Cost
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

[1] Any requested service that is not listed will be performed at $72.90 per hour.
[2] Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at ½ times the applicable hourly rate. (See § 800.0(b)(14) for definition of "business day.")
[3] Foreign travel charged hourly fee of $94.80 plus travel, per diem, and related expenditures.

Schedule B—Fees for FGIS Supervision of Official Inspection and Weighing Services Performed by Delegated States and/or Designated Agencies in the United States

The supervision fee charged by the Service is $0.011 per metric ton of domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico.

(a) *Registration certificates and renewals.* (1) The nature of your business will determine the fees that your business must pay for registration certificates and renewals:

(i) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce, you must pay $135.00.

(ii) If you operate a business that buys, handles, weighs, or transports grain for sale in foreign commerce and you are also in a control relationship (see definition in section 17A(b)(2) of the Act) with respect to a business that buys, handles, weighs, or transports grain for sale in interstate commerce, you must pay $270.00.

(2) If you request extra copies of registration certificates, you must pay $2.30 for each copy.

(b) *Designation amendments.* If you submit an application to amend a designation, you must pay $75.00.

(c) If you submit an application to operate as a scale testing organization, you must pay $250.00.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2013–08809 Filed 4–12–13; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0263; Directorate Identifier 2013–NE–12–AD; Amendment 39–17416; AD 2013–07–12]

RIN 2120–AA64

Airworthiness Directives; BRP-Powertrain GmbH & Co KG Rotax Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain BRP-Powertrain GmbH & Co KG Rotax 912 F2; 912 F3; 912 F4; 912 S2; 912 S3; 912 S4; 914 F2; 914 F3; and 914 F4 reciprocating engines. This AD requires a one-time visual inspection for excessive oil deposits or carbon deposits on the No. 2 and No. 3 spark plug center and grounding electrodes, and if found, replacement of the cylinder head before further flight. This AD was prompted by a report of certain No. 2 and No. 3 cylinder heads not manufactured to proper specification. We are issuing this AD to prevent excessive oil consumption, which could result in an in-flight engine shutdown, forced landing, and damage to the airplane.

DATES: This AD becomes effective April 30, 2013.

We must receive comments on this AD by May 30, 2013.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

For service information identified in this AD, contact BRP-Powertrain GmbH & Co KG, Welser Strasse 32, A–4623 Gunskirchen, Austria, or go to: *http://www.FLYROTAX.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Emergency Airworthiness Directive 2013–0055–E, dated March 6, 2013 (referred to hereinafter as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> During a production test run, a non-compliance of the installed cylinder head assembly of cylinder No. 2 and 3 (2/3) was detected, which may result in a latent defect on a limited number of engines. The affected cylinder heads may not have been manufactured in accordance with the specification.
>
> This condition, if not detected and corrected, could lead to an oil leak in the intake channel in the area of the valve guide. The affected non-conforming cylinder heads may have small machined through holes, which can increase the oil consumption and can lead to oil starvation, possibly resulting in engine stoppage or in-flight engine

shutdown and forced landing, with consequent risk of damage to the aeroplane and injury to occupants.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

BRP-Powertrain GmbH & Co KG has issued Rotax Aircraft Engines ASB No. ASB–912–062, Revision 1 and ASB–914–044, Revision 1 (combined into one document), dated March 5, 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 This AD

This product has been approved by the aviation authority of Austria, and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has 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 provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require a one-time visual inspection for excessive oil deposits or carbon deposits on the No. 2 and No. 3 spark plug center and grounding electrodes, and if found, replacement of the cylinder head before further flight. Any excess indicates the cylinder head is not manufactured to proper specification and is leaking oil into the combustion chamber.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of the short compliance time requirement. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2013–0263; Directorate Identifier 2013–NE–12–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment 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).

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

For the reasons discussed above, I certify this AD:

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); and

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

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

We prepared 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–07–12 BRP-Powertrain GmbH & Co. KG (formerly BRP-Rotax GmbH & Co KG, Bombardier-Rotax GmbH & Co. KG, and Bombardier-Rotax GmbH): Amendment 39–17416; Docket No. FAA–2013–0263; Directorate Identifier 2013–NE–12–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 30, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following BRP Powertrain GmbH & Co KG Rotax reciprocating engines:

(1) Rotax 912 F2; 912 F3; and 912 F4, from serial number (S/N) 4,413,013 up to S/N 4,413,017 inclusive.

(2) Rotax 912 S2; 912 S3; and 912 S4, from S/N 4,924,468 up to S/N 4,924,491 inclusive.

(3) Rotax 914 F2; 914 F3; and 914 F4, from S/N 4,421,156 up to S/N 4,421,169 inclusive.

(d) Reason

This AD was prompted by a report of certain No. 2 and No. 3 cylinder heads not manufactured to proper specification. The cylinder heads may have an oil leak in the intake channel in the area of the valve guide. There is the possibility that the heads have small machined through holes, which can

increase the oil consumption. We are issuing this AD to prevent excessive oil consumption, which could result in an in-flight engine shutdown, forced landing, and damage to the airplane.

(e) Actions and Compliance

Unless already done, do the following actions.

(1) Within 5 flight hours or 20 days after the effective date of this AD, whichever occurs first, perform a one-time visual inspection of the center and grounding electrodes of both top and bottom spark plugs on cylinder 2, and cylinder 3, for unusual deposits (excessive carbon or oil). Any excess indicates the cylinder head is not manufactured to proper specification and is leaking oil into the combustion chamber.

(2) Before further flight, replace cylinder heads found to be not manufactured to proper specification.

(3) From the effective date of this AD, do not install any engine listed in the applicability of this AD on an airplane, unless the engine has been inspected and, depending on the findings, affected cylinder heads have been replaced as required by this AD.

(f) Definitions

For the purpose of this AD, unusual deposits (excessive carbon or oil) is when:

(1) Carbon is a visual buildup of dark carbon deposits on the center and grounding electrodes as well as the immediate surrounding area, and

(2) Excessive oil is a visual buildup indicated by the presence of oil on the center and grounding electrodes as well as the immediate surrounding area, giving a wet appearance.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(h) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov*.

(2) Refer to European Aviation Safety Agency Emergency Airworthiness Directive 2013–0055–E, dated March 6, 2013, and BRP-Powertrain GmbH & Co KG Rotax Aircraft Engines Alert Service Bulletin No. ASB–912–062, Revision 1 and ASB–914–044, Revision 1 (combined into one document), dated March 5, 2013, for related information.

(3) For service information identified in this AD, contact BRP-Powertrain GmbH & Co KG, Welser Strasse 32, A–4623 Gunskirchen, Austria, or go to: *http://www.FLYROTAX.com*. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(i) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on April 4, 2013.

Colleen M. D'Alessandro,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2013–08460 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1217; Directorate Identifier 2012–NE–39–AD; Amendment 39–17414; AD 2013–07–10]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines AG Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain International Aero Engines AG (IAE), V2525–D5 and V2528–D5 turbofan engines, with a certain No. 4 bearing internal scavenge tube and a certain No. 4 bearing external scavenge tube installed. This AD was prompted by a report of an engine under-cowl fire and commanded in-flight shutdown. This AD would require replacement of certain part number (P/N) No. 4 bearing internal scavenge tubes, and alignment checks of certain P/N No. 4 bearing external scavenge tubes. We are issuing this AD to prevent engine fire and damage to the airplane.

DATES: This AD is effective May 20, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 20, 2013.

ADDRESSES: For service information identified in this AD, contact International Aero Engines, 628 Hebron Avenue, Suite 400, Glastonbury, CT 06033; phone: 860–368–3823; fax: 860–755–6876. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Martin Adler, Aerospace Engineer, Engine & Propeller Directorate, FAA, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7157; fax: 781–238–7199; email: *martin.adler@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on January 9, 2013 (78 FR 1776). That NPRM proposed to require the replacement of all No. 4 bearing internal scavenge tubes, P/N 2A2074–01. That NPRM also proposed to require checking the alignment of the No. 4 bearing external scavenge tube, P/N 6A5254, and if it fails the check, proposed to require replacement of the external scavenge tube.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the proposal and the FAA's response to the comment.

Request To Change the Compliance Time

The National Transportation Safety Board (NTSB) requested that the AD include a maximum number of allowable cycles for the No. 4 bearing internal scavenge tube. The NTSB is concerned that the proposed AD requirement to remove the internal scavenge tube at the next combustor module-level exposure has the potential to leave the tube installed indefinitely.

We do not agree. Required maintenance provides sufficient limitations on the maximum number of cycles that the No. 4 bearing internal scavenge tube can experience. We did not change the AD.

Conclusion

We reviewed the relevant data, considered the comment received, and

determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 123 engines installed on airplanes of U.S. registry. We estimate that it will take 1.5 hours per engine to replace the No. 4 bearing internal scavenge tube, and 3 hours per engine to replace the No. 4 bearing external scavenge tube. Required parts will cost $25,251 per engine. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of the AD on U.S. operators to be $3,152,921.

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–07–10 International Aero Engines AG: Amendment 39–17414; Docket No. FAA–2012–1217; Directorate Identifier 2012–NE–39–AD.

(a) Effective Date

This AD is effective May 20, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to International Aero Engines AG (IAE), V2525–D5 and V2528–D5 turbofan engines, serial numbers V20001 through V20285, with No. 4 bearing internal scavenge tube, part number (P/N) 2A2074–01, and No. 4 bearing external scavenge tube, P/N 6A5254, installed.

(d) Unsafe Condition

This AD was prompted by a report of an engine under-cowl fire and commanded in-flight shutdown. We are issuing this AD to prevent engine fire and damage to the airplane.

(e) Compliance

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

(f) No. 4 Bearing Internal Scavenge Tube, P/N 2A2074–01, Replacement

Replace the No. 4 bearing internal scavenge tube, P/N 2A2074–01, at each combustor module-level exposure after the No. 4 bearing internal scavenge tube has accumulated 10,000 flight cycles (FCs) since new. If the FCs on the tube cannot be confirmed, replace the tube at each combustor module-level exposure.

(g) No. 4 Bearing External Scavenge Tube, P/N 6A5254, Installation

At each installation, check the alignment of the No. 4 bearing external scavenge tube, P/N 6A5254, in accordance with paragraph 3.A. PART 2, of IAE Non-Modification Service Bulletin (NMSB) No. V2500–ENG–72–0630, Revision 1, dated September 20, 2012. If the tube is misaligned, replace with a new tube.

(h) Definition

Combustor module-level exposure is defined as separation of the combustor case and the compressor case flanges.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(j) Related Information

For more information about this AD, contact Martin Adler, Aerospace Engineer, Engine & Propeller Directorate, FAA, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7157; fax: 781–238–7199; email: *martin.adler@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) International Aero Engines AG Non-Modification Service Bulletin No. V2500–ENG–72–0630, Revision 1, dated September 20, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact International Aero Engines AG, 628 Hebron Avenue, Suite 400, Glastonbury, CT 06033; phone: 860–368–3823; fax: 860–755–6876.

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

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

Issued in Burlington, Massachusetts, on March 3, 2013.

Colleen M. D'Alessandro,

Assistant Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2013–08448 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1148; Directorate Identifier 2012–CE–039–AD; Amendment 39–17405; AD 2013–07–01]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Diamond Aircraft Industries GmbH Models DA 42, DA 42 M–NG, and DA 42NG airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued 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 overextension of the main landing gear (MLG) shock absorber that could lead to the MLG jamming in the gear bay and result in damage to the aircraft or occupant injury. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective May 20, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 20, 2013.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *http://www.diamond-air.at.* 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.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 29, 2012 (77 FR 65503). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

An incident was reported where a Diamond DA 42 experienced main landing gear (MLG) extension problems during approach, with the left hand (LH) MLG not down. An uneventful landing was made with minor damage to the aeroplane and no injuries to occupants.

Subsequent investigation results showed that the affected MLG leg shock absorber, P/N D60–3277–10–00, had overextended, resulting in the MLG being jammed in the gear bay. The overextension had been caused by a retaining nut in the MLG shock absorber which had loosened itself during operation.

This condition, if not corrected, could inhibit proper extension of the MLG, possibly resulting in damage to the aeroplane and injury to occupants.

Prompted by the reported event, Diamond Aircraft Industries (DAI) published Recommended Service Bulletin (RSB) 42–089/RSB 42NG–017 which includes Working Instruction (WI) WI–RSB–089/WI–RSB 42NG–017 (published as a single document) to recommend operators to modify the affected dampers to P/N D60–3277–10–00_01 standard, which incorporates installation of a new retaining nut and a new seal system for the MLG damper that is more durable and can withstand a greater temperature range.

Since that RSB was issued, further analysis has shown that the risk of a MLG failing to extend is greater than was initially determined. Consequently, DAI issued Mandatory Service Bulletin MSB 42–095/MSB 42NG–026 to alert aeroplane owners and operators accordingly. The new MSB contains the same instructions as the earlier RSB, but is no longer 'at owner's discretion'.

For the reasons described above, this AD requires modification of the affected MLG leg shock absorber, P/N D60–3277–10–00. This AD also prohibits installation of unmodified P/N D60–3277–10–00 MLG leg shock absorbers.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 65503, October 29, 2012) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed with minor editorial changes. Diamond Aircraft Industries GmbH provided new service information that added marking instructions to annotate the part change and modification. The work-hours to mark two parts using indelible ink followed with clear coating would be very minimal and not impact the estimated cost of compliance. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 65503, October 29, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 65503, October 29, 2012).

Costs of Compliance

We estimate that this AD will affect 175 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $115 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $49,875, or $285 per product.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

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 AD will not have federalism implications under Executive Order 13132. This AD will

not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(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.

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 the NPRM (77 FR 65503, October 29, 2012), 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–07–01 Diamond Aircraft Industries GmbH: Amendment 39–17405; Docket No. FAA–2012–1148; Directorate Identifier 2012–CE–039–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective May 20, 2013

(b) Affected ADs

None.

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Models DA 42, DA 42 M–NG, and DA 42 NG airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(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 overextension of the MLG shock absorber. We are issuing this AD to prevent the MLG jamming in the gear bay, which could result in damage to the aircraft or occupant injury.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within the next 200 hours time-in-service (TIS) after May 20, 2013 (the effective date of this AD) or within the next 12 months after May 20, 2013 (the effective date of this AD), whichever occurs first, do either (i) or (ii) as follows:

(i) Modify the left hand (LH) and right hand (RH) MLG leg shock absorbers P/N D60–3277–10–00 following either:

(A) The Instructions section of Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–095, MSB 42NG–026, Revision 1, dated February 5, 2013, and the Accomplishment/Instructions of Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42–095, MSB 42NG–026, dated November 11, 2011; or

(B) The Instructions section of Diamond Aircraft Industries GmbH Work Instruction WI–RSB 42–089, WI–RSB 42NG–017, Revision 2, dated February 12, 2013, and the Accomplishment/Instructions of Diamond Aircraft Industries GmbH Recommended Service Bulletin RSB 42 089/1, RSB 42NG–017/1, dated April 19, 2011.

(ii) Replace each MLG leg shock absorber P/N D60–3277–10–00 with a modified unit P/N D60–3277–10–00_01, following, as applicable: the Instructions section of Diamond Aircraft Industries GmbH Work Instruction WI–RSB 42–089, WI–RSB 42NG–017, Revision 2, dated February 12, 2013, and Diamond Aircraft Industries GmbH Recommended Service Bulletin RSB 42 089/1, RSB 42NG–017/1, dated April 19, 2011.

(2) After May 20, 2013 (the effective date of this AD), do not install an MLG leg shock absorber P/N D60–3277–10–00 on the airplane, unless the shock absorber has been modified following the instructions in either paragraph (f)(1)(i)(A) or (f)(1(i)(B) of this AD.

(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: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@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.: 2012–0174, dated September 4, 2012, for related information.

(i) Material Incorporated by Reference

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

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

(i) Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42–095, MSB 42NG–026, dated November 11, 2011;

(ii) Diamond Aircraft Industries GmbH Recommended Service Bulletin RSB 42–089/1, RSB 42NG–017/1, dated April 19, 2011;

(iii) Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–095, MSB 42NG–026, Revision 1, dated February 5, 2013; and

(iv) Diamond Aircraft Industries GmbH Work Instruction WI–RSB 42–089, WI–RSB 42NG–017, Revision 2, dated February 12, 2013.

(3) For Diamond Aircraft Industries GmbH service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43

2622 26780; email: *office@diamond-air.at;* Internet: *http://www.diamond-air.at.*

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

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

Issued in Kansas City, Missouri, on March 22, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–07500 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1094; Directorate Identifier 2011–NM–070–AD; Amendment 39–17412; AD 2013–07–08]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 757 airplanes. This AD was prompted by reports that inspections of the wing center section revealed defective, misapplied, or missing secondary fuel vapor barriers on the center fuel tank. This AD requires inspecting for discrepancies and insufficient coverage of the secondary fuel barrier, determining the thickness of the secondary fuel barrier, and corrective actions if necessary. We are issuing this AD to detect and correct defective surfaces and insufficient thickness of the secondary fuel barrier, which could allow fuel leaks or fumes into the pressurized cabin, and allow fuel or fuel vapors to come in contact with an ignition source, which could result in a fire or an explosion.

DATES: This AD is effective May 20, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 20, 2013.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6501; fax: (425) 917–6590; email: *kevin.nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on October 26, 2011 (76 FR 66200). That NPRM proposed to require inspecting for discrepancies and insufficient coverage of the secondary fuel barrier, determining the thickness of the secondary fuel barrier, and corrective actions if necessary.

Actions Since NPRM (76 FR 66200, October 26, 2011) Was Issued

The NPRM (76 FR 66200, October 26, 2011) referred to Boeing Service Bulletin 757–57–0060, Revision 2, dated May 24, 2007; and Boeing Service Bulletin 757–57–0061, Revision 1, dated May 24, 2007; as the appropriate sources of service information for accomplishing the proposed actions.

Since we issued the NPRM (76 FR 66200, October 26, 2011), we have reviewed Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; and Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012. We also reviewed Boeing Service Bulletin 757–57–0060, Revision 3, dated May 9, 2012; and Boeing Service Bulletin 757–57–0061, Revision 2, dated May 4, 2012. Among other things, these service bulletins eliminate a reference to the ''upper panel'' from certain steps of the Accomplishment Instructions. Boeing Service Bulletin 757–57–0061, Revision 2, dated May 4, 2012, also removed references to Group 2 airplanes from certain parts of the Accomplishment Instructions.

This final rule has been revised to reference the latest revisions of this service information. In addition, the reference to ''upper panel'' has been removed from paragraph (h) of this AD.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (76 FR 66200, October 26, 2011) and the FAA's response to each comment. Boeing supported the NPRM. FedEx had no technical objections to the NPRM.

Request To Extend the Compliance Time

American Airlines (AA) requested that we revise the NPRM (76 FR 66200, October 26, 2011) to extend the compliance time specified in paragraph (g) of the NPRM from 60 months to 72 months to align with the regular heavy check interval for Model 757 airplanes. AA added that, based on current findings and the design of the vapor barrier, safety of flight is not affected by extending the compliance time.

We agree with extending the compliance time to 72 months. The purpose of the secondary fuel barrier on Model 757 airplanes is to contain leaks due to fastener failures, primary tank sealant failures, and/or structural cracking of the center fuel tank. Model 757 airplanes have not had a history of those failures, thus extending the compliance time from 60 months to 72 months is acceptable for operators to accomplish the inspections during a regularly scheduled heavy maintenance check. We revised paragraphs (g), (h), (i), and (j) of this AD accordingly.

Request To Provide Credit for Previous Actions

British Airways PLc requested that we revise the NPRM (76 FR 66200, October 26, 2011) to provide credit for Groups 1, 2, and 3 airplanes for accomplishing the actions specified in Boeing Service

Bulletin 757–57–0060, dated January 9, 2003; or Boeing Service Bulletin 757–57–0060, Revision 1, dated April 10, 2003. European Air Transport Leipzig GmbH/DHL Air Ltd. also requested that the NPRM be amended to provide credit for previous actions performed using Boeing Service Bulletin 757–57–0060, Revision 1, dated April 10, 2003. British Airways PLc indicated that not providing credit for previous actions would represent an unnecessary cost to the aviation industry that would provide no safety benefit. Both commenters stated that unless credit is provided, operators that choose to accomplish the actions proactively using those earlier revisions of this service bulletin would be penalized.

We partially agree. We agree to provide credit for the actions for Model 757–200 airplanes identified as Group 3 airplanes. We have added paragraph (k)(1) of this AD to provide credit for Group 3 airplanes if those actions were performed using Boeing Service Bulletin 757–57–0060, Revision 1, dated April 10, 2003; or Boeing Service Bulletin 757–57–0060, dated January 9, 2003.

However, we disagree to provide credit for any Model 757–200 airplane group other than Group 3. As discussed in the NPRM (76 FR 66200, October 26, 2011), Boeing Service Bulletin 757–57–0060, Revision 2, dated May 24, 2007, contains further detailed inspection requirements for the secondary fuel barrier for Model 757–200 airplanes identified as Group 1 and Group 4, Configuration 1; and for Model 757–200CB and 757–200PF airplanes identified as Group 2. Boeing Service Bulletin 757–57–0060, Revision 2, dated May 24, 2007, had additional requirements that were not included in earlier revisions. These additional requirements are inspection for air bubbles or blister-like areas, solid metallic particles, and defective surfaces that are found in the secondary fuel barrier, not just found between the secondary fuel barrier and the structure. Also, Boeing Service Bulletin 757–57–0060, Revision 2, dated May 24, 2007, provides procedures for thickness measurements for Model 757–200 airplanes identified as Group 4, Configuration 1; and Group 4, Configuration 2 airplanes.

In addition, we have determined that it is also appropriate to provide credit for actions done for Model 757–300 airplanes identified as Group 2 airplanes. We have added paragraph (k)(4) of this AD to provide credit for Model 757–300 airplanes identified as Group 2 airplanes if those actions were performed using Boeing Service Bulletin 757–57–0061, dated February 6, 2003, before the effective date of this AD.

Additional Changes Made to This AD

As previously explained, since the NPRM (76 FR 66200, October 26, 2011) was issued, Boeing released Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; and Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012. Therefore, we find it appropriate to provide credit in paragraph (k) of this final rule for Boeing Service Bulletin 757–57–0060, Revision 3, dated May 9, 2012; Boeing Service Bulletin 757–57–0060, Revision 2, dated May 24, 2007; Boeing Service Bulletin 757–57–0061, Revision 2, dated May 4, 2012; and Boeing Service Bulletin 757–57–0061, Revision 1, dated May 24, 2007.

Note 1 to paragraph (g) of the NPRM (76 FR 66200, October 26, 2011) defined a detailed inspection. We have removed that note in this final rule, since the appropriate service information contains the inspection definition.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (76 FR 66200, October 26, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 66200, October 26, 2011).

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

Costs of Compliance

We estimate that this AD affects 619 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor Cost	Parts cost	Cost per product	Cost on U.S. operators
Access and inspect secondary fuel barrier	42 work-hours × $85 per hour = $3,570 per inspection.	$0	$3,570	$2,209,830

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Apply secondary fuel barrier	7 work-hours × $85 per hour = $595 per secondary fuel barrier application.	$0	$595

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–07–08 The Boeing Company: Amendment 39–17412; Docket No. FAA–2011–1094; Directorate Identifier 2011–NM–070–AD.

(a) Effective Date

This AD is effective May 20, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 757–200, 757–200PF, and 757–200CB series airplanes, certificated in any category, as identified in Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; and Model 757–300 series airplanes, certificated in any category, as identified in Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 57: Wings.

(e) Unsafe Condition

This AD was prompted by reports that inspections of the wing center section revealed defective, misapplied, or missing secondary fuel vapor barriers on the center fuel tank. We are issuing this AD to detect and correct defective surfaces and insufficient thickness of the secondary fuel barrier, which could allow fuel leaks or fumes into the pressurized cabin, and allow fuel or fuel vapors to come in contact with an ignition source, which could result in a fire or an explosion.

(f) Compliance

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

(g) Detailed Inspection

For Group 1, Group 2, and Group 4, Configuration 1 airplanes, as identified in Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; and Group 1 and Group 3, Configuration 1 airplanes, as identified in Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012: Within 72 months after the effective date of this AD, do a detailed inspection to detect discrepancies of the secondary fuel barrier at the front spar and the upper panel of the wing center section, and if any discrepancy exists, repair before further flight; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; or Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012; as applicable.

(h) Inspection of Minimum Application Coverage Area

For Group 3 airplanes, as identified in Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; and Group 2 airplanes, as identified in Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012: Within 72 months after the effective date of this AD, do a detailed inspection of the front spar to ensure the secondary fuel barrier application covers the minimum area specified in Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; or Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012; as applicable. If the secondary fuel barrier does not cover the minimum specified area, apply more secondary fuel barrier before further flight, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; or Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012; as applicable.

(i) Measurement of Thickness of Secondary Fuel Barrier

For Group 1, Group 2, and Group 4, Configuration 1, airplanes, as identified in Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; and for Group 1 and Group 3, Configuration 1, airplanes, as identified in Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012: Within 72 months after the effective date of this AD, measure the thickness of the secondary fuel barrier. If the thickness is less than or more than the acceptable limits defined in Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; or Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012; as applicable; apply more secondary fuel barrier or repair before further flight, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; or Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012; as applicable.

(j) Records Review or Measurement of Thickness of Secondary Fuel Barrier

For Group 4, Configuration 2, airplanes, as identified in Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; and Group 3, Configuration 2, airplanes, as identified in Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012: Within 72 months, review the maintenance records to determine if there was a minimum of 0.005 inch of new secondary fuel barrier applied, or if the thickness of the secondary fuel barrier cannot be determined from the maintenance records, measure the thickness of the secondary fuel barrier. If the thickness is less than or more than the acceptable limits specified in Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; or Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012; as applicable; apply more secondary fuel barrier or repair before further flight, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; or Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012; as applicable.

(k) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g), (h), (i), and (j) of this AD, if those actions were performed before the effective date of this AD using the applicable service information specified in paragraphs (k)(1) through (k)(4) of this AD, which are not incorporated by reference in this AD.

(1) For Group 3 airplanes, as identified in Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012: Boeing Service Bulletin 757–57–0060, Revision 1,

dated April 10, 2003; or Boeing Service Bulletin 757–57–0060, dated January 9, 2003.

(2) For all airplanes, as identified in Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012: Boeing Service Bulletin 757–57–0060, Revision 2, dated May 24, 2007; or Boeing Service Bulletin 757–57–0060, Revision 3, dated May 9, 2012.

(3) For all airplanes, as identified in Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012: Boeing Service Bulletin 757–57–0061, Revision 1, dated May 24, 2007; or Boeing Service Bulletin 757–57–0061, Revision 2, dated May 4, 2012.

(4) For Group 2 airplanes, as identified in Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012: Boeing Service Bulletin 757–57–0061, dated February 6, 2003.

(l) No Reporting Requirement

Although Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012; and Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012; specify to submit certain information to the manufacturer, this AD does not include that requirement.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *-ANM-Seattle-ACO-AMOC-REQUESTS@faa.gov.*

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

(n) Related Information

(1) For more information about this AD, contact Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6501; fax: (425) 917–6590; email: *kevin.nguyen@faa.gov.*

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

(o) Material Incorporated by Reference

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

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

(i) Boeing Service Bulletin 757–57–0060, Revision 4, dated December 7, 2012.

(ii) Boeing Service Bulletin 757–57–0061, Revision 3, dated December 7, 2012.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on March 29, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08191 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1036; Directorate Identifier 2011–NM–122–AD; Amendment 39–17408; AD 2013–07–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for certain Airbus Model A319, A320, and A321 series airplanes. That AD currently requires installing spacer assemblies at the attachment points of the YZ-latches of the cargo loading system (CLS) in the forward and aft cargo compartments, as applicable. This new AD also requires modifying the attachment points of fixed YZ-latches of the CLS lower deck cargo holds on those airplanes on which one or both lower deck cargo holds have not been modified, which terminates the existing requirements. This AD was prompted by results from tests that have shown that the attachment points of the YZ-latches of the cargo loading system (CLS) fail under maximum loads and reports that installation has been applied only on one of the lower deck cargo holds, instead of on both forward and aft cargo holds, and that some airplanes could have installed the affected YZ-latches through the instructions of the cargo conversion manual. We are issuing this AD to prevent failure of the attachment points of the YZ-latches, which could result in unrestrained cargo causing damage to the fire protection system, hydraulic system, electrical wiring, or other equipment located in the forward and aft cargo compartments. This damage could adversely affect the continued safe flight of the airplane.

DATES: This AD becomes effective May 20, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 20, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of April 12, 2007 (72 FR 10348, March 8, 2007).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 4, 2012 (77 FR 60653), and proposed to supersede AD 2007–05–13, Amendment 39–14974 (72 FR 10348, March 8, 2007). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

Investigation has revealed that the installed Tie Down Points of YZ latches on the Cargo Loading System (CLS) of Airbus A319, A320 and A321 aeroplanes do not withstand the

maximum loads in accordance with the certification requirements (CS 25.787 ''Stowage compartments'').

In case of failure of Tie Down Points, unrestrained cargo parts could cause damage in the Forward (FWD) and AFT lower deck cargo holds (e.g. air conditioning, fire protection system, hydraulic system, electrical wiring, etc.), and therefore could have an impact on the safety of the flight.

EASA AD 2006–0184 [which corresponds to FAA AD 2007–05–13, Amendment 39–14974 (72 FR 10348, March 8, 2007)] was issued to require the modification of the attachment points of fixed YZ latches of the CLS in both FWD and AFT lower deck cargo holds, as applicable to aeroplane configuration, in accordance with Airbus SB A320–25–1294 Revision 01.

It has recently been identified that for some aeroplanes, Airbus SB A320–25–1294 Revision 01 has been applied only on one of the lower deck cargo holds (FWD or AFT) while both cargo compartments were concerned by the modification, and that some aeroplanes could have installed the affected YZ [latches] through the instructions of the Cargo Conversion Manual.

For the reasons described above, this [EASA] AD, which supersedes EASA AD 2006–0184, requires modification of the attachment points of fixed YZ latches of the CLS lower deck cargo holds on those aeroplanes on which one or both lower deck cargo holds have not been modified.

This [EASA] AD also prohibits installation of the affected YZ latches, identified by Part Number (P/N) in Table 1 of Appendix 1 of this [EASA] AD, on any aeroplane as replacement parts, unless all the attachment points of the YZ latch have been modified.

You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Request To Clarify Terminating Action

Airbus requested that we clarify the paragraph identifier specified in the last sentence of paragraph (g) of the NPRM (77 FR 60653, October 4, 2012). Airbus suggested that the correct identifier should be paragraph (h) instead of paragraph (i) of the NPRM.

We agree with the commenter and have revised paragraph (g) of this AD accordingly.

Request To Revise Airbus Contact Information

Airbus requested that we revise the contact information reference to the Airbus office of airworthiness from EAW to EIAS.

We agree and have revised the contact information specified in paragraph (l)(2) of this AD.

Additional Change Made to This AD

We have removed table 1 to paragraph (h) from this AD. Instead, we have listed the subject part numbers in paragraphs (h)(1) through (h)(7) of this AD. This change does not affect the intent of that paragraph.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 60653, October 4, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 60653, October 4, 2012).

Costs of Compliance

We estimate that this AD will affect about 740 products of U.S. registry.

The actions that are required by AD 2007–05–13, Amendment 39–14974 (72 FR 10348, March 8, 2007), and retained in this AD take about 4 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $2,049 per product. Based on these figures, the estimated cost of the currently required actions is $2,389 per product.

We estimate that it will take about 15 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost up to $2,656 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 this AD to the U.S. operators to be up to $2,908,940, or $3,931 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

2. Is not a ''significant rule'' under 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 AD and placed it in the AD docket.

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 the NPRM (77 FR 60653, October 4, 2012), 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2007–05–13, Amendment 39–14974 (72 FR 10348, March 8, 2007), and adding the following new AD:

2013–07–04 Airbus: Amendment 39–17408. Docket No. FAA–2012–1036; Directorate Identifier 2011–NM–122–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective May 20, 2013.

(b) Affected ADs

This AD supersedes AD 2007–05–13, Amendment 39–14974 (72 FR 10348, March 8, 2007).

(c) Applicability

This AD applies to Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Reason

This AD was prompted by results from tests that have shown that the attachment points of the YZ-latches of the cargo loading system (CLS) fail under maximum loads and reports that installation has been applied only on one of the lower deck cargo holds, instead of on both forward and aft cargo holds, and that some airplanes could have installed the affected YZ-latches through the instructions of the cargo conversion manual. We are issuing this AD to prevent failure of the attachment points of the YZ-latches, which could result in unrestrained cargo causing damage to the fire protection system, hydraulic system, electrical wiring, or other equipment located in the forward and aft cargo compartments. This damage could adversely affect the continued safe flight 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 Spacer Assembly Installation

This paragraph restates the requirements of paragraph (f) of AD 2007–05–13, Amendment 39–14974 (72 FR 10348, March 8, 2007). For Airbus Model A319, A320, and A321 series airplanes identified in paragraphs (g)(1) and (g)(2) of this AD: Within 36 months after April 12, 2007 (the effective date of AD 2007–05–13), install spacer assemblies at the attachment points of the YZ-latches of the CLS in the forward and aft cargo compartments, as applicable, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–25–1294, Revision 02, dated September 5, 2006. Accomplishing the actions in paragraph (h) of this AD terminates the requirements of paragraph (g) of this AD.

(1) Airplanes on which one of the following has been incorporated in production: Airbus Modification 20065, 20040, 24495, 24848, 24496, 21895, 21896, 25905, 25907, 22601, 22602, 27187, 28319, 28322, 28330, 28335, or 31797.

(2) Airplanes on which one of the following has been incorporated in service: Airbus Service Bulletin A320–25–1132, A320–25–1133, A320–25–1145, A320–25–1175, A320–25–1177, A320–25–1276, A320–25–1278, A320–28–1134, or A320–28–1141.

(h) New Modification

Except for Model A319, A320, and A321 series airplanes on which both Airbus Modifications 32244 and 32245, or both Airbus Modifications 32316 and 32317, have been incorporated in production, and on which no YZ-latch replacements have been made since first flight: Within 20 months after the effective date of this AD, modify the attachment points of fixed YZ-latches of the CLS, having a part number (P/N) listed in paragraphs (h)(1) through (h)(7) of this AD, in both forward and aft lower deck cargo holds by adding spacer assemblies having P/N D2557232700000, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A320–25–1294, Revision 06, dated July 23, 2010. Accomplishing the actions specified in paragraph (h) of this AD terminates the requirements of paragraph (g) of this AD.

(1) P/N D 255 7 2380 000.
(2) P/N D 255 7 2380 002.
(3) P/N D 255 7 2380 006.
(4) P/N D 255 7 2380 008.
(5) P/N D 255 7 2350 002.
(6) P/N D 255 7 2350 004.
(7) P/N D 255 7 2350 006.

(i) Parts Installation Limitation

As of the effective date of this AD, no person may install, on the CLS of any airplane, a YZ-latch having a part number listed in paragraphs (h)(1) through paragraph (h)(7) of this AD, unless it has been modified in accordance with the requirements of paragraph (h) of this AD.

(j) Credit for Previous Actions

(1) This paragraph provides credit for the installation required by paragraph (g) of this AD, if the installation was performed before April 12, 2007 (the effective date of AD 2007–05–13, Amendment 39–14974 (72 FR 10348, March 8, 2007), using Airbus Service Bulletin A320–25–1294, dated March 14, 2003; or Revision 01, dated March 27, 2006. Neither service bulletin is incorporated by reference in this AD.

(2) This paragraph provides credit for the modification required by paragraph (h) of this AD, if the modification was performed before the effective date of this AD using any of the following service information, and the additional work is done in accordance with the applicable instructions referenced as ''ADDITIONAL WORK'' in the Accomplishment Instructions of Airbus Mandatory Service Bulletin A320–25–1294, Revision 06, dated July 23, 2010.

(i) Airbus Service Bulletin A320–25–1294, dated March 14, 2003.

(ii) Airbus Service Bulletin A320–25–1294, Revision 01, dated March 27, 2006.

(iii) Airbus Service Bulletin A320–25–1294, Revision 02, dated September 5, 2006.

(iv) Airbus Mandatory Service Bulletin A320–25–1294, Revision 03, dated January 22, 2007.

(v) Airbus Mandatory Service Bulletin A320–25–1294, Revision 04, dated March 13, 2008.

(vi) Airbus Mandatory Service Bulletin A320–25–1294, Revision 05, dated January 22, 2009.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Information may be emailed to: *9–ANM–116–AMOC–REQUESTS@faa.gov.* 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.

(l) Related Information

(1) Refer to MCAI European Aviation Safety Agency AD 2011–0077, dated May 5, 2011; and the following service information; for related information.

(i) Airbus Mandatory Service Bulletin A320–25–1294, Revision 06, dated July 23, 2010.

(ii) Airbus Service Bulletin A320–25–1294, Revision 02, dated September 5, 2006.

(2) For service information identified in this AD, contact Airbus SAS—EIAS (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-*

eas@airbus.com; Internet *http://www.airbus.com*.

(m) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on May 20, 2013.

(i) Airbus Mandatory Service Bulletin A320–25–1294, Revision 06, dated July 23, 2010.

(ii) Reserved.

(4) The following service information was approved for IBR on of April 12, 2007 (72 FR 10348, March 8, 2007).

(i) Airbus Service Bulletin A320–25–1294, Revision 02, dated September 5, 2006.

(ii) Reserved.

(5) For service information identified in this AD, contact Airbus SAS—EIAS (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*.

(6) You may review copies of the 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.

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

Issued in Renton, Washington, on March 28, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08570 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1042; Directorate Identifier 2010–NM–094–AD; Amendment 39–17413; AD 2013–07–09]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–700, –700C, –800, and –900ER series airplanes, Model 747–400F series airplanes, and Model 767–200 and –300 series airplanes. This AD was prompted by reports indicating that certain crew oxygen mask stowage box units were possibly delivered with a burr in the inlet fitting. The burr might break loose during test or operation, and might pose an ignition source or cause an inlet valve to jam. This final rule adds a step to identify and label certain crew oxygen mask stowage box units that have already been inspected and reworked by the supplier, and allows operators to install new or serviceable crew oxygen mask stowage box units, and requires a general visual inspection for affected serial numbers of the crew oxygen mask stowage box units, and replacement or re-identification as necessary. We are issuing this AD to prevent an ignition source, which could result in an oxygen-fed fire; or an inlet valve jam in a crew oxygen mask stowage box unit, which could result in restricted flow of oxygen.

DATES: This AD is effective May 20, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 20, 2013.

ADDRESSES: For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* For Intertechnique service information identified in this AD, contact Zodiac, 2, rue Maurice Mallet—92137 Issy-les-Moulineaux Cedex France; telephone +33 1 41 23 23 23; fax +33 1 46 48 83 87; Internet *http://www.zodiac.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6457; fax: 425–917–6590; email: *susan.l.monroe@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to the specified products. That SNPRM published in the **Federal Register** on September 7, 2012 (77 FR 55159). The original NPRM (75 FR 67637, November 3, 2010) proposed to require an inspection for affected serial numbers of the crew oxygen mask stowage box units; and replacement of the crew oxygen mask stowage box unit with a new crew oxygen mask stowage box unit, if necessary. The SNPRM proposed to revise the NPRM by adding a step to identify and label certain crew oxygen mask stowage box units that have already been inspected and reworked by the supplier, and allowing operators to install new or serviceable crew oxygen mask stowage box units.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 55159, September 7, 2012) and the FAA's response to each comment.

Support for the SNPRM (77 FR 55159, September 7, 2012)

Boeing stated that it supports the SNPRM (77 FR 55159, September 7, 2012).

Request for Clarification of Determination of the Affected Units

American Airlines (AA) requested that we revise the SNPRM (77 FR 55159, September 7, 2012) to clarify the method used by the manufacturer to determine the affected units, and the potential that those units could have been inadvertently installed on other airplanes. AA explained that Boeing Alert Service Bulletin 737–35A1121, dated December 14, 2009, provides limited background information as to how Boeing determined which aircraft

had defective crew oxygen mask stowage box units installed, and how operators could ensure that those affected crew oxygen mask stowage box units had not been inadvertently reinstalled on other airplanes. AA reasoned that the affected crew oxygen mask stowage box unit (MXP147–X) is installed on multiple fleets that are operated by AA, and at times, these crew oxygen mask stowage box units are loaned between other operators.

We agree that clarification is necessary. Therefore, the Seattle ACO is evaluating the associated risk to airplanes outside the applicability of this AD, and the need for additional action. We might consider further rulemaking to address our findings. Since it is not in the interest of public safety to further delay this action, no changes have been made to this AD regarding this issue at this time.

Clarification of Paragraph (g)(3) of This AD

We have clarified paragraph (g)(3) of this AD by specifying that the reinstallation is not required if a records review was done to determine the serial number of the crew oxygen stowage box unit.

Conclusion

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

- Are consistent with the intent that was proposed in the SNPRM (77 FR 55159, September 7, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (77 FR 55159, September 7, 2012).

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

Costs of Compliance

We estimate that this AD affects 40 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × $85 per hour = $85	None	$85	$3,400

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–07–09 The Boeing Company: Amendment 39–17413 ; Docket No. FAA–2010–1042; Directorate Identifier 2010–NM–094–AD.

(a) Effective Date

This AD is effective May 20, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, as identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) Model 737–700, –700C, –800, and –900ER series airplanes, as identified in Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011.

(2) Model 747–400F series airplanes, as identified in Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011.

(3) Model 767–200 and –300 series airplanes, as identified in Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by reports indicating that certain crew oxygen mask stowage box units were possibly delivered with a burr in the inlet fitting. The burr might break loose during test or operation, and might pose an ignition source or cause an inlet valve to jam. We are issuing this AD to prevent an ignition source, which could result in an oxygen–fed fire; or an inlet valve jam in a crew oxygen mask stowage box unit, which could result in restricted flow of oxygen.

(f) Compliance

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

(g) Inspection and Corrective Action

Within 24 months after the effective date of this AD: Do a general visual inspection to determine if the serial number of the crew oxygen mask stowage box unit is identified in the Appendix of Intertechnique Service Bulletin MXP1/4–35–175,

Revision 2, dated May 10, 2011, in accordance with the Accomplishment Instructions of the applicable Boeing alert service bulletin specified in paragraph (c)(1), (c)(2), or (c)(3) of this AD. A review of airplane maintenance records is acceptable in lieu of this inspection if the serial number of the crew oxygen mask stowage box unit can be conclusively determined from that review.

(1) If any crew oxygen mask stowage box unit has a serial number identified in table 1 of the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011: Before further flight, replace the crew oxygen mask stowage box unit with a new or serviceable unit, in accordance with the Accomplishment Instructions of the applicable Boeing alert service bulletin specified in paragraph (c)(1), (c)(2), or (c)(3) of this AD.

(2) If any crew oxygen mask stowage box unit has a serial number identified in table 2 of the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011: Before further flight, add the letter ''I'' to the end of the serial number (identified as ''SER'') on the identification label, in accordance with the Accomplishment Instructions of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011; and reinstall in accordance with the Accomplishment Instructions of the applicable Boeing alert service bulletin specified in paragraph (c)(1), (c)(2), or (c)(3) of this AD.

(3) If no crew oxygen mask stowage box unit has a serial number identified in the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011: Unless a records review was done to determine the serial number, before further flight, reinstall the crew oxygen mask stowage box unit, in accordance with the Accomplishment Instructions of the applicable Boeing alert service bulletin specified in paragraph (c)(1), (c)(2), or (c)(3) of this AD.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install a crew oxygen mask stowage box unit with a serial number listed in the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011, on any airplane.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(j) Related Information

For more information about this AD, contact Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6457; fax: 425–917–6590; email: *susan.l.monroe@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011.

(ii) Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011.

(iii) Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011.

(iv) Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* For Intertechnique service information identified in this AD, contact Zodiac, 2, rue Maurice Mallet—92137 Issy-les-Moulineaux Cedex, France; telephone +33 1 41 23 23 23; fax +33 1 46 48 83 87; Internet *http://www.zodiac.com.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on March 29, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08192 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0196; Directorate Identifier 2013–NE–03–AD; Amendment 39–17376; AD 2013–05–04]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Rolls-Royce plc (RR) RB211-Trent 970–84, RB211-Trent 970B–84, RB211-Trent 972–84, RB211-Trent 972B–84, RB211-Trent 977–84, RB211-Trent 977B–84, and RB211-Trent 980–84 turbofan engines. This AD requires inspection of the intermediate pressure compressor rear stub shaft (IPC RSS) piston ring. This AD was prompted by the failure of an oil pump drive shear neck due to a piston ring seal that was not seated properly in the IPC RSS groove. We are issuing this AD to prevent failure of the oil pump drive shear neck, which could result in loss of oil pressure in one or more engines and reduced control of the airplane.

DATES: This AD becomes effective April 30, 2013.

We must receive comments on this AD by May 30, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 30, 2013.

ADDRESSES: You may send comments by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• Fax: (202) 493–2251.

For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–245418, or email: *http://www.rolls-royce.com/contact/civil_team.jsp*. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0273, dated December 21, 2012, a Mandatory Continuing Airworthiness Information (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During take-off of an A380 on a customer acceptance flight, a low oil pressure warning message was observed by the flight crew. The take-off was aborted and the aircraft returned to the gate without further incident. Initial post-flight inspection of the engine revealed that the oil pump drive shear neck had failed. Upon further inspection of the engine, pieces of debris were found in the oil pump Internal Gear Box (IGB) rear scavenge screen and smaller pieces of profiled debris were found on the Electrical Magnetic Chip Detector (EMCD). From the material recovered, the origin was found to be the piston ring seal, which fits in the groove of the Intermediate Pressure Compressor Rear Stub Shaft (IPC RSS). This piston ring was introduced as part of Rolls-Royce Mod.72–G585 which incorporated a modified 52-spline IP Turbine Shaft, IPC RSS and coupling assembly. Therefore, only engines incorporating Mod.72–G585 are affected.
>
> This condition, if not detected and corrected, could lead to loss of oil pressure on one or more of the engines, possibly resulting in reduced control of the aeroplane.

The failure to properly seat the piston ring seal in the groove of the IPC RSS occurs during assembly of the shaft. This could cause the movement of the ring out of the groove and resulting forces during operation may cause fracture of the ring. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

RR has issued Repeater Technical Variance 129978, Issue 1, dated December 19, 2012 and Issue 2, dated December 20, 2012; Repeater Technical Variance 129940, Issue 1, dated December 20, 2012; and Repeater Technical Variance 129994, Issue 1, dated December 19, 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 AD

This product has been approved by the United Kingdom and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This AD requires inspection of the IPC RSS piston ring.

Differences Between the AD and the MCAI or Service Information

This AD requires compliance for all engines within 50 cycles of the effective date of this AD. The MCAI requires a staggered compliance interval based on the number of affected engines on the airplane. Our AD uses a more conservative compliance time because there are no engines installed on aircraft of U.S. registry that will be affected.

FAA's Determination of the Effective Date

No domestic operators use this product. Therefore, we find that notice and opportunity for prior public comment are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0196; Directorate Identifier 2013–NE–03–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment 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).

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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between

the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

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); and

3. 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 AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–05–04 Rolls-Royce plc: Amendment 39–17376; Docket No. FAA–2013–0196; Directorate Identifier 2013–NE–03–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 30, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce plc (RR) RB211-Trent 970–84, RB211-Trent 970B–84, RB211-Trent 972–84, RB211-Trent 972B–84, RB211-Trent 977–84, RB211-Trent 977B–84, and RB211-Trent 980–84 turbofan engines that incorporate RR production Modification 72–G585 or modified in-service through RR Service Bulletin (SB) 72–G585, any revision, with a Module 33 installed having a serial number (S/N) prior to HC0320, except S/Ns HC0277, HC0281, HC0294, HC0301, HC0309, HC0313, HC0315, and HC0318.

(d) Reason

This AD was prompted by the failure of an oil pump drive shear neck due to a piston ring seal that was not seated properly in the intermediate pressure compressor rear stub shaft (IPC RSS) groove. We are issuing this AD to prevent failure of the oil pump drive shear neck, which could result in loss of oil pressure in one or more engines and reduced control of the airplane.

(e) Actions and Compliance

Unless already done, do the following.

(1) Within 50 engine flight cycles after the effective date of this AD, inspect the IPC RSS piston ring in accordance with the instructions of paragraph (d)(2) of RR Repeater Technical Variance 129978, Issue 2, dated December 20, 2012.

(2) For an engine that is not in service on the effective date of this AD, before returning the engine to service, inspect the IPC RSS piston ring on-wing in accordance with paragraph (d)(2) of RR Repeater Technical Variance 129978, Issue 2, dated December 20, 2012; or in shop using paragraph (d) of RR Repeater Technical Variance 129994, Issue 1, dated December 19, 2012.

(3) If, during the inspections required by paragraph (e) of this AD, you find that the piston ring seal is not seated properly in the IPC RSS groove or is not intact, replace the piston ring seal or piston ring assembly before returning the engine to service.

(f) Credit for Previous Actions

If you performed the inspection in paragraph (e) of this AD before the effective date of this AD in accordance with RR Repeater Technical Variance 129978, Issue 1, dated December 19, 2012; RR Repeater Technical Variance 129940, Issue 1, dated December 20, 2012, or Airbus QSR RR/L/EN/12–0005, as applicable, you have met the inspection requirement of this AD.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(h) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2012–0273, dated December 21, 2012, for related information.

(i) Material Incorporated by Reference

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

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

(i) RR Repeater Technical Variance 129994, Issue 1, dated December 19, 2012.

(ii) RR Repeater Technical Variance 129978, Issue 2, dated December 20, 2012.

(3) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–245418, or email: *http://www.rolls-royce.com/contact/civil_team.jsp.*

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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

Issued in Burlington, Massachusetts, on March 1, 2013.

Robert J. Ganley,

Acting Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2013–08445 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0933; Directorate Identifier 2012–NM–107–AD; Amendment 39–17411; AD 2013–07–07]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This AD was prompted by reports of an incorrect procedure used to apply the wear and corrosion protective surface coating to attach pins of the horizontal stabilizer rear spar. This AD requires inspecting to determine the part number of the attach pins of the horizontal stabilizer rear spar, and replacing certain attach pins with new, improved attach pins. We are issuing this AD to prevent premature failure of the attach pins, which could cause reduced structural integrity of the horizontal stabilizer to fuselage attachment, resulting in loss of control of the airplane.

DATES: This AD is effective May 20, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 20, 2013.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT:

Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email *nancy.marsh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on September 12, 2012 (77 FR 56170). That NPRM proposed to require inspecting to determine the part number of the attach pins of the horizontal stabilizer rear spar, and replacing certain attach pins with new, improved attach pins.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 56170, September 12, 2012) and the FAA's response to each comment.

Concurrence With NPRM (77 FR 56170, September 12, 2012)

Boeing concurs with the content of the proposed rule (77 FR 56170, September 12, 2012).

Request for Alternative Method of Compliance (AMOC) to Inspections Required by AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; Corrected April 13, 2004 (69 FR 19313))

Europe Airpost requested that a statement be included in the NPRM (77 FR 56170, September 12, 2012) that approves installation of the horizontal stabilizer rear spar attachment pins part number (P/N) 180A1612–7 and 180A1612–8 as an AMOC to the inspections required by AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; corrected April 13, 2004 (69 FR 19313)) provided that the special inspections specified in the Boeing maintenance planning data (MPD) document are performed.

We agree with the request. We have added paragraph (j) to this final rule to state that accomplishing the actions required by paragraphs (g) and (h) of this AD terminates the requirements of paragraphs (a), (b), (c), (d), and (e) of AD 2004–05–19 Amendment 39–13514 (69 FR 10921, March 9, 2004; corrected April 13, 2004 (69 FR 19313)), for rear spar attach pins only.

Request for Exclusions

Delta Air Lines (Delta) requested that we provide exclusions in paragraph (g) of the NPRM (77 FR 56170, September 12, 2012) for certain airplanes that may not be affected by the discrepant stabilizer pins. Delta stated that airplanes that were not delivered between August 1, 2006, and July 31, 2008, have not had the terminating action accomplished according to AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; corrected April 13, 2004 (69 FR 19313)), and did not have maintenance done in accordance with the MPD, would not need to be inspected. Delta also requested that we provide exclusions to paragraph (i) of the NPRM because spare pins having P/N 180A1612–3 and 180A1612–4 delivered by Boeing Spares before June 30, 2006, and after June 17, 2008, are not suspected of having unapproved surface coatings.

We disagree with the request to change paragraphs (g) and (i) in this final rule. Although Boeing has specified certain airplane delivery dates associated with the discrepant pins, as well as delivery dates for pins suspected to be discrepant and distributed as spare parts, other factors make identification of the affected airplanes difficult. Stabilizers are rotable components, and therefore stabilizer attach pins may be different from those delivered with the airplane. To assist operators in inspecting for the suspect pins, paragraph (g) of this final rule (as proposed in the NPRM (77 FR 56170, September 12, 2012)) allows for a records search to be used to confirm the part number of the rear spar attachment pin, if such a record search is conclusive. No change has been made to this final rule in this regard.

Request To Include AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; corrected April 13, 2004 (69 FR 19313))

Europe Airpost requested that we revise the NPRM (77 FR 56170, September 12, 2012) to include AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; corrected April 13, 2004 (69 FR 19313)), as a related AD in paragraph (b) of the NPRM. The commenter stated that the new AD will affect AD 2004–05–19 because attach pins having P/Ns 180A1612–3 and 180A1612–4 could also have been installed as a terminating action for AD 2004–05–19.

We agree with the commenter and have revised paragraph (b) of this final rule accordingly.

Request To Allow Re-Installation of Serviceable Attach Pins

Japan Airlines (JAL) requested that we revise the NPRM (77 FR 56170, September 12, 2012) to allow for re-installation of attach pins having P/N 180A1612–3 and 180A1612–4 that are found to be serviceable. JAL agrees that replacement of the attach pins would have to be done before 56,000 total flight cycles, but notes that routine maintenance inspections of the pins require pin removal prior to the 56,000 flight cycle threshold. JAL concluded that when these inspections are accomplished prior to that threshold, paragraphs (h) and (i) of the NPRM would prohibit re-installation of the pins, even if they are found to be serviceable.

We partially agree with the request. We agree that re-installation of the pins having P/Ns 180A1612–3 and 180A1612–4 that have been inspected in accordance with Special Structural Inspections of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' of Boeing 737–600/700/700C/800/900/900ER Maintenance Planning Data (MPD) Document D626A001–CMR, Revision 09, may be acceptable for compliance; however, the commenter did not state which revision of the MPD would be used. As numerous revisions of the MPD exist and many new revisions are released each year, this approval is most effectively

accomplished using the procedures in paragraph (k) of this AD. No change has been made to the AD in this regard.

We have revised paragraph (h) of this AD to state that airplanes having line numbers 1 through 3534 inclusive having an attach pin P/N 180A1612–3 or 180A1612–4 must be replaced with a new attach pin P/N 180A1612–7 or 180A1612–8, respectively, prior to the accumulation of 56,000 total flight cycles on the pin, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later.

STC Winglet Comment

Aviation Partners Boeing stated that the installation of winglets per STC ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect the accomplishment of the manufacturer's service instructions.

We have added paragraph (c)(2) to this AD to state that installation of STC ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a change in product AMOC approval request is not necessary to comply with the requirements of 14 CFR 39.17. For all other AMOC requests, the operator must request approval for an AMOC in accordance with the procedures specified in paragraph (k) of this AD.

Other Changes to the NPRM (77 FR 56170, September 12, 2012)

We have clarified paragraph (i)(1) of this AD to state that on certain airplanes installation of an attach pin having P/N 180A1612–3 or 180A1612–4 is not acceptable for compliance unless the actions required by paragraphs (g) and (h) of this AD are accomplished on that airplane.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 56170, September 12, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 56170, September 12, 2012).

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

Costs of Compliance

We estimate that this AD affects 1,050 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and attach pin replacement	39 work-hours × $85 per hour = $3,315	Up to $6,312	$9,627	Up to $10,108,350.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–07–07 The Boeing Company: Amendment 39–17411; Docket No. FAA–2012–0933; Directorate Identifier 2012–NM–107–AD.

(a) Effective Date

This AD is effective May 20, 2013.

(b) Affected ADs

This AD affects certain requirements of AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; corrected April 13, 2004 (69 FR 19313)).

(c) Applicability

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

(2) Installation of Supplemental Type Certificate (STC) ST00830SE (*http://rgl.faa.*

gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17. For all other AMOC requests, the operator must request approval for an AMOC in accordance with the procedures specified in paragraph (k) of this AD.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by reports of an incorrect procedure used to apply the wear and corrosion protective surface coating to attach pins of the horizontal stabilizer rear spar. We are issuing this AD to prevent premature failure of the attach pins, which could cause reduced structural integrity of the horizontal stabilizer to fuselage attachment, resulting in loss of control of the airplane.

(f) Compliance

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

(g) Part Number (P/N) Inspection

For airplanes having line numbers 1 through 3534 inclusive: Before the accumulation of 56,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, inspect to determine the part number of the attach pins of the horizontal stabilizer rear spar. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the attach pin can be conclusively determined from that review.

(h) Replacement

If, during the inspection required by paragraph (g) of this AD, any horizontal stabilizer rear spar attach pin has P/N 180A1612–3 or 180A1612–4, prior to the accumulation of 56,000 total flight cycles on the pin, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, replace with a new attach pin having P/N 180A1612–7 or 180A1612–8, respectively, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–55–1093, dated April 9, 2012.

(i) Parts Installation Limitation and Prohibition

(1) For airplanes having line numbers 1 through 3534 inclusive: As of the effective date of this AD, no person may install an attach pin of the horizontal stabilizer rear spar having P/N 180A1612–3 or 180A1612–4 on any airplane; unless the actions required by paragraph (g) and (h) of this AD have been done on that airplane.

(2) For airplanes having line numbers 3535 and subsequent: As of the effective date of this AD, no person may install an attach pin of the horizontal stabilizer rear spar having P/N 180A1612–3 or 180A1612–4 on any airplane.

(j) Terminating Action for AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; corrected April 13, 2004 (69 FR 19313))

Accomplishment of the actions required by paragraphs (g) and (h) of this AD terminates the requirements of paragraphs (a), (b), (c), (d), and (e) of AD 2004–05–19, Amendment 39–13514 (69 FR 10921, March 9, 2004; corrected April 13, 2004 (69 FR 19313)) for the rear spar attach pins only.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(l) Related Information

For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email *nancy.marsh@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Service Bulletin 737–55–1093, dated April 9, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at 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.

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

Issued in Renton, Washington, on March 28, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08193 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0497; Directorate Identifier 2011–NM–140–AD; Amendment 39–17415; AD 2013–07–11]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for certain The Boeing Company Model 777–200, –200LR, –300, and –300ER series airplanes. That AD currently requires inspecting for scribe lines in the skin along lap joints, butt joints, certain external doublers, and the large cargo door hinges, and doing related investigative and corrective actions if necessary. This new AD adds an inspection for scribe lines where external decals have been applied or removed across lap joints, large cargo door hinges, and external doublers, and related investigative and corrective actions if necessary. This AD was prompted by a determination that scribe lines could occur where external decals are installed or removed across lap joints, large cargo door hinges, or external doublers. We are issuing this AD to detect and correct scribe lines, which can develop into fatigue cracks in the skin. Undetected fatigue cracks can grow and cause sudden decompression of the airplane.

DATES: This AD is effective May 20, 2013.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in the AD as of May 20, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of January 4, 2010 (74 FR 62217, November 27, 2009).

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Melanie Violette, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6422; fax: 425–917–6590; email: *MelanieViolette@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2009–24–08, Amendment 39–16096 (74 FR 62217, November 27, 2009). That AD applies to the specified products. The NPRM published in the **Federal Register** on May 31, 2012 (77 FR 32057). That NPRM proposed to continue to require inspecting for scribe lines in the skin along lap joints, butt joints, certain external doublers, and the large cargo door hinges, and doing related investigative and corrective actions if necessary. Additionally, that NPRM proposed to add an inspection for scribe lines where external decals have been applied or removed across lap joints, large cargo door hinges, and external doublers, and related investigative and corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 32057, May 31, 2012) and the FAA's response to each comment.

Requests To Change Compliance Time

American Airlines (AAL), British Airways, Boeing, and Emirates Airlines requested that we change paragraph (l) of the NPRM (77 FR 32057, May 31, 2012) to specify accomplishing the decal inspection at the compliance time described in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, rather than the proposed ''within 24 months after the effective date of this AD.'' The commenters stated that the initial compliance time in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, for the scribe line inspection is significantly later.

We agree to change the compliance time for the reason the commenters stated. We have changed the compliance time in paragraph (l) of this AD to specify that the decal inspection must be done within 24 months after the effective date of this AD, or at the applicable time specified in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, for the scribe line inspection, whichever is later. We have also added a provision to paragraph (l) of this AD indicating that a review of airplane maintenance records is acceptable in lieu of the decal inspection if a record of all decal activities (installation or removal locations) can be conclusively determined from that review.

Request To Add Certain Exceptions

AAL requested that we revise the NPRM (77 FR 32057, May 31, 2012) to state that the inspections described in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, are necessary only in ''those areas that have been previously repaired and then the repair has been stripped and repainted.'' AAL asserted that the inspection exceptions described in NOTES 1. through 5. in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, apply to paragraph (g) of the NPRM, and that these notes state ''For each repair, if the operator can show that the airplane has never been stripped or repainted since the repair has been installed, then the repair inspections for that specific repair are not required.''

We partially agree with the commenter's request. Note 1 to paragraph (g) of the NPRM (77 FR 32057, May 31, 2012) already allows such an exception, which is stated in NOTE 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008. We have changed paragraph (g) in the NPRM to paragraph (g)(1) in this AD and have also changed Note 1 to paragraph (g) of the NPRM to paragraph (g)(2) in this AD. Since we have revised paragraph (g)(1) of this AD to reference Revision 1 of Boeing Service Bulletin 777–53A0054, dated November 4, 2010, as an appropriate source of service information, we have revised paragraph (g)(2) of this AD to state that the inspection exceptions described in NOTES 1. through 6. in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, apply to paragraph (g)(1) of this AD.

Request To Exclude Service Bulletin Step

AAL requested that we exclude the service information step of putting the airplane back in a serviceable condition, because that step does not affect the unsafe condition that the NPRM (77 FR 32057, May 31, 2012) seeks to address. Additionally, AAL explained that most operators will accomplish these inspections as part of a heavy maintenance visit, and returning the airplane to a serviceable condition will not be possible in the context of that statement, but will rather occur at a point in time well after these inspections are complete.

We agree with the request to state that the phrase ''Put the airplane back to serviceable condition,'' which is referenced in the service information specified in this final rule, is not mandated by this final rule. Other regulations require restoring the airplane to serviceable condition before further flight. Therefore, we have added exception phrasing in paragraphs (g)(1), (l), and (m) of this AD; and added new paragraph (n)(3) in this final rule.

Request To Use Alternative Measurement Tools

AAL requested that we revise the NPRM (77 FR 32057, May 31, 2012) to include the use of alternative equivalent measurement tools, rather than the specialized tools described in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010.

We disagree with the commenter's request. To achieve an acceptable level

of safety for the inspections required by this AD, several specialized tools were employed. The commenter did not provide any alternative tool(s) for our consideration or any standard on how it might be determined that a tool might be equivalent to a tool specified in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010. Under the provisions of paragraph (q) of this AD, however, we will consider requests for approval of an alternative method of compliance (AMOC) if sufficient data are submitted to substantiate that the proposed alternative measurement tool is equivalent to a measurement tool specified in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010. We have not changed this AD in this regard.

Request To Change Compliance Time Wording

AAL requested that we change the compliance time wording in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, from ''after the original issue date 'on' this service bulletin,'' to ''after the original issue date 'of' this service bulletin.''

We disagree with the request to require Boeing to change the wording in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010. We do not consider delaying this AD action to address the identified unsafe condition necessary for this minor wording change. We have not changed this AD in this regard.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 32057, May 31, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 32057, May 31, 2012).

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

Costs of Compliance

We estimate that this AD affects 163 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Exploratory inspection [retained action from AD 2009-24-08, Amendment 39-16096 (74 FR 62217, November 27, 2009)].	Up to 1,234 work-hours × $85 per hour = $104,890.	$0	Up to $104,890	Up to $17,097,070
Inspection for decals [new action]	Up to 4 work-hours × $85 per hour = $340	0	Up to $340	Up to $55,420

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2009–24–08, Amendment 39–16096 (74 FR 62217, November 27, 2009), and adding the following new AD:

2013–07–11 The Boeing Company: Amendment 39–17415; Docket No. FAA–2012–0497; Directorate Identifier 2011–NM–140–AD.

(a) Effective Date

This airworthiness directive (AD) is effective May 20, 2013.

(b) Affected ADs

This AD supersedes AD 2009–24–08, Amendment 39–16096 (74 FR 62217, November 27, 2009).

(c) Applicability

This AD applies to The Boeing Company Model 777–200, –200LR, –300, and –300ER series airplanes; certificated in any category; as identified in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a determination that scribe lines could occur where external decals are installed or removed across lap joints, large cargo door hinges, or external doublers. We are issuing this AD to detect and correct scribe lines which can develop into fatigue cracks in the skin. Undetected fatigue cracks can grow and cause sudden decompression of the airplane.

(f) Compliance

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

(g) Retained Inspection

This paragraph restates the requirements of paragraph (g) of AD 2009–24–08, Amendment 39–16096 (74 FR 62217, November 27, 2009), with new service information and a new exception.

(1) At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, except as provided in paragraphs (h) and (j) of this AD: Do detailed exploratory inspections for scribe lines in the skin along lap joints, butt joints, certain external doublers, and the large cargo door hinges, except as specified in paragraph (n)(3) of this AD. Do all applicable related investigative and corrective actions at the times specified in Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, by accomplishing all actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008; or Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010; except as specified in paragraphs (i) and (n)(3) of this AD. As of the effective date of this AD, use only Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, to do the actions required by this paragraph.

(2) The inspection exceptions described in NOTES 1.– 5. in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008; and NOTES 1. through 6. in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010; apply to paragraph (g)(1) of this AD.

(h) Retained Exception to Service Bulletin Compliance Time

This paragraph restates the requirements of paragraph (h) of AD 2009–24–08, Amendment 39–16096 (74 FR 62217, November 27, 2009). Where Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, specifies a compliance time after the date on that service bulletin, paragraph (g) of this AD requires compliance within the specified compliance time after January 4, 2010 (the effective date of AD 2009–24–08).

(i) Retained Exception to Service Bulletin Contact Information

This paragraph restates the requirements of paragraph (i) of AD 2009–24–08, Amendment 39–16096 (74 FR 62217, November 27, 2009), with new service information. Where Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008; and Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010; specify to contact Boeing for appropriate action, accomplish applicable actions using a method approved in accordance with the procedures specified in paragraph (q) of this AD.

(j) Retained Exception to Service Bulletin Inspection Instructions

This paragraph restates the requirements of paragraph (j) of AD 2009–24–08, Amendment 39–16096 (74 FR 62217, November 27, 2009). Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, specifies to ''contact Boeing for inspection requirements for operation beyond 60,000 total flight-cycles after first repaint,'' for those airplanes, this AD requires contacting the Manager, Seattle Aircraft Certification Office (ACO), for all inspection requirements of this AD and for doing the requirements.

(k) Retained Reporting

This paragraph restates the requirements of paragraph (k) of AD 2009–24–08, Amendment 39–16096 (74 FR 62217, November 27, 2009). At the applicable time specified in paragraph (k)(1) or (k)(2) of this AD: Submit a report of positive findings of cracks found during the inspection required by paragraphs (g) and (m) of this AD to the Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Alternatively, operators may submit reports to their Boeing field service representatives. The report must contain, at a minimum, the inspection results, a description of any discrepancies found, the airplane serial number, and the number of flight cycles and flight hours on the airplane.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(l) New Inspection for External Decals

Within 24 months after the effective date of this AD; or at the applicable time specified for inspection of external doubler, lap joint, or large cargo door hinge locations in Tables 1 through 6 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010; whichever is later: Inspect to determine the locations where external decals have been applied or removed across affected lap joints, large cargo door hinges, and external doublers, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, except as specified in paragraph (n)(3) of this AD. A review of airplane maintenance records is acceptable in lieu of this inspection if a record of all decal activities (installation or removal locations) can be conclusively determined from that review.

(m) New Inspection for Scribe Lines and Related Investigative and Corrective Actions

If, during the inspection required by paragraph (l) of this AD, any location is found where external decals have been applied or removed across lap joints, large cargo door hinges, or external doublers: Before further flight, do a detailed exploratory inspection for scribe lines at all affected locations, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, except as specified in paragraph (n)(3) of this AD. Do all applicable related investigative and corrective actions at the times specified in Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, by accomplishing all actions specified in the Accomplishment Instructions of Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, except as provided by paragraphs (i) and (n)(3) of this AD.

(n) Exceptions to Service Information

(1) Where Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, specifies a compliance time after the date on that service bulletin, paragraphs (l) and (m) of this AD require compliance within the specified compliance time after the effective date of this AD.

(2) Where paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, specifies to ''contact Boeing for inspection requirements for operation beyond 60,000 total flight-cycles after first repaint,'' for those airplanes, this AD requires contacting the Manager, Seattle ACO, for all inspection requirements of this AD and for doing the requirements.

(3) Where Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010, specifies to ''Put the airplane back to a serviceable condition,'' this AD does not require that action.

(o) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (m) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008.

(p) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the

burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(q) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9–ANM-Seattle-ACO–AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved for AD 2009–24–08, Amendment 39–16096 (74 FR 62217, November 27, 2009), are approved as AMOCs for the corresponding provisions of this AD, except that AMOCs approved for AD 2009–24–08 are not approved for fuselage areas where any decals may have been installed or removed on airplanes that have never been stripped or repainted since they left the factory.

(r) Related Information

For more information about this AD, contact Melanie Violette, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6422; fax: 425–917–6590; email: *MelanieViolette@faa.gov.*

(s) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on May 20, 2013.

(i) Boeing Service Bulletin 777–53A0054, Revision 1, dated November 4, 2010.

(ii) Reserved.

(4) The following service information was approved for IBR on January 4, 2010 (74 FR 62217, November 27, 2009).

(i) Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008.

(ii) Reserved.

(5) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com.*

(6) You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on March 29, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08346 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1294; Airspace Docket No. 11–ANM–28]

RIN 2120–AA66

Establishment of Area Navigation (RNAV) Routes; OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes two new low-altitude RNAV routes, designated T–302 and T–304, in the state of Oregon. The routes replace segments of an existing VHF Omnidirectional Range (VOR) Federal airway that will be removed due to the planned decommissioning of the Portland, OR, VOR/DME in 2013. This action advances the implementation of RNAV in the National Airspace System (NAS) and provides continued en route navigation guidance in the affected airspace.

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

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

The FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish T–302 and T–304 in the state of Oregon (78 FR 4354, January 22, 2013). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Two comments were received, both expressing support for the proposal.

The Rule

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71 by establishing RNAV routes T–302 and T–304 in Oregon. The new low-altitude routes replace segments of a VOR Federal airway that will be affected by the planned decommissioning of the Portland, OR, VOR/DME in 2013. T–302 extends between the existing CUKIS, OR, fix and the existing CUPRI, OR, fix. T–304 extends between the existing GLARA, OR, fix and the existing HERBS, OR, fix. Additional waypoints are added between the end-point fixes. This action enhances safety and efficiency, expands the use of RNAV within the NAS, and provides for continued en route navigation guidance in a portion of Seattle Air Route Traffic Control Center's airspace.

Area navigation routes are published in paragraph 6011 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 area navigation routes listed in this document will be published subsequently in the Order.

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. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 the 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 modifies the route structure as required to preserve the safe and efficient flow of air traffic.

Environmental Review

The FAA has determined that this action is categorically excluded from further environmental documentation according to FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, in accordance with paragraph 311a. The implementation of this action will not result in any extraordinary circumstances in accordance with FAA Order 1050.1E paragraph 304.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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 FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 6011 United States area navigation routes

* * * * *

T–302 CUKIS, OR to CUPRI, OR [New]

CUKIS, OR	Fix	(45°21′00″ N., long. 122°21′49″ W.)
JJACE, OR	WP	(45°09′52″ N., long. 122°03′03″ W.)
JJETT, OR	WP	(44°56′35″ N., long. 121°40′56″ W.)
JERMM, OR	WP	(44°46′05″ N., long. 121°27′06″ W.)
CUPRI, OR	Fix	(44°37′04″ N., long. 121°15′14″ W.)

T–304 GLARA, OR to HERBS, OR [New]

GLARA, OR	Fix	(45°16′40″ N., long. 122°36′11″ W.)
PUTZZ, OR	WP	(45°06′14″ N., long. 122°07′19″ W.)
JJETT, OR	WP	(44°56′35″ N., long. 121°40′56″ W.)
WISSL, OR	WP	(44°35′49″ N., long. 121°24′59″ W.)
HERBS, OR	Fix	(44°25′07″ N., long. 121°16′52″ W.)

Issued in Washington, DC, on April 4, 2013.

Gary A. Norek,

Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2013–08591 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1295; Airspace Docket No. 12–AAL–10]

RIN 2120–AA66

Modification of Area Navigation (RNAV) Route T–266; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies low-altitude RNAV route T–266 in the state of Alaska by removing two non-directional beacons (NDB) as the navigation signal source for segments of the route and replacing them with RNAV waypoints. This action enhances the safety and efficiency of the National Airspace System (NAS).

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

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

The FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify T–266 in the state of Alaska (78 FR 4353, January 22, 2013). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Two comments were received.

Discussion of Comments

One commenter wrote that moving the RADKY fix, as proposed, would require revision of the JUNEAU FOUR Departure procedure that serves the Juneau International Airport. The commenter noted that other waypoints being added to T–266 also form part of special Capstone low level route R2015 and any future modification of those points could require reissuance of the special Capstone charts.

The FAA will amend all procedures affected by the relocation of the RADKY fix. Additionally, there are no plans to modify waypoints associated with route R2015.

Another commenter stated that more information should be provided regarding how pilots would benefit from the change. The commenter also questioned whether plans to remove/reduce the number of NDBs within the NAS was the driving cause for the change.

The current track of T–266 consists of two minimum en route altitudes (MEA): 6,500 feet MSL between the Coghlin Island NDB and the Frederick's Point NDB; and 6,200 feet MSL between the Frederick's Point NDB and the Annette Island VOR. The modified track of T–266 uses a portion of Capstone route R2015. The segments on R2015 have MEAs ranging from 4,500 feet MSL to

6,200 feet MSL. This enables aircraft in the vicinity of Wrangell and Petersburg to take advantage of lower MEAs while transitioning into and out of airports at those cities. Additionally, the lower MEAs will benefit aircraft transiting that area by making lower altitudes available when icing conditions are encountered. The amended T–266 will also facilitate future amendment of the RNAV (GPS) approaches into Petersburg and Wrangell to incorporate transitions from T–266.

The amendment of T–266 is not being driven specifically by any plan to decommission NDBs. T-routes are RNAV routes. As the NAS transitions to performance-based navigation, reduced reliance will be placed on ground-based navigation aids. Removing the NDBs from T–266 both ''unties'' the route from those facilities should future plans call for them to be decommissioned and also advances the transition to satellite-based navigation.

The Rule

This action amends Title 14 Code of Federal regulations (14 CFR), part 71 by modifying RNAV route T–266 in Alaska. T–266 is currently defined by the Coghland Island, AK, NDB, the Fredericks Point, AK, NDB and the Annette Island, AK, VOR/DME. The Annette Island VOR/DME remains as one end point of the route, but the two NDBs are removed from the route description and replaced by the addition of eight RNAV waypoints (WP). The existing RADKY, AK, fix (near the Coghland Island NDB) is relocated to the southeast of its current position and serves as the other endpoint of the route. These changes enhance safety by providing lower IFR minimum en route altitudes on T–266 allowing aircraft to fly at lower altitudes when inflight icing conditions are encountered. Additionally, the changes support the expanded use of RNAV within the NAS by reducing the reliance on ground-based NDBs for navigation guidance.

Area navigation routes are published in paragraph 6011 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 area navigation routes listed in this document will be published subsequently in the Order.

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. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 the 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 modifies the route structure as required to preserve the safe and efficient flow of air traffic.

Environmental Review

The FAA has reviewed the above referenced action and determined that it is categorically excluded from further environmental documentation according to FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, in accordance with paragraphs 311a. Additionally, the implementation of this action will not result in any extraordinary circumstances in accordance with FAA Order 1050.1E paragraph 304.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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 FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 6011—United States area navigation routes

* * * * *

T–266 RADKY, AK to Annette Island, AK (ANN) [Amended]

RADKY, AK	Fix	(Lat. 58°08′00″ N., long. 134°29′56″ W.)
XADZY, AK	WP	(Lat. 57°01′00″ N., long. 133°00′00″ W.)
VULHO, AK	WP	(Lat. 56°49′05″ N., long. 132°49′30″ W.)
FOGID, AK	WP	(Lat. 56°43′31″ N., long. 132°42′02″ W.)
YICAX, AK	WP	(Lat. 56°39′45″ N., long. 132°37′00″ W.)
NEREE, AK	WP	(Lat. 56°32′36″ N., long. 132°30′34″ W.)
VAZPU, AK	WP	(Lat. 56°27′24″ N., long. 132°25′56″ W.)
DOOZI, AK	Fix	(Lat. 55°37′57″ N., long. 132°10′29″ W.)
Annette Island, AK (ANN)	VOR/DME	(Lat. 55°03′37″ N., long. 131°34′42″ W.)

* * * * *

Issued in Washington, DC, on April 8, 2013.

Gary A. Norek,

Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2013–08599 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in May 2013. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective May 1, 2013.

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

SUPPLEMENTARY INFORMATION: PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulation are also published on PBGC's Web site (*http://www.pbgc.gov*).

PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for May 2013.[1]

The May 2013 interest assumptions under the benefit payments regulation will be 1.00 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for April 2013, these interest assumptions are unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during May 2013, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

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

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

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 235, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*		*	*
235	5–1–13	6–1–13	1.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 235, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
235	5–1–13	6–1–13	1.00	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 9th day of April 2013.

Leslie Kramerich,

Acting Chief Policy Officer, Pension Benefit Guaranty Corporation.

[FR Doc. 2013–08743 Filed 4–12–13; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–0552]

RIN 1625–AA08

Special Local Regulations; West Palm Beach Triathlon Championship, Intracoastal Waterway; West Palm Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the Intracoastal Waterway, in West Palm Beach, Florida, during the West Palm Beach Triathlon Championship, on Saturday, June 1, 2013. Approximately 1,500 participants are anticipated to participate in the triathlon. The special local regulation is necessary to ensure the safety of the triathlon participants and the general public during the swim portion of the event. Persons and vessels, except those participating in the event, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

DATES: This rule is effective from 6:30 a.m. until 8:30 a.m. on June 1, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0552. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Mike H. Wu, Sector Miami Prevention Department, Coast Guard; telephone (305) 535–7576, email *Mike.H.Wu@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On January 15, 2013, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled, ''Special Local Regulation; West Palm Beach Triathlon Championship, Intracoastal Waterway, West Palm Beach, FL'' in the **Federal Register** (78 FR 2916). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure the safety of life on navigable waters of the United States during the West Palm Beach Triathlon Championship.

On June 1, 2013, Game One Sports Marketing Group is hosting the West Palm Beach Triathlon Championship. The race will be held on the waters of the Intracoastal Waterway, in West Palm Beach, Florida. Approximately 1,500 participants are anticipated to participate in the triathlon. No spectator vessels are anticipated to be present during the race.

C. Discussion of Comments, Changes and the Final Rule

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

This temporary final rule establishes a special local regulation that will encompass certain waters of the Intracoastal Waterway in West Palm Beach, Florida. The special local regulation will be enforced from 6:30 a.m. until 8:30 a.m. on June 1, 2013. All persons and vessels, except those participating in the race, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Miami by telephone at (305) 535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under

section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) The special local regulation will be enforced for only two hours; (2) non-participant persons and vessels may enter, transit through, anchor in, or remain within the event area if authorized by the Captain of the Port Miami or a designated representative; (3) non-participant persons and vessels not authorized by the Captain of the Port Miami or designated representative to enter, transit through, anchor in, or remain within the event area may operate in the surrounding area during the enforcement periods; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within the regulated area during the enforcement period. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

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

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

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). Due to potential environmental issues, we conducted an environmental analysis for both the issuance of the marine event permit and the establishment of this special local regulation. After completing the environmental analysis for the issuance of the marine event permit and the establishment of this special local regulation, we have determined these actions will not significantly affect the human environment. This rule involves the

creation of a special local regulation in conjunction with a regatta or marine parade, and is categorically excluded from further review under paragraph 34(h) and 35(b) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.35T07–0552 to read as follows:

§ 100.35T07–0552 Special Local Regulation; West Palm Beach Triathlon Championship, Intracoastal Waterway; West Palm Beach, FL.

(a) *Regulated area.* The following regulated area is established as a special local regulation. All waters of the Intracoastal Waterway in West Palm Beach, Florida between the Flagler Memorial Bridge and the Royal Park Bridge.

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

(c) *Regulations.* (1) All persons and vessels, except for authorized race participants and safety vessels, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Persons and vessels who are not authorized race participants and safety vessels, may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port Miami by telephone at (305) 535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(d) *Enforcement date.* This rule will is effective from 6:30 a.m. until 8:30 a.m. on June 1, 2013.

Dated: April 1, 2013.

C.P. Scraba,

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

[FR Doc. 2013–08734 Filed 4–12–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–1082]

RIN 1625–AA00

Safety Zone; Atlantic Intracoastal Waterway; Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is extending the temporary safety zone established on the waters of the Atlantic Intracoastal Waterway at Wrightsville Beach, North Carolina. The safety zone is necessary to provide for the safety of mariners on navigable waters during maintenance on the US 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina. The safety zone extension will temporarily restrict vessel movement within the designated area starting on May 1, 2013, through July 27, 2013.

DATES: This rule is effective from 8 p.m. on May 1, 2013, until 8 p.m. on July 27, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–1082]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email CWO4 Joseph M. Edge, U.S. Coast Guard Sector North Carolina; telephone 252–247–4525, email *Joseph.M.Edge@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is extending the safety zone originally established on July 17, 2012, entitled, ''Safety Zone, Atlantic Intracoastal Waterway; Wrightsville Beach, NC.'' (77 FR 41911, USCG–2012–0368). We received no adverse comments on the proposed rule or temporary final rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because the repair work will continue despite the expiration of the previous safety zone. Immediate action is necessary to protect the maritime public and facilitate this bridge maintenance, and therefore a delay in enacting this safety zone would be impracticable.

B. Basis and Purpose

The North Carolina Department of Transportation awarded a contract to American Bridge Company of Coraopolis, PA to perform bridge maintenance on the U.S. 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina. The contract provides for cleaning, painting, steel repair, and grid floor replacement to commence on September 1, 2012. The original completion date was May 1, 2013, however, the contractor was recently granted an extension on the completion date by North Carolina Department of Transportation to July 27, 2013.

The contractor will utilize a 40 foot deck barge with a 40 foot beam as a work platform and for equipment staging. This safety zone will provide a safety buffer to transiting vessels as bridge repairs present potential hazards to mariners and property due to reduction horizontal clearance.

C. Discussion of the Final Rule

The temporary safety zone will encompass the waters directly under the U.S. 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina (34°13′07″ N, 077°48′46″ W). All vessels transiting this section of the waterway requiring a horizontal clearance of greater than 50 feet will be required to make a one hour advanced notification to the U.S. 74/76 Bascule Bridge tender while the safety zone is in effect. The initial safety zone is currently in effect, and began on 8 a.m. September 1, 2012, is scheduled to be in effect through 8 p.m. May 1, 2013. The extension will be in effect from 8 p.m. May 1, 2013, through 8 p.m. July 27, 2013.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule does not restrict traffic from transiting through the noted portion of the Atlantic Intracoastal Waterway; it only imposes a one hour notification to ensure the waterway is clear of impediment to allow passage to vessels requiring a horizontal clearance of greater than 50 feet.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which may be small entities: The owners or operators of commercial tug and barge companies, recreational and commercial fishing vessels intending to transit the specified portion of Atlantic Intracoastal Waterway from 8 p.m. May 1, 2013 through 8 p.m. July 27, 2013.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone will apply to the entire width of this section of the Atlantic Intracoastal Waterway, vessel traffic will be able to request passage by providing a one hour advanced notification. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

3. Assistance for Small Entities

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

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

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–1082 to read as follows:

§ 165.T05–1082 Safety Zone; Atlantic Intracoastal Waterway, Wrightsville Beach, NC.

(a) *Regulated area.* The following area is a safety zone: This zone includes the waters directly under and 100 yards either side of the US 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina (34°13′07″ N/ 077°48′46″ W).

(b) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05–1082. In addition the following regulations apply:

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Coast Guard Captain of the Port North Carolina.

(2) All vessels requiring greater than 50 feet horizontal clearance to safely transit through the U.S. 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina must contact the bridge tender on VHF–FM marine band radio channels 13 and 16 one hour in advance of intended transit.

(3) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port North Carolina or his designated representative by telephone at (910) 343–3882 or on VHF–FM marine band radio channel 16.

(4) All Coast Guard assets enforcing this safety zone can be contacted on VHF–FM marine band radio channels 13 and 16.

(5) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(c) *Definitions.* (1) Captain of the Port North Carolina means the Commander, Coast Guard Sector North Carolina or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port North Carolina to assist in enforcing the safety zone described in paragraph (a) of this section.

(d) *Enforcement.* The U.S. Coast Guard may be assisted by Federal, State and local agencies in the patrol and enforcement of the zone.

(e) *Enforcement period.* This section will be enforced from 8 p.m. May 1, 2013 through 8 p.m. July 27, 2013 unless cancelled earlier by the Captain of the Port.

Dated: February 26, 2013.

A. Popiel,

Captain, U.S. Coast Guard, Captain of the Port Sector North Carolina.

[FR Doc. 2013–08732 Filed 4–12–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0888; FRL–9802–9]

Approval and Promulgation of Implementation Plans for Tennessee: Revisions to Volatile Organic Compound Definition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, EPA is withdrawing the February 19, 2013, direct final rule to approve Tennessee's September 3, 1999, state implementation plan (SIP) submission to change rule 1200–3–9-.01 to add a total of 17 compounds to the list of compounds excluded from the definition of ''Volatile Organic Compound'' (VOC). EPA is considering this comment and will address the comment in a subsequent action. EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 78 FR 11583 on February 19, 2013, is withdrawn as of April 15, 2013.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION: On February 19, 2013 (78 FR 11583), EPA proposed to approve Tennessee's September 3, 1999, SIP submission to change rule 1200–3–9-.01 to add a total of 17 compounds to the list of compounds excluded from the definition of VOC to be consistent with EPA's definition of VOC at 40 CFR 51.100(s). The SIP submittal was in response to EPA's revision to the definition of VOC, (at 40 CFR 51.100(s)) published in the **Federal Register** on August 25, 1997 (62 FR 44900) and

April 9, 1998 (63 FR 17331). These compounds were added to the exclusion list for VOC on the basis that they have a negligible effect on tropospheric ozone formation. In the direct final rule, EPA stated that if adverse comments were received by March 21, 2013, the rule would be withdrawn and not take effect. On March 21, 2013, EPA received a comment. EPA interprets this comment as adverse and, therefore, EPA is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed rulemaking action, also published on February 19, 2013 (78 FR 11618). EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 5, 2013.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

■ Accordingly, the amendment to 40 CFR 52.2220(c) which published in the **Federal Register** on February 19, 2013, at 78 FR 11585 is withdrawn as of April 15, 2013.

[FR Doc. 2013–08695 Filed 4–12–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0961; FRL–9802–8]

Approval and Promulgation of Air Quality Implementation Plans; Charlotte, Raleigh/Durham and Winston Salem Carbon Monoxide Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of a comment, EPA is voluntarily withdrawing the February 22, 2013, direct final rule to approve North Carolina's August 2, 2012, state implementation plan (SIP) submission for the limited maintenance plan showing continued attainment of the 8-hour carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS) for the Charlotte, Raleigh/Durham and Winston-Salem Areas. EPA will consider this comment and will address the comment as appropriate and take final action at a later time. EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 78 FR 12238 on February 22, 2013, is withdrawn as of April 15, 2013.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8726. Mr. Wong can be reached via electronic mail at *wong.richard@epa.gov.*

SUPPLEMENTARY INFORMATION: On February 22, 2013 (78 FR 12238), EPA proposed to approve North Carolina's August 2, 2012, SIP submission. The limited maintenance plan update is for the maintenance areas showing continued attainment of the 8-hour CO NAAQS for the Charlotte, Raleigh/Durham and Winston-Salem Areas. In the direct final rule, EPA stated that if adverse comments were received by March 25, 2013, the rule would be withdrawn and not take effect. On March 25, 2013, EPA received a comment. The comment could be interpreted as adverse and, therefore, EPA is withdrawing the direct final rule. EPA will address the comment, as appropriate, in a subsequent final action based upon the proposed rulemaking action, also published on February 22, 2013 (78 FR 12267). EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 3, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Accordingly, the amendment to 40 CFR 52.1770 which published in the **Federal Register** on February 22, 2013, at 78 FR 12243 is withdrawn as of April 15, 2013.

[FR Doc. 2013–08694 Filed 4–12–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10–90, 07–135, 05–337, 03–109; GN Docket No. 09–51; CC Docket Nos. 01–92, 96–45; WT Docket No. 10–208; DA 13–332]

Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) addresses a petition for clarification and reconsideration, or in the alternative waiver, filed by the United States Telecom Association and CTIA—The Wireless Association. The Bureau also clarifies and waives certain aspects of the reporting requirements adopted in the *USF/ICC Transformation Order* for eligible telecommunications carriers relating to five-year build-out plans and broadband network testing.

DATES: Effective May 15, 2013, except for the amendments made to § 54.313(a) in this document, which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date for that section.

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in WC Docket Nos. 10–90, 07–135, 05–337, 03–109; GN Docket No. 09–51; CC Docket Nos. 01–92, 96–45; WT Docket No. 10–208; DA 13–332, adopted on March 5, 2013 and released on March 5, 2013. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554. Or at the following Internet address: *http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0305/DA-13-332A1.pdf.*

I. Introduction

1. In the Order, the Bureau addresses a petition for clarification and reconsideration, or in the alternative waiver, filed by the United States Telecom Association (USTelecom) and CTIA—The Wireless Association (CTIA) (collectively, Petitioners). The Bureau clarifies and waives certain aspects of the reporting requirements adopted in the *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011, for eligible telecommunications carriers (ETCs) relating to five-year build-out plans and broadband network testing. The Bureau also clarifies and revises § 54.313(a) of the Commission's rules accordingly.

2. In the *USF/ICC Transformation Order,* the Commission adopted several reforms to harmonize and update annual ETC reporting requirements. The Commission extended reporting requirements for voice service to all ETCs and adopted new reporting requirements to reflect new broadband obligations. Shortly after the *USF/ICC Transformation Order* was released, USTelecom filed a Petition for Reconsideration seeking reconsideration of, among other things, various of these reporting requirements. Specifically, USTelecom argued that the new ETC reporting requirements implemented in the *USF/ICC Transformation Order* were unduly burdensome and unnecessary, that they should be applied prospectively, and that the effective date of the reporting obligations should be delayed. In the *Third Reconsideration Order,* 77 FR 30904, May 24, 2012, the Commission granted in part and denied in part aspects of the USTelecom Petition for Reconsideration. The Commission granted USTelecom's request to revise the filing deadline for § 54.313 annual reports from April 1 to July 1. The Commission denied USTelecom's request to clarify that the Commission intended to preempt state reporting requirements pursuant to § 54.313, and the Commission also denied USTelecom's request to exempt state-designated ETCs from the requirements in the *USF/ICC Transformation Order.* The Commission did not address other aspects of USTelecom's initial Petition for Reconsideration in the *Third Reconsideration Order.*

II. Discussion

3. In the *USF/ICC Transformation Order,* the Commission delegated to the Bureau the authority to revise and clarify rules as necessary to ensure that the reforms adopted in the *USF/ICC Transformation Order* are properly reflected in the rules. In this Order, the Bureau acts pursuant to this delegated authority to revise and clarify certain rules, and acts pursuant to authority delegated to the Bureau generally to clarify and waive certain rules relating to five-year plans and broadband performance testing.

A. Five-Year Build-Out Plans

4. *Discussion.* First, the Bureau clarifies that competitive ETCs whose support is being phased down do not have to file *new* five-year plans. The Commission required ETCs to file new five-year plans to account for new broadband obligations in a manner consistent with § 54.202(a)(1)(ii). But the Commission also exempted from new broadband obligations those competitive ETCs whose support is being phased down. Because the five-year plans are intended to reflect new broadband obligations, those competitive ETCs do not have to file such plans.

5. We underscore that competitive ETCs must continue to file annual updates on any five-year plan already filed with the Commission, and that competitive ETCs should comply with any other relevant state requirements, as stipulated in the *Third Reconsideration Order.* In the *USF/ICC Transformation Order,* the Commission found it ''necessary and appropriate'' to continue to receive annual reports from ETCs that have already filed five-year plans in order to ''ensure the continued availability of high-quality voice services.'' While competitive ETCs may have their support phased down, and aspects of their original five-year plans may change because of the reduction in support, there is significant value in those ETCs continuing to file annual updates to their respective five-year plans. Indeed, it would be appropriate for those ETCs to reflect any adjustments to their original five-year plans in the annual updates. These annual updates will assist the Commission in monitoring the impact of its universal service reforms on competitive ETCs' provision of voice service, consistent with the requirements in the *Third Reconsideration Order.*

6. Second, the Bureau waives the requirement that price cap recipients of frozen support or incremental support file five-year plans by July 1, 2013. The Bureau finds that it is in the public interest to grant a limited waiver, at this time, of this aspect of the 2013 annual report for price cap recipients of frozen support or incremental support, so that carriers do not begin the process now of developing such plans without knowing which areas they will be serving in the future. Instead, price cap carriers that accept the offer of support will be required to file five-year plans in the 2014 annual report. When the Commission adopted the requirement that price cap ETCs file new five-year plans in 2013, it anticipated that the Bureau would adopt a forward-looking cost model by the end of 2012 for purposes of offering support to price cap carriers beginning January 1, 2013. In order for those carriers to develop a five-year plan, they first need to make the threshold decision of whether to make a state-level commitment. While the Bureau has made significant progress on the forward-looking cost model in recent months and expects to complete that work in the months ahead, until the cost model is adopted and incumbents have the opportunity to accept a state-level commitment, it does not serve the public interest to require the filing of five-year plans for this group of ETCs. The Bureau therefore grants a limited waiver from filing five-year plans to price cap recipients of frozen support or incremental support.

7. Finally, the Bureau affirms that rate-of-return carriers must file five-year plans in 2013. Unlike price cap carriers that may potentially decline to make a state-wide commitment in Phase II and will lose support once an area is auctioned to another provider, the existing support mechanisms will continue to provide funding to rate-of-return carriers. The filing of five-year plans by rate-of-return carriers this year will provide valuable information that will assist the Commission in monitoring the impact of its universal service reforms. In order to monitor progress towards achievement of the Commission's broadband objectives, it is important to develop a baseline understanding of the current state. The five-year plans should describe the carrier's network improvement plan, which should provide greater visibility into current plans to extend broadband service to unserved locations in rate-of-return service territories.

8. The Commission adopted a more flexible approach for this group of ETCs, allowing them to provide broadband ''upon reasonable request.'' Rate-of-return carriers must certify that they are taking reasonable steps to offer broadband service in their service area, and that requests for broadband service are met within a reasonable amount of time. We encourage rate-of-return carriers to explain in their five-year plans what criteria the carrier will use to determine whether a request for broadband is reasonable and how the carrier will decide which areas are

feasible to extend terrestrial broadband service to, and which areas are not feasible to serve with terrestrial technologies, given current funding levels.

9. The Bureau does not expect a rate-of-return carrier to plan to build out terrestrial wireline broadband service to all locations within its study area. The Commission has recognized that there are some areas of the country where it is cost prohibitive to extend broadband using terrestrial wireline technology, and that in some areas satellite or fixed wireless technologies may be more cost-effective options to extend service. Indeed, we are aware anecdotally that rate-of-return carriers today use a mix of technologies to serve their customers. For that reason, we expect rate-of-return carriers to develop plans that reflect the cost characteristics of their service territories and current funding levels, setting forth what sort of broadband service build-out is reasonable over the five-year time period.

B. Network Performance Testing and Reporting Requirements

10. *Discussion.* First, the Bureau, pursuant to its delegated authority, revises § 54.313(a)(11). The Bureau agrees with Petitioners that the wording of § 54.313(a)(11) should be modified to more clearly reflect the *USF/ICC Transformation Order.* Therefore, we delete the final phrase from § 54.313(a)(11), ''and the information and data required by this paragraphs (a)(1) through (7) of this section separately broken out for both voice and broadband service.'' Consequently, revised § 54.313(a)(11) will state: ''The results of network performance tests pursuant to the methodology and in the format determined by the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Office of Engineering and Technology.'' We move the deleted phrase to paragraph (a) in § 54.313, which will now state: ''(a) Any recipient of high-cost support shall provide the following, with the information and data required by paragraphs (a)(1) through (7) of this section separately broken out for both voice service and broadband service.'' As the Commission stated in the *USF/ICC Transformation Order,* collecting this information from ETCs ''ensure[s] the continued availability of high-quality voice services and monitor[s] progress in achieving our broadband goals.''

11. Second, the Bureau clarifies that § 54.313(a)(11), as revised, does not apply to competitive ETCs whose support is being phased down, consistent with the language in the *USF/ICC Transformation Order.* The Commission stated that ''[c]ompetitive ETCs whose support is being phased down will not be required to submit any of the new information or certifications * * * related solely to the new broadband public interest obligations.''

12. Finally, the Bureau clarifies that no ETCs will be required to begin testing the performance of their broadband networks until after the Bureaus, pursuant to the Commission's direction, have specified the format and methodology for such testing, and PRA approval for this data collection has been obtained. Because this has not yet occurred, no ETCs will be required to file network performance results with their 2013 annual reports.

13. We decline at this time to address Petitioners' argument that the Commission should not impose any broadband data reporting requirements under § 54.313(a)(11) on ETCs that are receiving CAF I incremental support or frozen high-cost support. The Bureau will be in a better position to assess the merits of that argument once it has taken further action to define the scope of the requirement.

III. Procedural Matters

A. Paperwork Reduction Act

14. Although this document clarifies several existing information collection requirements, it does not contain new or modified information collection requirements subject to the PRA. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

B. Final Regulatory Flexibility Certification

15. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

16. This Order clarifies, but does not otherwise modify, the *USF/ICC Transformation Order.* These clarifications do not create any burdens, benefits, or requirements that were not addressed by the Final Regulatory Flexibility Analysis attached to *USF/ICC Transformation Order.* Therefore, we certify that the requirements of this Order will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Order, including a copy of this final certification, in a report to Congress pursuant to the SBREFA. In addition, the Order and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.

C. Congressional Review Act

17. The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

IV. Ordering Clauses

18. Accordingly, *it is ordered,* pursuant to the authority contained in sections 1, 2, 4(i), 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, and 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, 1302, pursuant to §§ 0.91, 0.201(d), 0.291, 1.3, and 1.427 of the Commission's rules, 47 CFR 0.91, 0.201(d), 0.291, 1.3, 1.427 and pursuant to the delegation of authority in paragraph 1404 of FCC 11–161, that this Order *is adopted,* effective May 15, 2013, except for the amendments made to § 54.313(a) in this document, which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date for that section.

19. *It is further ordered* that, pursuant to the authority contained in §§ 0.91, 0.201(d), 0.291, 1.3, 1.427 of the Commission's rules, 47 CFR 0.91, 0.201(d), 0.291, 1.3, 1.427 and pursuant to the delegations of authority in paragraphs 584 and 1404 of FCC 11–161, the petition for clarification and reconsideration or, in the alternative, for waiver, of CTIA—The Wireless Association and the United States

Telecom Association, IS *granted in part,* to the extent described herein, and *denied in part,* to the extent described herein.

It is further ordered that part 54 of the Commission's rules, 47 CFR part 54, is *amended* as set forth in the Appendix, and such rule amendment shall be effective May 15, 2013, except for the amendments made to § 54.313(a) in this document, which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date for that section.

List of Subjects in 47 CFR Part 54

Communications common carriers, Reporting and record keeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Julie A. Veach,

Chief, Wireline Competition Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

Subpart D—Universal Service Support for High Cost Areas

■ 2. Amend § 54.313 by revising paragraph (a) introductory text and paragraph (a)(11) to read as follows:

§ 54.313 Annual reporting requirements for high-cost recipients.

(a) Any recipient of high-cost support shall provide the following, with the information and data required by paragraphs (a)(1) through (7) of this section separately broken out for both voice service and broadband service:

* * * * *

(11) *Beginning July 1, 2013.* The results of network performance tests pursuant to the methodology and in the format determined by the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Office of Engineering and Technology.

* * * * *

[FR Doc. 2013–08679 Filed 4–12–13; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 78, No. 72
Monday, April 15, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS–FV–12–0064; FV13–985–1 PR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2013–2014 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle on behalf of, producers during the 2013–2014 marketing year, which begins on June 1, 2013. This proposal invites comments on the establishment of salable quantities and allotment percentages for Class 1 (Scotch) spearmint oil of 1,344,858 pounds and 65 percent, respectively, and for Class 3 (Native) spearmint oil of 1,432,189 pounds and 61 percent, respectively. The Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West, recommended these limitations for the purpose of avoiding extreme fluctuations in supplies and prices to help maintain stability in the spearmint oil market.

DATES: Comments must be received by April 30, 2013.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 985 (7 CFR Part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, which handlers may purchase from, or handle on behalf of, producers during the 2013–2014 marketing year, which begins on June 1, 2013.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The Committee meets annually in the fall to adopt a marketing policy for the ensuing marketing year or years. In determining such marketing policy, the Committee considers a number of factors, including, but not limited to, the current and projected supply, estimated future demand, production costs, and producer prices for all classes of spearmint oil. Input from spearmint oil handlers and producers regarding prospective marketing conditions is considered as well. During the meeting, the Committee recommends to USDA any volume regulations deemed necessary to meet market requirements and to establish orderly marketing conditions for Far West spearmint oil. If the Committee's marketing policy considerations indicate a need for limiting the quantity of any or all classes of spearmint oil marketed, the Committee subsequently recommends the establishment of a salable quantity and allotment percentage for such class or classes of oil for the forthcoming marketing year.

The salable quantity represents the total amount of each class of spearmint oil that handlers may purchase from, or handle on behalf of, producers during the marketing year. Each producer is allotted a prorated share of the salable quantity by applying the allotment percentage to that producer's allotment base for each applicable class of spearmint oil. The producer allotment

base is each producer's quantified share of the spearmint oil market based on a statistical representation of past spearmint oil production, with accommodation for reasonable and normal adjustments to such base as prescribed by the Committee and approved by USDA. Salable quantities are established at levels intended to meet market requirements and to establish orderly marketing conditions. Committee recommendations for volume controls are made well in advance of the period in which the regulations are to be effective, thereby allowing producers the chance to adjust their production decisions accordingly.

Pursuant to authority in §§ 985.50, 985.51, and 985.52 of the order, the full eight-member Committee met on October 17, 2012, and recommended salable quantities and allotment percentages for both classes of oil for the 2013–2014 marketing year. The Committee, in a vote of six members in favor and two members opposed, recommended the establishment of a salable quantity and allotment percentage for Scotch spearmint oil of 1,344,858 pounds and 65 percent, respectively. The two members opposing the action felt that the proposed levels were too high and favored establishing a smaller salable quantity and allotment percentage for Scotch spearmint oil. For Native spearmint oil, the Committee, in a vote of six members in favor and two members opposed, recommended the establishment of a salable quantity and allotment percentage of 1,432,189 pounds and 61 percent, respectively. Once again, the two members opposing the action supported volume regulation but favored an undetermined lower salable quantity and allotment percentage for Native spearmint oil than what was proposed.

This action would limit the amount of spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2013–2014 marketing year, which begins on June 1, 2013. Salable quantities and allotment percentages have been placed into effect each season since the order's inception in 1980.

Class 1 (Scotch) Spearmint Oil

The U.S. production of Scotch spearmint oil is concentrated in the Far West, which includes Washington, Idaho, Oregon, and a portion of Nevada and Utah. Scotch type oil is also produced in seven other States: Indiana, Michigan, Minnesota, Montana, North Dakota, South Dakota, and Wisconsin. Additionally, Scotch spearmint oil is produced outside of the U.S., with China and India being the largest global competitors of domestic Scotch spearmint oil production.

The Far West's share of total global Scotch spearmint oil sales has varied considerably over the past several decades, from as high as 72 percent in 1988, and as low as 27 percent in 2002. More recently, sales of Far West Scotch spearmint oil have been approximately 50 percent of world sales, and are expected to hold steady, or increase slightly, in upcoming years. In addition, imports of foreign produced spearmint oil into the U.S. have recently been trending down, while exports of domestic spearmint oil have been trending up. Consequently, competition in the domestic market from foreign produced spearmint oil has decreased and the demand for Far West spearmint oil, both domestically and abroad, has been very strong.

The Scotch spearmint industry is emerging from the very difficult market environment that has existed in the past few years. Many of the negative market components that were present from 2008 through 2011 in the spearmint oil industry have corrected. During that period, increased production and weakened market demand for Scotch spearmint oil combined to create large stocks of excess oil held in reserve. However, most recently, production of Scotch spearmint oil has moderated, trade demand for Scotch spearmint oil has increased, and excess inventory levels have dropped dramatically. In fact, production of Scotch spearmint oil will need to increase during the 2013 season to meet the anticipated market demand.

Although the spearmint oil industry continues to have some concerns over the strength of the U.S. economy, marketing conditions for Scotch spearmint oil have improved significantly. Lower inventories, steady to increasing production, and strong projected demand are all positive indicators of improving marketing conditions for Scotch spearmint oil. Inventories, production, and market demand are now at levels that are considered healthy for the industry.

Certain factors may be contributing to the recent increase in demand for Far West Scotch spearmint oil. First, although China and India have been significant suppliers of spearmint oil for the past 15 years, they have started to replace some spearmint acreage with other mint varieties, such as *Mentha arvensis* (wild mint), and other non-mint competing crops. In addition, both countries are utilizing more of their domestically produced spearmint oil, removing oil that might otherwise have been exported. Also, the Midwest region of the U.S. is experiencing a significant reduction in Scotch spearmint oil production. This decrease in regional production is partly due to unexpected disease and weather related factors and partly the result of competition from other alternate crops, such as corn and soybeans, which are currently experiencing higher than average returns. Lastly, improving global economic conditions have led to increased consumption of spearmint flavored products.

The Committee estimates that the carry-in of Scotch spearmint oil on June 1, 2013, the primary measure of excess supply, will be approximately 16,570 pounds. This amount is down from the previous year's estimate of 149,740 pounds and is lower than the minimum carry-in quantity that the Committee would consider to be favorable.

Production of Scotch spearmint oil has decreased in recent years in response to high Scotch spearmint oil inventory levels and below average market demand. Production dropped from a high of 1,050,700 pounds in 2009 to an estimated 621,480 pounds in 2012. Total industry production of Scotch spearmint oil is now below the level that the Committee views as optimum. The Committee expects production will increase during the 2013 season in response to the strong market demand currently observed in the industry and the low inventory levels of Scotch spearmint oil available to the market. The Committee considers the current trends in supply and demand to be favorable, as it signals an end to the continuing oversupply situation in Scotch spearmint oil and the initiation of a period when supply and demand are in harmony.

Handlers indicate that increasing consumer demand for mint flavored products provide a positive expectation for long-term increases in the demand for Far West Scotch spearmint oil. Spearmint oil handlers have indicated that demand for Scotch spearmint oil has been gaining strength. Handlers who had projected the 2012–2013 trade demand for Far West Scotch Spearmint oil to be in the range of 825,000 pounds to 1,100,000 pounds now expect it to increase to between 900,000 pounds to 1,200,000 pounds during the 2013–2014 marketing year.

Given the improving economic indicators for the Far West Scotch spearmint oil industry outlined above, the Committee took a very positive perspective into the discussion of establishing appropriate salable quantities and allotment percentages for the upcoming season. At the October 17,

2012, meeting, the Committee recommended the 2013–2014 Scotch spearmint oil salable quantity of 1,344,858 pounds and an allotment percentage of 65 percent. The Committee utilized sales estimates for 2013–2014 Scotch spearmint oil, as provided by several of the industry's handlers, as well as historical and current Scotch spearmint oil production and inventory statistics, to arrive at these recommendations. The volume control levels recommended by the Committee represent an increase of 566,418 pounds and 27 percentage points over the previous year's initial salable quantity and allotment percentage, reflecting a much more positive assessment of the industry's current economic conditions.

The Committee estimates that about 1,200,000 pounds of Scotch spearmint oil may be sold during the 2013–2014 marketing year. When considered in conjunction with the estimated carry-in of 16,570 pounds of Scotch spearmint oil on June 1, 2013, the recommended salable quantity of 1,344,858 pounds results in a total available supply of approximately 1,361,428 pounds of Scotch spearmint oil during the 2013–2014 marketing year. The Committee estimates that carry-in of Scotch spearmint oil into the 2014–2015 marketing year, which begins June 1, 2014, would be 161,428 pounds, an increase of 144,858 pounds from the beginning of the 2013–2014 marketing year.

The Committee's stated intent in the use of marketing order volume control regulations for Scotch spearmint oil is to keep adequate supplies available to meet market needs and establish orderly marketing conditions. With that in mind, the Committee developed its recommendation for the proposed Scotch spearmint oil salable quantity and allotment percentage for the 2013–2014 marketing year based on the information discussed above, as well as the data outlined below.

(A) *Estimated carry-in of Scotch spearmint oil on June 1, 2013—16,570 pounds.* This figure is the difference between the revised 2012–2013 marketing year total available supply of 986,570 pounds and the estimated 2012–2013 marketing year trade demand of 970,000 pounds.

(B) *Estimated trade demand of Scotch spearmint oil for the 2013–2014 marketing year—1,200,000 pounds.* This figure is based on input from producers at five Scotch spearmint oil production area meetings held in late September and early October 2012, as well as estimates provided by handlers and other meeting participants at the October 17, 2012, meeting. The average estimated trade demand provided at the five production area meetings is 1,120,000 pounds, which is 35,000 pounds less than the average of trade demand estimates submitted by handlers. The average of Far West Scotch spearmint oil sales over the last five years is 772,543 pounds.

(C) *Salable quantity of Scotch spearmint oil required from the 2013–2014 marketing year production—1,183,430 pounds.* This figure is the difference between the estimated 2013–2014 marketing year trade demand (1,200,000 pounds) and the estimated carry-in on June 1, 2013 (16,570 pounds). This figure represents the minimum salable quantity that may be needed to satisfy estimated demand for the coming year with no carryover.

(D) *Total estimated allotment base of Scotch spearmint oil for the 2013–2014 marketing year—2,069,012 pounds.* This figure represents a one percent increase over the revised 2012–2013 total allotment base. This figure is generally revised each year on June 1 due to producer base being lost because of the bona fide effort production provisions of § 985.53(e). The revision is usually minimal.

(E) *Computed Scotch spearmint oil 2013–2014 marketing year allotment percentage—57.2 percent.* This percentage is computed by dividing the minimum required salable quantity (1,183,430 pounds) by the total estimated allotment base (2,069,012 pounds).

(F) *Recommended Scotch spearmint oil 2013–2014 marketing year allotment percentage—65 percent.* This is the Committee's recommendation and is based on the computed allotment percentage (57.2 percent), the average of the computed allotment percentage figures from the five production area meetings (55.8 percent), and input from producers and handlers at the October 17, 2012, meeting. The recommended 65 percent allotment percentage is also based on the Committee's determination that the computed percentage (57.2 percent) may not adequately supply the potential 2013–2014 Scotch spearmint oil market.

(G) *Recommended Scotch spearmint oil 2013–2014 marketing year salable quantity—1,344,858 pounds.* This figure is the product of the recommended allotment percentage (65 percent) and the total estimated allotment base (2,069,012 pounds).

(H) *Estimated total available supply of Scotch spearmint oil for the 2013–2014 marketing year—1,361,428 pounds.* This figure is the sum of the 2013–2014 recommended salable quantity (1,344,858 pounds) and the estimated carry-in on June 1, 2013 (16,570 pounds).

Class 3 (Native) Spearmint Oil

The Native spearmint oil industry is experiencing market conditions similar to those observed in the Scotch spearmint oil market. Approximately 90 percent of U.S. production of Native spearmint oil is produced within the Far West production area, thus domestic production outside this area is not a major factor in the marketing of Far West Native spearmint oil. This has been an attribute of U.S. production since the order's inception. A minor amount of domestic Native spearmint oil is produced outside of the Far West region in the States of Indiana, Michigan, Minnesota, Montana, North Dakota, South Dakota, and Wisconsin.

According to the Committee, very little true Native spearmint oil is produced outside of the United States. However, India has been producing an increasing quantity of spearmint oil with qualities very similar to Native spearmint oil. Committee records show that in 1996 the Far West accounted for nearly 93 percent of the global sales of Native or Native quality spearmint oil. By 2008, that share had declined to only 48 percent. Since then, the percentage has been increasing and Far West Native spearmint oil is estimated to be over 70 percent of global sales in 2012.

Despite the fact that Far West Native spearmint oil has been gaining world market share, the industry has endured challenging marketing conditions over the past five years. Overproduction, coupled with a decrease in demand during the global economic recession, created an excess inventory situation for Native spearmint oil that negatively impacted the industry. However, most recently, production of Native spearmint oil has moderated, trade demand for Native spearmint oil has increased, and excess inventory levels have dropped to levels considered optimal by the Committee.

When the Committee met on October 17, 2012, to consider volume regulations for the upcoming 2013–2014 marketing year, the general consensus within the Native spearmint oil industry was that marketing conditions had improved over recent years and are expected to keep improving into the future. The production of Far West Native spearmint oil, which declined from a high of 1,453,896 pounds in 2009 to approximately 1,210,260 pounds in 2012, is anticipated to remain steady during the 2013 season. The Committee further expects that production will be more in line with the projected demand

of Native spearmint oil in upcoming years.

Excess Native spearmint oil inventory, as measured by oil held in reserve by producers and reported by the Committee, is estimated to be 379,006 pounds at the end of the 2012–2013 marketing year, down from a recent high of 606,942 pounds in 2011. Reserve Native spearmint oil is approaching the level that the Committee believes is optimum for the industry.

In addition to an improved supply situation, demand for Far West Native spearmint oil has been improving. Spearmint oil handlers, who previously projected the 2012–2013 trade demand for Far West Native spearmint oil in the range of 1,275,000 pounds to 1,450,000 pounds, with an average of 1,350,000 pounds, have projected trade demand for the 2013–2014 marketing period to be in the range of 1,200,000 pounds to 1,500,000 pounds, with an average of 1,400,000.

Given the economic indicators for the Far West Native spearmint oil industry outlined above, the Committee took an optimistic perspective into the discussion of establishing appropriate salable quantities and allotment percentages for the upcoming season.

As such, at the October 17, 2012, meeting, the Committee recommended a 2013–2014 Native spearmint oil salable quantity of 1,432,189 pounds and an allotment percentage of 61 percent. The Committee utilized Native spearmint oil sales estimates for 2013–2014, as provided by several of the industry's handlers, as well as historical and current Native spearmint oil market statistics to establish these thresholds. These recommended volume control levels represent an increase of 268,887 pounds and 11 percentage points over the previous year's initially established salable quantity and allotment percentage. Should these levels prove insufficient to adequately supply the market, the Committee has the authority to recommend an intra-seasonal increase, as it has done in the past two marketing periods, if demand rises beyond expectations.

The Committee estimates that approximately 1,425,000 pounds of Native spearmint oil may be sold during the 2013–2014 marketing year. When considered in conjunction with the estimated carry-in of 43,411 pounds of Native spearmint oil on June 1, 2013, the recommended salable quantity of 1,432,189 pounds results in an estimated total available supply of 1,475,600 pounds of Native spearmint oil during the 2013–2014 marketing year. The Committee also estimates that carry-in of Native spearmint oil at the beginning of the 2014–2015 marketing year will be approximately 50,600 pounds.

The Committee's stated intent in the use of marketing order volume control regulations for Native spearmint oil is to keep adequate supplies available to meet market needs and establish orderly marketing conditions. With that in mind, the Committee developed its recommendation for the proposed Native spearmint oil salable quantity and allotment percentage for the 2013–2014 marketing year based on the information discussed above, as well as the data outlined below.

(A) *Estimated carry-in of Native spearmint oil on June 1, 2013—43,411 pounds.* This figure is the difference between the revised 2012–2013 marketing year total available supply of 1,418,411 pounds and the estimated 2012–2013 marketing year trade demand of 1,375,000 pounds.

(B) *Estimated trade demand of Native spearmint oil for the 2013–2014 marketing year—1,425,000 pounds.* This estimate is established by the Committee and is based on input from producers at the six Native spearmint oil production area meetings held in late September and early October 2012, as well as estimates provided by handlers and other meeting participants at the October 17, 2012, meeting. The average estimated trade demand provided at the six production area meetings was 1,354,167 pounds, whereas the handler estimate ranged from 1,200,000 pounds to 1,500,000 pounds, and averaged 1,400,000 pounds. The average of Far West Native spearmint oil sales over the last five years is 1,158,520 pounds.

(C) *Salable quantity of Native spearmint oil required from the 2013–2014 marketing year production—1,381,589 pounds.* This figure is the difference between the estimated 2013–2014 marketing year trade demand (1,425,000 pounds) and the estimated carry-in on June 1, 2013 (43,411 pounds). This is the minimum amount that the Committee believes would be required to meet the anticipated 2013–2014 Native spearmint oil trade demand.

(D) *Total estimated allotment base of Native spearmint oil for the 2013–2014 marketing year—2,347,850 pounds.* This figure represents a one percent increase over the revised 2012–2013 total allotment base. This figure is generally revised each year on June 1 due to producer base being lost due to the bona fide effort production provisions of § 985.53(e). The revision is usually minimal.

(E) *Computed Native spearmint oil 2013–2014 marketing year allotment percentage—58.8 percent.* This percentage is computed by dividing the required salable quantity (1,381,589 pounds) by the total estimated allotment base (2,347,850 pounds).

(F) *Recommended Native spearmint oil 2013–2014 marketing year allotment percentage—61 percent.* This is the Committee's recommendation based on the computed allotment percentage (58.8 percent), the average of the computed allotment percentage figures from the six production area meetings (56.5 percent), and input from producers and handlers at the October 17, 2012, meeting. The recommended 61 percent allotment percentage is also based on the Committee's determination that the computed percentage (58.8 percent) may not adequately supply the potential 2013–2014 Native spearmint oil market.

(G) *Recommended Native spearmint oil 2013–2014 marketing year salable quantity—1,432,189 pounds.* This figure is the product of the recommended allotment percentage (61 percent) and the total estimated allotment base (2,347,850 pounds).

(H) *Estimated available supply of Native spearmint oil for the 2013–2014 marketing year—1,475,600 pounds.* This figure is the sum of the 2013–2014 recommended salable quantity (1,432,189 pounds) and the estimated carry-in on June 1, 2013 (43,411 pounds).

The salable quantity is the total quantity of each class of spearmint oil that handlers may purchase from, or handle on behalf of, producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The Committee's recommended Scotch and Native spearmint oil salable quantities and allotment percentages of 1,344,858 pounds and 65 percent, and 1,432,189 pounds and 61 percent, respectively, are based on the goal of establishing and maintaining market stability. The Committee anticipates that this goal would be achieved by matching the available supply of each class of Spearmint oil to the estimated demand of such, thus avoiding extreme fluctuations in inventories and prices.

The proposed salable quantities are not expected to cause a shortage of spearmint oil supplies. Any unanticipated or additional market demand for spearmint oil which may develop during the marketing year could be satisfied by an intra-seasonal increase in the salable quantity. The

order makes the provision for intra-seasonal increases to allow the Committee the flexibility to respond quickly to changing market conditions. In addition, producers who produce more than their annual allotments during the 2013–2014 marketing year may transfer such excess spearmint oil to producers who have produced less than their annual allotment, or, up until November 1, 2013, place it into the reserve pool to be released in the future in accordance with market needs.

This proposed regulation, if adopted, would be similar to regulations issued in prior seasons. The average allotment percentage for the five most recent marketing years for Scotch spearmint oil is 38.8 percent, while the average allotment percentage for the same five-year period for Native spearmint oil is 52.2 percent. Costs to producers and handlers resulting from this proposed rule are expected to be offset by the benefits derived from a stable market and improved returns. In conjunction with the issuance of this proposed rule, USDA has reviewed the Committee's marketing policy statement for the 2013–2014 marketing year. The Committee's marketing policy statement, a requirement whenever the Committee recommends volume regulation, fully meets the intent of § 985.50 of the order.

During its discussion of potential 2013–2014 salable quantities and allotment percentages, the Committee considered: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) the prospective production of each class of oil; (4) the total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Conformity with USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' has also been reviewed and confirmed.

The establishment of these salable quantities and allotment percentages would allow for anticipated market needs. In determining anticipated market needs, the Committee considered historical sales, as well as changes and trends in production and demand. This proposed rule also provides producers with information on the amount of spearmint oil that should be produced for the 2013–2014 season in order to meet anticipated market demand.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are eight spearmint oil handlers subject to regulation under the order, and approximately 36 producers of Scotch spearmint oil and approximately 91 producers of Native spearmint oil in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

Based on the SBA's definition of small entities, the Committee estimates that two of the eight handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 19 of the 36 Scotch spearmint oil producers and 29 of the 91 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. A typical spearmint oil-producing operation has enough acreage for rotation such that the total acreage required to produce the crop is about one-third spearmint and two-thirds rotational crops. Thus, the typical spearmint oil producer has to have considerably more acreage than is planted to spearmint during any given season. Crop rotation is an essential cultural practice in the production of spearmint oil for purposes of weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, a majority of spearmint oil-producing farms fall into the SBA category of large businesses.

Small spearmint oil producers generally are not as extensively diversified as larger ones and as such are more at risk from market fluctuations. Such small producers generally need to market their entire annual allotment and do not have income from other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because income from alternate crops could support the operation for a period of time. Being reasonably assured of a stable price and market provides small producing entities with the ability to maintain proper cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefit small producers more than such provisions benefit large producers. Even though a majority of handlers and producers of spearmint oil may not be classified as small entities, the volume control feature of this order has small entity orientation.

This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle on behalf of, producers during the 2013–2014 marketing year. The Committee recommended this action to help maintain stability in the spearmint oil market by matching supply to estimated demand, thereby avoiding extreme fluctuations in supplies and prices. Establishing quantities that may be purchased or handled during the marketing year through volume regulations allows producers to plan their spearmint planting and harvesting to meet expected market needs. The provisions of §§ 985.50, 985.51, and 985.52 of the order authorize this proposed rule.

Instability in the spearmint oil sub-sector of the mint industry is much more likely to originate on the supply side than the demand side. Fluctuations in yield and acreage planted from season-to-season tend to be larger than fluctuations in the amount purchased by handlers. Notwithstanding the recent global recession and the overall negative impact on demand for consumer goods that utilize spearmint oil, demand for spearmint oil tends to change slowly from year to year.

Demand for spearmint oil at the farm level is derived from retail demand for spearmint-flavored products such as chewing gum, toothpaste, and mouthwash. The manufacturers of these products are by far the largest users of spearmint oil. However, spearmint flavoring is generally a very minor component of the products in which it is used, so changes in the raw product price have virtually no impact on retail prices for those goods.

Spearmint oil production tends to be cyclical. Years of relatively high production, with demand remaining reasonably stable, have led to periods in which large producer stocks of unsold spearmint oil have depressed producer prices for a number of years. Shortages and high prices may follow in subsequent years, as producers respond to price signals by cutting back production.

The significant variability of the spearmint oil market is illustrated by the fact that the coefficient of variation (a standard measure of variability; ''CV'') of Far West spearmint oil grower prices for the period 1980–2011 (when the marketing order was in effect) is 0.19 compared to 0.34 for the decade prior to the promulgation of the order (1970–79) and 0.48 for the prior 20-year period (1960–79). This provides an indication of the price stabilizing impact of the marketing order.

Production in the shortest marketing year was about 48 percent of the 32-year average (1.897 million pounds from 1980 through 2011) and the largest crop was approximately 162 percent of the 32-year average. A key consequence is that, in years of oversupply and low prices, the season average producer price of spearmint oil is below the average cost of production (as measured by the Washington State University Cooperative Extension Service.)

The wide fluctuations in supply and prices that result from this cycle, which were even more pronounced before the creation of the order, can create liquidity problems for some producers. The order was designed to reduce the price impacts of the cyclical swings in production. However, producers have been less able to weather these cycles in recent years because of the increase in production costs. While prices have been relatively steady, the cost of production has increased to the extent that plans to plant spearmint may be postponed or changed indefinitely. Producers are also enticed by the prices of alternative crops and their lower cost of production.

In an effort to stabilize prices, the spearmint oil industry uses the volume control mechanisms authorized under the order. This authority allows the Committee to recommend a salable quantity and allotment percentage for each class of oil for the upcoming marketing year. The salable quantity for each class of oil is the total volume of oil that producers may sell during the marketing year. The allotment percentage for each class of spearmint oil is derived by dividing the salable quantity by the total allotment base.

Each producer is then issued an annual allotment certificate, in pounds, for the applicable class of oil, which is calculated by multiplying the producer's allotment base by the applicable allotment percentage. This is the amount of oil of each applicable class that the producer can sell.

By November 1 of each year, the Committee identifies any oil that individual producers have produced above the volume specified on their annual allotment certificates. This excess oil is placed in a reserve pool administered by the Committee.

There is a reserve pool for each class of oil that may not be sold during the current marketing year unless USDA approves a Committee recommendation to increase the salable quantity and allotment percentage for a class of oil and make a portion of the pool available. However, limited quantities of reserve oil are typically sold by one producer to another producer to fill deficiencies. A deficiency occurs when on-farm production is less than a producer's allotment. In that case, a producer's own reserve oil can be sold to fill that deficiency. Excess production (higher than the producer's allotment) can be sold to fill other producers' deficiencies. All of these provisions need to be exercised prior to November 1 of each year.

In any given year, the total available supply of spearmint oil is composed of current production plus carryover stocks from the previous crop. The Committee seeks to maintain market stability by balancing supply and demand, and to close the marketing year with an appropriate level of carryout. If the industry has production in excess of the salable quantity, then the reserve pool absorbs the surplus quantity of spearmint oil, which goes unsold during that year, unless the oil is needed for unanticipated sales.

Under its provisions, the order may attempt to stabilize prices by (1) limiting supply and establishing reserves in high production years, thus minimizing the price-depressing effect that excess producer stocks have on unsold spearmint oil, and (2) ensuring that stocks are available in short supply years when prices would otherwise increase dramatically. The reserve pool stocks, which are increased in large production years, are drawn down in years where the crop is short.

An econometric model was used to assess the impact that volume control has on the prices producers receive for their commodity. Without volume control, spearmint oil markets would likely be over-supplied. This could result in low producer prices and a large volume of oil stored and carried over to the next crop year. The model estimates how much lower producer prices would likely be in the absence of volume controls.

The Committee estimated trade demand for the 2013–2014 marketing year for both classes of oil at 2,625,000 pounds, and that the expected combined salable carry-in will be 59,981 pounds. This results in a combined required salable quantity of 2,565,019 pounds. With volume control, sales by producers for the 2013–2014 marketing year would be limited to 2,777,047 pounds (the recommended salable quantity for both classes of spearmint oil).

The recommended allotment percentages, upon which 2013–2014 producer allotments are based, are 65 percent for Scotch and 61 percent for Native. Without volume controls, producers would not be limited to these allotment levels, and could produce and sell additional spearmint. The econometric model estimated a $1.35 decline in the season average producer price per pound (from both classes of spearmint oil) resulting from the higher quantities that would be produced and marketed without volume control. The surplus situation for the spearmint oil market that would exist without volume controls in 2013–2014 also would likely dampen prospects for improved producer prices in future years because of the buildup in stocks.

The use of volume controls allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume controls is believed to have little or no effect on consumer prices of products containing spearmint oil and will not result in fewer retail sales of such products.

The Committee discussed alternatives to the recommendations contained in this proposed rule for both classes of spearmint oil. The Committee discussed and rejected the idea of recommending that there not be any volume regulation for both classes of spearmint oil because of the severe price-depressing effects that would occur without volume control.

After computing the initial 57.2 percent Scotch spearmint oil allotment percentage, the Committee considered various alternative levels of volume control for Scotch spearmint oil. Given the moderately improving marketing conditions, there was consensus that the Scotch spearmint oil allotment percentage for 2013–2014 should be more than the percentage established for the 2012–2013 marketing year (38 percent). After considerable discussion, the eight-member committee, on a vote of six members in favor and two members opposed, determined that 1,344,858 pounds and 65 percent would be the most effective Scotch spearmint oil salable quantity and allotment percentage, respectively, for the 2013–2014 marketing year. The two dissenting members felt that the salable quantity and allotment percentage should be set at an unidentified lower level.

The Committee was also able to reach a consensus regarding the level of volume control for Native spearmint oil. After first determining the computed allotment percentage at 58.8 percent, the Committee, in a vote of six members in favor and two members opposed, recommended 1,432,189 pounds and 61 percent for the effective Native spearmint oil salable quantity and allotment percentage, respectively, for the 2013–2014 marketing year. The two dissenting members felt that the salable quantity and allotment percentage should be set at an unidentified lower level.

As noted earlier, the Committee's recommendation to establish salable quantities and allotment percentages for both classes of spearmint oil was made after careful consideration of all available information, including: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) the prospective production of each class of oil; (4) the total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Based on its review, the Committee believes that the salable quantity and allotment percentage levels recommended would achieve the objectives sought.

Without any regulations in effect, the Committee believes the industry would return to the pronounced cyclical price patterns that occurred prior to the order, and that prices in 2013–2014 could decline substantially below current levels.

According to the Committee, the recommended salable quantities and allotment percentages are expected to facilitate the goal of establishing orderly marketing conditions for Far West spearmint oil.

As previously stated, annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the order's inception.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Generic Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would establish the salable quantities and allotment percentages of Class 1 (Scotch) spearmint oil and Class 3 (Native) spearmint oil produced in the Far West during the 2013–2014 marketing year. Accordingly, this proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil producers or handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Furthermore, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

AMS 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.

In addition, the Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the October 17, 2012, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jeffrey Smutney at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2013–2014 fiscal period begins on June 1, 2013, and a final determination on the salable quantities and allotment percentages should be made prior to handlers purchasing from, or handling on behalf of, producers any oil for the ensuing marketing year; and (2) handlers are aware of this action, which was recommended by the Committee at a public meeting and is similar to other salable quantities and allotment percentages issued in past years.

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this action until thirty days after publication in the **Federal Register** because a final determination of salable quantities and allotment percentages should be in effect prior to the start of the 2013–14 fiscal period, which begins June 1, 2013.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR Part 985 is proposed to be amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. A new § 985.232 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 985.232 Salable quantities and allotment percentages—2013–2014 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2013, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 1,344,858 pounds and an allotment percentage of 65 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,432,189 pounds and an allotment percentage of 61 percent.

Dated: April 9, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–08681 Filed 4–12–13; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

[Docket No. PRM–26–8; NRC–2012–0290]

Additional Synthetic Drug Testing

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for Rulemaking; consideration in the rulemaking process.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will consider the issues raised in a petition for rulemaking (PRM), PRM–26–8, submitted by Mr. Thomas King (the petitioner) in the NRC's rulemaking process. The petitioner requested that the NRC amend its Fitness for Duty program regulations to amend drug testing requirements to test for additional synthetic drugs currently not included in the regulations. The NRC determined that the issues raised in the PRM are appropriate for consideration in an ongoing rulemaking on Drug and Alcohol Testing. The NRC is not instituting a public comment period at this time.

DATES: The docket for the petition for rulemaking, PRM–26–8, is closed on April 15, 2013.

ADDRESSES: Further NRC action on the issues raised by this petition can be found on the Federal rulemaking Web site at *http://www.regulations.gov* by searching on Docket ID NRC–2012–0079, which is the rulemaking docket for the Part 26 Drug and Alcohol Testing; Technical Issues and Editorial Changes rulemaking.

You can access publicly available documents related to the petition, which the NRC possesses and are publicly available, using any of the following methods:

- *Federal Rulemaking Web site.* Supporting materials related to this petition can be found at *http://www.regulations.gov* by searching on the petition Docket ID NRC–2012–0290 or the Part 26 Drug and Alcohol Testing; Technical Issues and Editorial Changes rulemaking Docket ID NRC–2012–0079. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The petition for rulemaking is available in ADAMS under Accession Number ML12332A137.
- *NRC's Public Document Room (PDR):* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Scott Sloan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–1619; email: *Scott.Sloan@nrc.gov.*

SUPPLEMENTARY INFORMATION: On October 3, 2012, the NRC received a PRM filed by Thomas King requesting the NRC take immediate action to address and curtail the use of new synthetic drugs at nuclear power plants. The NRC requirements in Part 26 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Fitness for Duty Program,'' already enable licensees and other affected entities to add other drugs that are scheduled in the Controlled Substances Act to the panel of substances tested pursuant to 10 CFR 26.31(d)(1)(i). However, the NRC has determined that the broader issue of synthetic drug use raised by the petitioner is appropriate for consideration and will address it in the ongoing 10 CFR part 26 Drug and Alcohol Testing; Technical Issues and Editorial Changes rulemaking. Therefore, the NRC is not instituting an opportunity for public comment at this time. Stakeholders will have an opportunity to comment on the proposed rule associated with 10 CFR part 26 Drug and Alcohol Testing; Technical Issues and Editorial Changes.

You can monitor NRC action on the issues raised by this petition by searching on the rulemaking Docket ID NRC–2012–0079 on the Federal rulemaking Web site. This site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2012–0079; Part 26 Drug and Alcohol Testing; Technical Issues and Editorial Changes rulemaking); (2) click the ''Email Alert'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

The Docket for the petition, PRM–26–8, is closed.

Dated at Rockville, Maryland, this 4th day of April 2013.

For the Nuclear Regulatory Commission.

R.W. Borchardt,

Executive Director for Operations.

[FR Doc. 2013–08752 Filed 4–12–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0340; Directorate Identifier 2010–SW–081–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Eurocopter Deutschland GmbH (Eurocopter) Model EC135 P1, EC135 P2, EC135 P2+, EC135 T1, EC135 T2, EC135 T2+, and MBB–BK 117 C–2 helicopters with a certain external mounted hoist system (hoist) with boom support assembly (boom) installed. This proposed AD would require inspecting the boom for a crack and, if a crack exists, replacing the boom with an airworthy boom. This proposed AD is prompted by cracks found on the boom during a pre-flight check of a hoist on an MBB–BK 117 C–2 helicopter. The proposed actions are intended to detect a crack and prevent failure of the boom, loss of the boom and attached loads, and subsequent loss of helicopter control.

DATES: We must receive comments on this proposed AD by June 14, 2013.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building

Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

• *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic 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 service information identified in this proposed AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub,* and contact the Goodrich Corporation, 2727 East Imperial Highway, Brea, CA 92821; telephone (714) 984–1461; fax 714–984–1675, or at *www.goodrich.com.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Matt Wilbanks, Aviation Safety Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *matt.wilbanks@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2010–0154, dated August 13, 2010, to correct an unsafe condition for Eurocopter Model MBB–BK 117 C–2, EC135, and EC635 series helicopters. EASA AD No. 2010–0154 supersedes EASA AD No. 2009–0093–E, dated April 17, 2009. EASA advises that cracks were detected on the boom, part number (P/N) 44307–500, during a pre-flight check of the hoist on a Model MBB–BK 117 C–2 helicopter. EASA advises that this condition, if not detected and corrected, would impair the structural strength of the boom and could lead to failure of the boom. EASA advises that this could result in the loss of the boom and attached loads. According to EASA, boom P/Ns 44301–500 and 44307–500–1 are of similar design to P/N 44307–500, and therefore are also subject to this unsafe condition. As a result, EASA issued Emergency AD No. 2009–0093–E to require repetitive visual checks of the affected boom and removal or replacement of the boom when cracks are found.

EASA advises that since AD No. 2009–0093–E was issued, further technical investigation determined that torque values that were too high have been applied. EASA advises that Goodrich Corporation, manufacturer of the affected booms, has developed an inspection that will determine the need for further action. As a result, EASA superseded its AD to include a new inspection to detect damage, by issuing EASA AD No. 2010–0154. The EASA AD states that if no damage is found during this new inspection, that constitutes terminating action.

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information

Eurocopter has issued Emergency Alert Service Bulletin (EASB) No. EC135–85A–036, Revision 2, dated June 23, 2010, and EASB No. MBB BK117 C–2–85A–024, Revision 1, dated June 23, 2010, which specify a visual check of the boom for cracks, and removing or replacing the boom before the next flight if there is a crack. The EASBs also require compliance with the visual and dye penetrant inspection procedures specified in Goodrich Corporation Service Bulletin 44307–500–03, Revision 2, dated April 30, 2010. EASA classified these EASBs as mandatory, and issued EASA AD No. 2010–0154, dated August 13, 2010, to ensure the continued airworthiness of these helicopters.

Proposed AD Requirements

This proposed AD would require:

• Before further flight, and thereafter before the first flight of each day until the dye penetrant inspection is performed, visually checking the boom for a crack. A pilot holding at least a private pilot certificate may perform this check and must record his or her compliance in the aircraft's maintenance records in accordance with applicable regulations. A pilot may perform this check because it involves only looking at the boom and can be performed equally well by a pilot or a mechanic. This check is an exception to our standard maintenance regulations.

• Within 30 days, performing a dye penetrant inspection of the boom for a crack.

• If a crack exists in a boom, replacing the cracked boom with an airworthy boom.

Differences Between This Proposed AD and the EASA AD

The EASA AD requires you to notify and return parts to the manufacturer, and this proposed AD does not. The EASA AD also applies to the Eurocopter EC635 series military helicopters, while this proposed AD would not because those models are not type certificated in the United States.

Costs of Compliance

We estimate that this proposed AD would affect 350 helicopters of U.S. Registry and a labor rate of $85 per work-hour. Based on these estimates, we expect the following costs:

• We estimate that the cost of the daily visual check would be minimal.

• We estimate that removing the hoist and boom assembly, performing the dye penetrant inspection, and reinstalling the equipment would require 1.5 work hours. No parts would be needed, for a total cost of about $128 per helicopter and $44,800 for the U.S. fleet.

• Replacing the hoist and boom assembly, if needed, would require about a 0.33 work-hour for a labor cost of about $28. Parts would cost $10,833 for a total cost of $10,861 per helicopter.

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, 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 to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with this 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 airworthiness directive (AD):

Eurocopter Deutschland GmbH Helicopters: Docket No. FAA–2013–0340; Directorate Identifier 2010–SW–081–AD.

(a) Applicability

This AD applies to Eurocopter Deutschland GmbH (Eurocopter) Model EC135 P1, EC135 P2, EC135 P2+, EC135 T1, EC135 T2 and EC135 T2+ helicopters with a Goodrich Corporation (Goodrich) external mounted hoist system (hoist) with boom support assembly (boom) Part Number (P/N) 44301–500, 44307–500, or 44307–500–1 installed, and Model MBB–BK 117 C–2 helicopters with a Goodrich hoist with boom P/N 44307–500 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in the boom. This condition could result in loss of the boom and attached loads, and subsequent loss of helicopter control.

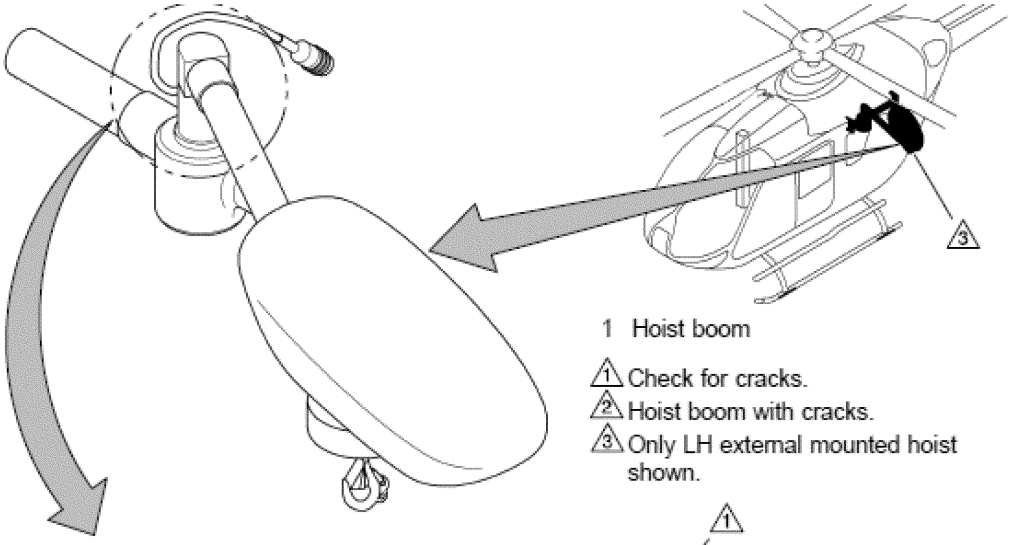
(c) Reserved

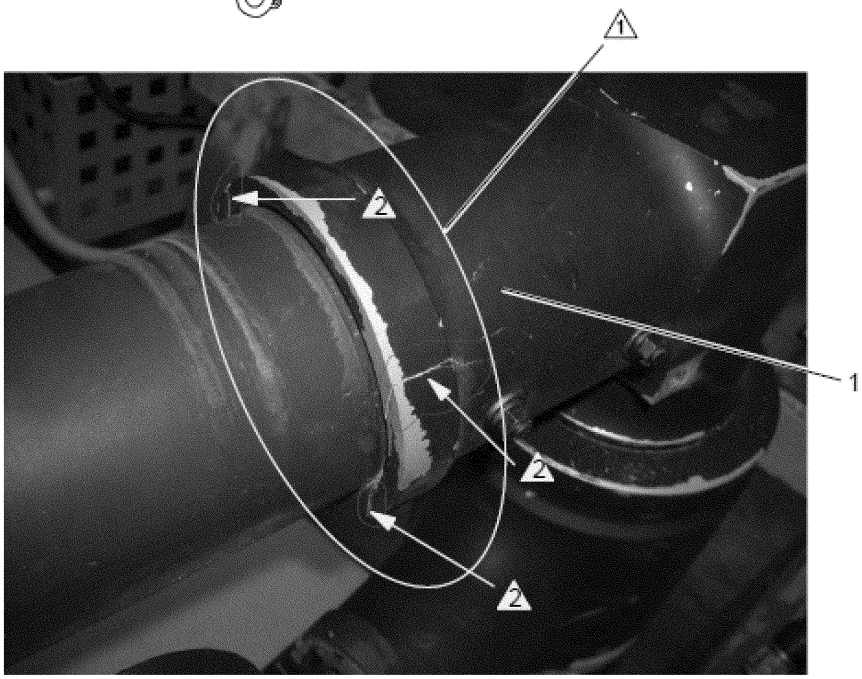
(d) Compliance

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

(e) Required Actions

(1) Before further flight, and thereafter before the first flight of each day until you have performed the inspection required by paragraph (e)(2) of this AD, clean the hoist and visually check for a crack, paying particular attention to the areas that are circled as depicted in Figure 1 to paragraph (e) of this AD. The actions required by this paragraph may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1)–(4) and 14 CFR 91.417 (a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.





(2) Within 30 days, perform a dye penetrant inspection of the boom in accordance with the Accomplishment Instructions, Section 2.D, of the Goodrich Service Bulletin 44307–500–03, Revision 2, dated April 30, 2010 (SB).

Note to paragraph (e)(2): A copy of the SB is included with Eurocopter Emergency Alert Service Bulletin (EASB) No. EC135–85A–036, Revision 2, dated June 23, 2010, and EASB No. MBB BK117 C–2–85A–024, Revision 1, dated June 23, 2010.

(3) If a crack exists in the boom, replace the cracked boom with an airworthy boom before further flight.

(f) Special Flight Permit

Special flight permits would be allowed provided the hoist is disabled during the ferry flight.

(g) Alternative Methods of Compliance (AMOCs)

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

(h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2010–0154, dated August 13, 2010, which supersedes EASA AD No. 2009–0093–E, dated April 17, 2009.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 5345, Fuselage, Equipment Attach Fittings.

Issued in Fort Worth, Texas, on April 8, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–08760 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0341; Directorate Identifier 2012–SW–025–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC120B and EC130B4 helicopters with certain emergency flotation gear (float) installed. This proposed AD would require inspecting the float for chafing of the fabric covering and adding protectors to the float installation to prevent contact between the float and the protruding sections of the installation. This proposed AD is prompted by a report of a float that would not inflate during overhaul because one of the float compartments was punctured due to chafing. The proposed actions are intended to prevent failure of float and subsequent loss of control of the helicopter during an emergency water landing.

DATES: We must receive comments on this proposed AD by June 14, 2013.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic 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 service information identified in this proposed AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2011–0185, dated September 23, 2011 (AD 2011–0185), to correct an unsafe condition for the Eurocopter Model EC120 and EC130 helicopters. EASA advises that during overhaul of an emergency flotation gear installation, it was impossible to inflate the right-hand (RH) float according to the instructions in the equipment manufacturer's manual. An investigation revealed that one of the compartments in the float was punctured and several areas of the left-hand (LH) and RH floats were damaged. According to EASA, the damage was caused by chafing between the float and the protruding sections of the supply bars and banjo unions. To address this potentially unsafe condition, EASA issued AD No. 2009–0190, dated August 26, 2009 (AD 2009–0190), which required repetitive inspections of the floats to detect chafing. Since AD 2009–0190 was issued, Aerazur, the float manufacturer, developed protectors to be installed on the floats to eliminate interference between the float and the blunt parts of the installation. EASA then issued AD 2011–0185, which superseded AD 2009–0190 and required installation of the protectors on the floats as terminating action for the repetitive inspections.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information

Eurocopter has issued Alert Service Bulletin (ASB) No. 05A011, Revision 0, dated June 8, 2009 (ASB 05A011), for Model EC120B helicopters and ASB No. 05A008, Revision 0, dated June 8, 2009 (ASB 05A008), for Model EC130B4 helicopters. Both ASBs specify inspecting the floats for deterioration and chafing at specified intervals and, if necessary, repairing the floats.

Eurocopter has also issued ASB No. EC120–25A026, Revision 0, dated July 11, 2011 (ASB EC120–25A026), for Model EC120B helicopters and ASB No. EC130–25A042, Revision 0, dated July 11, 2011 (ASB EC130–25A042), for Model EC130B4 helicopters. Both ASBs specify modifying certain part-numbered LH and RH emergency flotation gear by adding protectors onto the rear bracket and supply couplings of the float installation. The ASBs specify following procedures in Aerazur Service Bulletin (SB) No. 25–69–87, dated

March 14, 2011, for floats installed on Model EC120B helicopters and Aerazur SB No. 25–69–58, dated March 14, 2011, for floats installed on Model EC130B4 helicopters. Each Aerazur SB is incorporated as an appendix to the corresponding Eurocopter ASB.

Proposed AD Requirements

This proposed AD would require:

• For floats with 250 or more hours time-in-service (TIS), within 50 hours TIS, inspecting the floats for chafing.

• For floats with less than 250 hours TIS since installation, before accumulating 300 hours TIS, inspecting the floats for chafing.

• If, during any inspection required by this proposed AD, chafing is detected, before further flight, inspecting the float and fittings and repairing if necessary.

• Within 300 hours TIS, installing protective covers on the floats as described in ASB EC120–25A026 or ASB EC130–25A042, as appropriate for your model helicopter.

Costs of Compliance

We estimate that this proposed AD would affect 60 helicopters of U.S. Registry. Based on an average labor rate of $85 per work-hour, we estimate that operators may incur the following costs to comply with this AD. Inspecting the floats for chafing would require about .5 hour, for a cost per helicopter of $43, and a cost to U.S. operators of $2,580. Modifying the floats with protective covers would require about 1 hour and required parts would cost about $500, for a cost per helicopter of $585, and a cost to U.S. operators of $35,100. The total estimated cost of this proposed AD is $628 per helicopter and $37,680 for the U.S. operator fleet.

Authority for This Rulemaking

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

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

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

We prepared an economic evaluation of the estimated costs to comply with this 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 airworthiness directive (AD):

Eurocopter France: Docket No. FAA–2013–0341; Directorate Identifier 2012–SW–025–AD.

(a) Applicability

(1) This AD applies to the following helicopters, certificated in any category:

(i) Model EC120B helicopters with a left-hand (LH) emergency flotation gear, part number (P/N) 215674–0, 215674–1, or 215674–2 installed, fitted with a float, P/N 215481–0; or with a right-hand (RH) emergency flotation gear, P/N 215675–0, 215675–1, or 215675–2 installed, fitted with a float, P/N 215482–0; and

(ii) Model EC130B4 helicopters with a LH emergency flotation gear P/N 217227–0 installed, fitted with a float P/N 217174–0; or with a RH emergency flotation gear P/N 217228–0 installed, fitted with a float, P/N 217195–0.

(b) Unsafe Condition

This AD defines the unsafe condition as chafing of the float due to contact with the protruding sections of the supply bars and banjo sections of the emergency flotation gear installation. This condition could result in the float becoming punctured, failure of the float to inflate, and subsequent loss of control of the helicopter during an emergency water landing.

(c) Reserved

(d) Compliance

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

(e) Required Actions

(1) For emergency flotation gear that have accumulated 250 or more hours time-in service (TIS), within 50 hours TIS, accomplish the following:

(i) Undo the Velcro tapes and remove the break laces. Remove the caps from the cover end. Unfold the cover.

(ii) Inspect each float area in contact with the emergency flotation gear protruding parts (supply bar, banjo union, and fittings) for chafing as shown in Figure 1 of Eurocopter Alert Service Bulletin (ASB) No. 05A011, Revision 0, dated June 8, 2009, or Eurocopter ASB No. 05A008, Revision 0, dated June 8, 2009, as appropriate for your model helicopter.

(iii) If there is any chafing between the protruding parts and the float fabric, before further flight, inspect the flotation gear.

(A) Unfold and visually inspect the float assemblies for any cuts, tears, punctures, or abrasion. Replace the cover if the internal polycarbonate sheet is cut or if the cover is cut or punctured.

(B) Lightly inflate the floats to approximately 50 hectopascals through the manual inflating valve and inspect the fabric panels and girts for any cuts, tears, punctures, or abrasion. If there is a cut, tear, puncture, or any abrasion, repair the float.

(2) For emergency floatation gear that have accumulated less than 250 hours TIS, on or before accumulating 300 hours TIS, inspect the float gear as described in paragraph (e)(1)(i) through (iii) of this AD.

(3) Within 300 hours TIS:

(i) For Model EC120B helicopters, install protectors on and re-identify the P/N of each LH and RH emergency floatation gear as described in the Operating Instructions, paragraph 2.C., of Aerazur Service Bulletin (SB) No. 25–69–87, dated March 14, 2011. The Aerazur SB is attached as an appendix to Eurocopter Alert Service Bulletin (ASB) No. EC120–25A026, Revision 0, dated July 11, 2011.

(ii) For Model EC130B4 helicopters, install protectors on and re-identify the P/N of each LH and RH emergency floatation gear as described in the Operating Instructions,

paragraph 2., of Aerazur SB No. 25–69–58, dated March 14, 2011. The Aerazur SB is attached as an appendix to Eurocopter ASB No. EC130–25A042, Revision 0, dated July 11, 2011.

(f) Alternative Methods of Compliance (AMOCs)

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

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

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency AD No. 2011–0185, dated September 23, 2011.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 3212: Emergency Flotation Section.

Issued in Fort Worth, Texas, on April 8, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–08758 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0326; Directorate Identifier 2012–NM–089–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to certain The Boeing Company Model 757 series airplanes equipped with Rolls-Royce RB211 engines. The existing AD currently requires modification of the nacelle strut and wing structure; for certain airplanes, repetitive detailed inspections of certain aft bulkhead fasteners for loose or missing fasteners, and corrective action if necessary. For certain other airplanes, the existing AD requires a one-time detailed inspection of the middle gusset of the inboard side load fitting for proper alignment, and realignment if necessary; a one-time eddy current inspection of certain fastener holes for cracking, and repair if necessary; a detailed inspection of certain fasteners for loose or missing fasteners; and replacement with new fasteners if necessary. Since we issued that AD, a compliance time error was discovered, which could allow an airplane to exceed the acceptable compliance time for addressing the unsafe condition. This proposed AD would specify a maximum compliance time limit. We are proposing this AD to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

DATES: We must receive comments on this proposed AD by May 30, 2013.

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

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *Nancy.Marsh@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–2013–0326; Directorate Identifier 2012–NM–089–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On May 25, 2004, we issued AD 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004), for certain Model 757 series airplanes equipped with Rolls-Royce RB211 engines. (AD 2004–12–07 superseded AD 99–24–07, Amendment 39–11431 (64 FR 66370, November 26, 1999)). AD 2004–12–07 requires modification of the nacelle strut and wing structure; and for certain airplanes, repetitive detailed inspections of certain aft bulkhead fasteners for loose or missing fasteners, and corrective action if necessary. For certain other airplanes, the existing AD requires a one-time detailed inspection of the middle gusset of the inboard side load fitting for proper alignment and realignment if necessary; a one-time eddy current inspection of certain fastener holes for cracking, and repair if necessary; a detailed inspection of certain fasteners for loose or missing fasteners; and replacement with new fasteners if necessary. That AD resulted from reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. Such an increase in loading can lead to fatigue cracking in primary strut

structure prior to an airplane reaching its design service objective. We issued that AD to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

Actions Since Existing AD Was Issued

Since we issued AD 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004), a compliance time error was discovered in certain service information related to the AD. The error involves an optional threshold formula that could allow an airplane to exceed the acceptable compliance time for addressing the unsafe condition.

We reviewed Boeing Service Bulletin 757–54–0035, Revision 6, dated December 2, 2011. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0326.

Concurrent Service Information

Boeing Service Bulletin 757–54–0035, Revision 6, dated December 2, 2011, specifies concurrent or prior accomplishment of Boeing Service Bulletin 757–54–0003, Revision 1, dated August 30, 1985; and Boeing Service Bulletin 757–54–0028, Revision 1, dated August 25, 1994. For information on the procedures, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0326.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Information.''

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

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

Change to Existing AD

This proposed AD would retain certain requirements of AD 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004). Since AD 2004–12–07 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004)	Corresponding requirement in this proposed AD
paragraph (a)	paragraph (g)
paragraph (c)	paragraph (h)

Differences Between the Proposed AD and the Service Information

Boeing Service Bulletin 757–54–0035, Revision 6, dated December 2, 2011; and Boeing Service Bulletin 757–54–0028, Revision 1, dated August 25, 1994; specify to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 176 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification [retained actions from AD 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004)].	Up to 1,188 work-hours × $85 per hour = $100,980.	$0	Up to $100,980	Up to $17,772,480
One-time Inspection [retained action from AD 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004)].	1 work-hour × $85 per hour = $85	0	$85	$14,960
Concurrent modification [new proposed action, 30 airplanes].	142 work-hours × $85 per hour = $12,070.	0	$12,070	$362,100
Concurrent inspection and fastener installation [new proposed action, 12 airplanes].	104 work-hours × $85 per hour = $8,840.	0	$8,840	$106,080

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

products identified in this rulemaking action.

Regulatory Findings

We have determined that this 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 that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004), and adding the following new AD:

The Boeing Company: Docket No. FAA–2013–0326; Directorate Identifier 2012–NM–089–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by May 30, 2013.

(b) Affected ADs

This AD supersedes AD 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004).

(c) Applicability

This AD applies to The Boeing Company Model 757–200, –200PF, and –200CB series airplanes, certificated in any category, line numbers 1 through 735 inclusive, equipped with Rolls-Royce RB211 engines.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 54, Nacelles/Pylons.

(e) Unsafe Condition

This AD was prompted by reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. We are issuing this AD to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

(f) Compliance

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

(g) Retained Modification

This paragraph restates the requirements of paragraph (a) of AD 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004) with new service information. Modify the nacelle strut and wing structure according to Boeing Service Bulletin 757–54–0035, dated July 17, 1997; Revision 1, dated April 15, 1999; Revision 2, dated June 13, 2002; or Revision 6, dated December 2, 2011; at the later of the times specified in paragraph (g)(1) or (g)(2) of this AD, except as required by paragraph (i) of this AD. All of the terminating actions described in the service bulletins and listed in paragraph I.C., Table I, ''Strut Improvement Bulletins,'' on page 6 of Boeing Service Bulletin 757–54–0035, dated July 17, 1997; on page 7 of Boeing Service Bulletin 757–54–0035, Revision 1, dated April 15, 1999; and on Page 7 of Boeing Service Bulletin 757–54–0035, Revision 2, dated June 13, 2002; as applicable; must be accomplished according to those service bulletins prior to, or concurrently with, the accomplishment of the modification of the nacelle strut and wing structure required by this paragraph. After July 21, 2004 (the effective date of AD 2004–12–07), use only Boeing Service Bulletin 757–54–0035, Revision 2, dated June 13, 2002; or Boeing Service Bulletin 757–54–0035, Revision 6, dated December 2, 2011. After the effective date of this AD, use only Boeing Service Bulletin 757–54–0035, Revision 6, dated December 2, 2011. Accomplishment of the actions required by paragraph (i) of this AD terminates the requirements of this paragraph.

(1) Prior to the accumulation of 37,500 total flight cycles, or prior to 20 years since the date of manufacture of the airplane, whichever occurs first.

(2) Within 3,000 flight cycles after January 3, 2000 (the effective date of AD 99–24–07, Amendment 39–11431 (64 FR 66370, November 26, 1999)).

(h) Retained Inspection and Repair

This paragraph restates the requirements of paragraph (c) of AD 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004), with new service information. For airplanes on which the modification required by paragraph (g) of this AD has been done according to Boeing Service Bulletin 757–54–0035, dated July 17, 1997: Within 15,000 flight cycles after doing the modification required by paragraph (g) of this AD, or within 3 years after July 21, 2004 (the effective date of AD 2004–12–07), whichever is later; do a one-time detailed inspection of the middle gusset of the inboard side load fitting for proper alignment, according to Part II of the Accomplishment Instructions of Boeing Service Bulletin 757–54–0035, Revision 1, dated April 15, 1999; or Revision 2, dated June 13, 2002, excluding Evaluation Form; or Boeing Service Bulletin 757–54–0035, Revision 6, dated December 2, 2011. If the gusset is not aligned properly: Before further flight, machine the gusset to the specified angle according to the Accomplishment Instructions of Boeing Service Bulletin 757–54–0035, Revision 1, dated April 15, 1999; or Revision 2, dated June 13, 2002, excluding Evaluation Form; or Boeing Service Bulletin 757–54–0035, Revision 6, dated December 2, 2011. As of the effective date of this AD, use only Boeing Service Bulletin 757–54–0035, Revision 6, dated December 2, 2011, for accomplishing the actions required by this paragraph.

(i) New Compliance Time Limitation

For airplanes on which the modification of the nacelle strut and wing structure required by paragraph (g) of this AD has not been done as of the effective date of this AD: Do the modification required by paragraph (g) of this AD at the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD.

(1) At the time specified in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 757–54–0035, Revision 6, dated December 2, 2011, except that where this service bulletin specifies a compliance time ''from the date on Revision 4 of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Within 3,000 flight cycles after January 3, 2000 (the effective date of AD 99–24–07, Amendment 39–11431 (64 FR 66370, November 26, 1999)).

(j) New Concurrent Actions

Concurrently with or prior to the accomplishment of the actions required by paragraph (i) of this AD, do the actions specified in paragraphs (j)(1) and (j)(2) of this AD.

(1) For airplanes identified in Boeing Service Bulletin 757–54–0003, dated Revision 1, dated August 30, 1985: Modify the nacelle strut upper spar, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0003, Revision 1, dated August 30, 1985.

(2) For airplanes identified in Boeing Service Bulletin 757–54–0028, Revision 1, dated August 25, 1994: Do a detailed inspection and non-destructive test inspection for cracking of the lower chord, mid-chord, and holes (for cracking, galling, corrosion, or damage due to fastener removal), in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0028, Revision 1, dated August 25, 1994.

(k) Repair

(1) If any cracking is found during any inspection required by paragraph (j)(2) of this AD: Before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(2) If any holes with galling, corrosion, or damage due to fastener removal are found during any inspection required by paragraph (j)(2) of this AD: Before further flight, repair the holes, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0028, Revision 1, dated August 25, 1994.

(l) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 757–54–0035, Revision 4, dated June 18, 2009; or Revision 5, dated June 9, 2011; which are not incorporated by reference in this AD.

(2) This paragraph provides credit for the actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 757–54–0035, Revision 4, dated June 18, 2009; or Revision 5, dated June 9, 2011; which are not incorporated by reference in this AD.

(3) This paragraph provides credit for the actions required by paragraph (j) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 757–54–0003, dated December 14, 1984; or Boeing Service Bulletin 757–54–0028, dated March 31, 1994; which are not incorporated by reference in this AD.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(4) AMOCs approved for AD 2004–12–07, Amendment 39–13666 (69 FR 33561, June 16, 2004), are approved as AMOCs for paragraphs (g) and (h) of this AD, except for AMOCs that approved a revised compliance time.

(n) Related Information

(1) For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *Nancy.Marsh@faa.gov.*

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

Issued in Renton, Washington, on April 4, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08768 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR 101, 104, 105, 106

[Docket No. USCG–2007–28915]

Transportation Worker Identification Credential (TWIC)—Reader Requirements

AGENCY: Coast Guard, DHS.

ACTION: Notice of public meeting on proposed rulemaking; request for comments.

SUMMARY: The Coast Guard announces a public meeting to take place on May 9, 2013, in Chicago, Illinois to receive comments on a notice of proposed rulemaking published in the **Federal Register** on March 22, 2013, under the title ''Transportation Worker Identification Credential (TWIC)—Reader Requirements.'' The Coast Guard encourages members of the public to attend this meeting and provide oral comments on the notice of proposed rulemaking on TWIC reader requirements.

DATES: A public meeting will be held on Thursday, May 9, 2013, from 1:00 p.m. to 5:00 p.m. to provide an opportunity for oral comments. Coast Guard personnel will accept written comments and related materials at the public meeting as well. Written comments may also be submitted in response to the notice of proposed rulemaking referenced in the **SUPPLEMENTARY INFORMATION** section. The comment period for the notice of proposed rulemaking will close on May 21, 2013. All written comments and related materials submitted before or after the meeting must either be submitted to our online docket via *http://www.regulations.gov* on or before May 21, 2013, or reach the Docket Management Facility by that date.

ADDRESSES: The public meeting will be held at the Chicago Marriott O'Hare, 8535 West Higgins Road, Chicago, Illinois 60631. The building is accessible by taxi, public transit, and privately-owned conveyance.

This meeting is open to the public. Please note that the session may adjourn early if all business, concerns, and questions are addressed. You may submit written comments identified by docket number USCG–2007–28915 before or after the meeting using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. Our online docket for this notice is available on the Internet at *http://www.regulations.gov* under docket number USCG–2007–28915.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning the meeting, please call or email LCDR Gregory Callaghan, Commandant (CG–FAC–2), Coast Guard; telephone 202–372–1168, email *Gregory.A.Callaghan@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On March 22, 2013, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (78 FR 17781), in which we proposed to require owners and operators of certain vessels and facilities

regulated by the Coast Guard to use electronic readers designed to work with the Transportation Worker Identification Credential (TWIC) as an access control measure. The NPRM also proposed additional requirements associated with electronic TWIC readers, including recordkeeping requirements for those owners and operators required to use an electronic TWIC reader, and security plan amendments to incorporate TWIC reader requirements. The TWIC program, including the TWIC reader requirements proposed in the NPRM, is an important component of the Coast Guard's multi-layered system of access control requirements and other measures designed to enhance maritime security.

As authorized by the Maritime Transportation Security Act of 2002 [1] (MTSA), the Transportation Security Administration (TSA) established the TWIC program to address identity management shortcomings and vulnerabilities identified in the nation's transportation system and to comply with the MTSA statutory requirements. On January 25, 2007, the Department of Homeland Security (DHS), through the Coast Guard and TSA, promulgated regulations that require mariners and other individuals granted unescorted access to secure areas of MTSA-regulated vessels or facilities to undergo a security threat assessment by TSA and obtain a TWIC.[2]

This NPRM that is the subject of this public meeting, which would require owners and operators of certain types of vessels and facilities to use electronic TWIC readers, would advance the goals of the TWIC program. In crafting the proposals in the NPRM, the Coast Guard conducted a risk-based analysis of MTSA-regulated vessels and facilities to categorize them into one of three risk groups, labeled A, B, and C. Risk Group A is comprised of vessels and facilities that present the highest risk of being involved in a transportation security incident (TSI).[3] The NPRM proposes TWIC reader requirements for vessels and facilities in Risk Group A. Under the NPRM, vessels and facilities in Risk Groups B and C present progressively lower risks, and would continue to follow existing regulatory requirements for visual TWIC inspection.

The Coast Guard believes that in addition to receiving written comments on the NPRM, a public meeting would benefit the impacted community by providing another forum to raise relevant issues. Also, the Security and Accountability For Every (SAFE) Port Act of 2006 [4] requires the Coast Guard to hold at least one public hearing before promulgating final TWIC reader regulations (*see* 46 U.S.C. 70105(k)(3)). This public meeting will further enable the Coast Guard to craft policy informed by the public.

You may view the NPRM, written comments, and supporting documents in the online docket by going to *http://www.regulations.gov* and using ''USCG–2007–28915'' as your search term. Locate the NPRM among the search results and use the filters on the left side of the page to search for specific types of documents. If you do not have access to the Internet, you may view the docket by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Coast Guard has an agreement with the Department of Transportation to use its Docket Management Facility.

We encourage you to participate by submitting comments either orally at the meeting or in writing. If you bring written comments to the meeting, you may submit them to Coast Guard personnel specified at the meeting to receive written comments. These comments will be submitted to our online public docket. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact LCDR Gregory Callaghan at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Public Meeting

The Coast Guard will hold a public meeting regarding the ''Transportation Worker Identification Credential (TWIC)—Reader Requirements'' NPRM (78 FR 17781) on Thursday, May 9, 2013 from 1:00 p.m. to 5:00 p.m., at the Chicago Marriott O'Hare, 8535 West Higgins Road, Chicago, Illinois 60631. The building is accessible by taxi, public transit, and privately-owned conveyance. Please note that the session may adjourn early if all business, concerns, and questions are addressed. We will post a written summary of the meeting and oral comments in the docket.

Authority

This notice is issued under the authority of 46 U.S.C. 70105(k)(3) and 5 U.S.C. 552(a).

Dated: April 8, 2013.

A.E. Tucci,

Captain, U.S. Coast Guard, Chief, Office of Port and Facility Compliance (CG–FAC).

[FR Doc. 2013–08735 Filed 4–12–13; 8:45 am]

BILLING CODE 9110–04–P

[1] Public Law 107–295, 116 Stat. 2064 (Nov. 2, 2002).

[2] Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License, 72 FR 3492 (Jan. 25, 2007).

[3] A transportation security incident is a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area, as defined in 46 U.S.C. 70101 (49 CFR 1572.103).

[4] Public Law 109–347, 120 Stat. 1884 (Oct. 13, 2006).

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AO51

Removal of Penalty for Breaking Appointments

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to remove a regulation that states that a veteran who misses two medical appointments without providing 24 hours' notice and a reasonable excuse is deemed to have refused VA medical care. The current regulation states that no further treatment will be furnished to a veteran deemed to have refused care except in emergency situations, unless the veteran agrees to cooperate by keeping future appointments. VA believes that the current regulation is incompatible with regulatory changes implemented after the regulation was promulgated, is not in line with current practice, and is inconsistent with VA's patient-centered approach to medical care.

DATES: Comments must be received by VA on or before June 14, 2013.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO51—Removal of Penalty for Breaking Appointments.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. This is not a toll-free number. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ethan Kalett, Director, Office of Regulatory Affairs (10B4), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420; (202) 461–5657. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Over the past two decades, there has been a dramatic shift in the United States toward providing patient-centered medical care. Under this approach, patients are equal partners in making treatment decisions, and health care providers deliver care in the least restrictive environment practicable. VA has adopted this approach and, whenever possible, eliminates both potential and proven barriers to care. This is especially important in cases where VA provides treatment to vulnerable veteran populations, veterans who rely on VA as their primary source of medical care, and those with service-connected disabilities. This rulemaking will eliminate a potential barrier to care by removing 38 CFR 17.100.

Under the current regulation, breaking two medical appointments without providing at least 24 hours' notice and a reasonable excuse is deemed a refusal to accept VA treatment. With the exception of emergency care, no further treatment is furnished until the veteran agrees to cooperate by keeping appointments.

We propose to remove this regulation because denying follow up medical treatment for even a short period can interfere with continuity and coordination of care, and the punitive nature of the regulation could have a negative impact on the therapeutic relationship. In addition, VA has taken steps to encourage certain veterans to use our health services, including homeless veterans and other veterans who may not have readily available support such as reliable telephone access or dependable transportation to and from scheduled appointments. VA believes that refusing to provide further medical services to those patients because of broken appointments is counterproductive and may discourage them from attempting to access care in the future. Further, while the current regulation allows VA to provide treatment for an emergent condition, we do not believe this provides an adequate safety net for our patients, especially those with chronic or poorly controlled medical conditions.

Finally, it is not the current practice of VA to deny care to an eligible enrolled veteran who breaks a scheduled appointment. VA's outpatient appointment scheduling processes and procedures do not include documenting the reason given for a missed appointment. Thus, the proposed change will bring regulations in line with current practice.

In a note to 38 CFR 17.107 we state, ''Although VA may restrict the time, place, and/or manner of care under this section, VA will continue to offer the full range of needed medical care to which a patient is eligible under title 38 of the United States Code or Code of Federal Regulations. Patients have the right to accept or refuse treatments or procedures, and such refusal by a patient is not a basis for restricting the provision of care under this section.'' Section 17.107 sets forth procedures for addressing disruptive behavior of patients by imposing reasonable restrictions on the care for which they are eligible. The regulation we intend to remove deems breaking an appointment without 24 hours' notice and a reasonable excuse to be a refusal to accept VA treatment, and denies access to further care based on that refusal. We believe this is contrary to VA's mission and core values, and to § 17.107.

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would directly affect only individuals and would not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

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

regulatory action under Executive Order 12866.

Unfunded Mandates

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

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; and 64.022, Veterans Home Based Primary Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on March 25, 2013, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Government programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: April 10, 2013.

Robert C. McFetridge,

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

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501, and as noted in specific sections.

§ 17.100 [Removed]

■ 2. Remove § 17.100 and the undesignated center heading that precedes it.

[FR Doc. 2013–08794 Filed 4–12–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1212]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On August 17, 2011, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in addition to the information published at 76 FR 50960. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for Pitt County, North Carolina, and Incorporated Areas. Specifically, it addresses the following flooding sources: Pea Branch and Reedy Branch.

DATES: Comments are to be submitted on or before July 15, 2013.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1212, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 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, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), 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 BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. 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 proposed elevations 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 these elevations are made final, and for the contents in those buildings.

In the proposed rule published at 76 FR 50960, in the August 17, 2011, issue of the **Federal Register,** FEMA published a table under the authority of 44 CFR 67.4. The table, entitled ''Pitt County, North Carolina, and Incorporated Areas'' did not address the flooding sources Pea Branch and Reedy Branch. That table omitted information as to the location of referenced elevation, effective and modified elevation in feet, and communities affected for those flooding sources. In this document, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in addition to that previously published.

Correction

In proposed rule FR Doc. 2011–20966, beginning on page 50952 in the issue of August 17, 2011, make the following correction. On page 50957, add the following:

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Pitt County, North Carolina, and Incorporated Areas				
Pea Branch	At the Tranters Creek confluence	+15	+14	Unincorporated areas of Pitt County.
	Approximately 1,250 feet upstream of the Tranters Creek confluence.	+15	+14	
Reedy Branch	At Wright Road	+35	+36	City of Greenville.
	Approximately 400 feet upstream of the railroad	+66	+68	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

City of Greenville

Maps are available for inspection at the Department of Public Works, 1500 Beatty Street, Greenville, NC 27834.

Unincorporated Areas of Pitt County

Maps are available for inspection at the Pitt County Planning Department, 1717 West 5th Street, Greenville, NC 27834.

(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. 2013–08043 Filed 4–12–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1127]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On September 13, 2010, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. On December 10, 2012, a correction to that original notice was published in the **Federal Register**. This notice provides corrections to that initial table and the correction notice, to be used in lieu of the information published at 75 FR 55515 and 77 FR 73394. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for Mercer County, Pennsylvania (All Jurisdictions). Specifically, it addresses the following flooding sources: Baker Run, Little Shenango River, Munnell Run, Neshannock Creek, Otter Creek, Sawmill Run, Shenango River, and Wolf Creek.

DATES: Comments are to be submitted on or before July 15, 2013.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1127, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 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, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), 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 BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. 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 proposed elevations 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 these elevations are made final, and for the contents in those buildings.

Correction

In the proposed rule published at 75 FR 55515 in the September 13, 2010, issue of the **Federal Register,** FEMA published a table under the authority of 44 CFR 67.4. Corrections to that table were subsequently published at 77 FR

73394 in the December 10, 2012, issue of the **Federal Register** under the authority of 44 CFR 67.4. The corrected table, entitled ''Mercer County, Pennsylvania (All Jurisdictions)'' addressed the following flooding sources: Baker Run, Little Shenango River, Munnell Run, Neshannock Creek, Otter Creek, Sawmill Run, Shenango River, and Wolf Creek. That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, and/or communities affected for the flooding source Shenango River. In addition, several of the map repository addresses and the community names of the City of Hermitage and the Borough of Wheatland included in the notice were incorrect. In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

Correction

In proposed rule FR Doc. 2010-20966, beginning on page 55527 in the issue of September 13, 2010, make the following correction. On pages 55522–55523, correct the Mercer County, Pennsylvania table as follows:

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Mercer County, Pennsylvania (All Jurisdictions)				
Baker Run	Approximately 55 feet upstream of Highland Road	None	+1114	City of Sharon.
	Approximately 30 feet downstream of Richmond Drive	None	+1117	
Little Shenango River	Approximately 0.94 mile downstream of the confluence with Little Shenango River Tributary 1.	None	+968	Township of Sugar Grove.
	Approximately 0.9 mile downstream of the confluence with Little Shenango River Tributary 1.	None	+968	
Munnell Run	Approximately 0.31 mile upstream of Home Street	None	+1125	Township of Findley.
	Approximately 0.21 mile downstream of Franklin Street.	None	+1131	
Neshannock Creek	Approximately 425 feet downstream of the intersection of Plantation Drive and Cypress Lane.	None	+1093	Township of Findley.
	Approximately 0.3 mile upstream of the intersection of Schaffer Road and Grove City Road.	None	+1095	
Otter Creek	Approximately 0.28 mile upstream of the confluence with Munnell Run.	None	+1099	Township of Findley.
	Approximately 0.3 mile upstream of the confluence with Munnell Run.	None	+1099	
Sawmill Run	Approximately 0.35 mile upstream of the confluence with Sawmill Run Tributary 1.	None	+1164	Township of Sandy Lake.
	Approximately 0.46 mile upstream of the confluence with Sawmill Run Tributary 1.	None	+1165	
Sawmill Run	Approximately 0.23 mile downstream of Franklin Street (just below Maple Street).	None	+1167	Borough of Stoneboro.
	Approximately 305 feet upstream of Franklin Street	None	+1167	
Shenango River	Approximately 690 feet upstream of the confluence with Big Run No. 1.	None	+930	Borough of Greenville, Township of West Salem.
	Approximately 295 feet upstream of the intersection of Clinton Street and Canal Street.	None	+943	
Shenango River	Approximately 275 feet upstream of the confluence with Shenango River Tributary 3.	None	+835	City of Hermitage.
	Approximately 490 feet downstream of the confluence with Little Yankee Run.	None	+845	
	Just downstream of Clark Street	None	+856	
	Approximately 820 feet upstream of the confluence with Big Run No. 2.	None	+859	
Shenango River	Approximately 2,400 feet upstream of I–80	+832	+833	Township of Shenango.
	Approximately 1.1 miles upstream of I–80	+832	+833	
Shenango River	Approximately 645 feet downstream of Sieg Hill Road	None	+833	Borough of Wheatland.
	Approximately 1,000 feet upstream of Sieg Hill Road	None	+834	
Shenango River	Approximately 0.34 mile upstream of the confluence with the Little Shenango River.	None	+949	Township of West Salem.
	Approximately 200 feet downstream of Porter Road	None	+951	
Wolf Creek	Approximately 0.21 mile upstream of the confluence with Barmore Run.	None	+1220	Township of Pine.
	Approximately 0.34 mile downstream of the intersection of Craig Street and Garden Avenue.	None	+1226	
	Approximately 0.2 mile downstream of the intersection of Craig Street and Garden Avenue.	None	+1226	
	Approximately 0.38 mile downstream of State Route 58 (Main Street).	None	+1226	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 0.22 mile downstream of the confluence with Black Run.	None	+1245	
	Approximately 0.21 mile downstream of the confluence with Black Run.	None	+1245	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

Borough of Greenville
Maps are available for inspection at the Borough Building, 125 Main Street, Greenville, PA 16125.

Borough of Stoneboro
Maps are available for inspection at the Borough Building, 59 Lake Street, Stoneboro, PA 16153.

Borough of Wheatland
Maps are available for inspection at the Borough Building, 71 Broadway Avenue, Wheatland, PA 16161.

City of Hermitage
Maps are available for inspection at City Hall, 800 North Hermitage Road, Hermitage, PA 16148.

City of Sharon
Maps are available for inspection at the Municipal Building, 155 West Connelly Boulevard, Sharon, PA 16146.

Township of Findley
Maps are available for inspection at the Findley Township Building, 369 McClelland Road, Mercer, PA 16137.

Township of Pine
Maps are available for inspection at the Pine Township Building, 545 Barkeyville Road, Grove City, PA 16127.

Township of Sandy Lake
Maps are available for inspection at the Township Building, 3086 Sandy Lake-Grove City Road, Sandy Lake, PA 16145.

Township of Shenango
Maps are available for inspection at the Shenango Township Building, 3439 Hubbard-West Middlesex Road, West Middlesex, PA 16159.

Township of Sugar Grove
Maps are available for inspection at the Sugar Grove Township Building, 359 Groover Road, Greenville, PA 16125.

Township of West Salem
Maps are available for inspection at the West Salem Township Building, 610 Vernan Road, Greenville, PA 16125

(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. 2013–08045 Filed 4–12–13; 8:45 am]
BILLING CODE 9110–12–P

Notices

Federal Register
Vol. 78, No. 72
Monday, April 15, 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.

AFRICAN DEVELOPMENT FOUNDATION

Board of Directors Executive Session Meeting

Meeting: African Development Foundation, Board of Directors Executive Session Meeting

Time: Tuesday, April 23, 2013 11:15 a.m. to 2:15 p.m.

Place: 1400 Eye Street NW., Suite 1000, Washington, DC 20005

Date: Tuesday, April 23, 2013

Status:

1. Open session, Tuesday, April 23, 2013, *11:15 a.m. to 12:10 p.m. 1:15 p.m. to 2:15 p.m.*
2. Closed session, Tuesday, April 23, 2013, *12:15 p.m. to 1:10 p.m.*

Please contact Michele Rivard, Chief of Staff, by 5:00 p.m. on Friday, April 19 if you plan to attend the open session.

Doris Mason Martin,

General Counsel, USADF.

[FR Doc. 2013–08780 Filed 4–12–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 9, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. 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: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. 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 (202) 720–8958.

An agency 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.

Food and Nutrition Service

Title: Worksheet for Supplemental Nutrition Assistance Program Quality Control Reviews.

OMB Control Number: 0584–0074.

Summary of Collection: State agencies are required to perform Quality Control Reviews for the Supplemental Nutrition Assistance Program (SNAP). In order to determine the accuracy of SNAP benefits authorized by State agencies, a statistical sample of SNAP cases is selected for review from each State agency. Relevant information from the case record, investigative work and documentation about individual cases is recorded on the FNS–380, Worksheet for SNAP Quality Control Reviews. This information, along with supporting documentation, is the basis for the determination of the accuracy of the case. Section 16 of the Food and Nutrition Act of 2008 provides the legislative basis for the operation of the QC system.

Need and Use of the Information: The Food and Nutrition Service (FNS) will use the information from the FNS–380 to record identifying information about the household and to also document and evaluate each step of the field investigation process to determine eligibility and payment amounts under FNS' approved State agency practices.

Description of Respondents: State, Local, or Tribal Government; individuals or households.

Number of Respondents: 52,012.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Annually.

Total Burden Hours: 489,641.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–08710 Filed 4–12–13; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Solicitation of Input From Stakeholders Regarding the Integrated Forest Products Research Program

AGENCY: National Institute of Food and Agriculture, Department of Agriculture.

ACTION: Notice of Request for Stakeholder Input.

SUMMARY: As part of the National Institute of Food and Agriculture's (NIFA) strategy to successfully implement the Integrated Forest Products Research (FPR) program and specifically design a response to current and emerging wood utilization issues, NIFA is soliciting stakeholder input that will allow it to identify the needs and opportunities of the different regions of the country but within a national needs framework. The focus of the stakeholder input is to gather topic areas for research which will be used in developing the priority research areas for the Request for Applications (RFA) in Fiscal Year (FY) 2013.

DATES: All written comments must be received by May 15, 2013.

ADDRESSES: You may submit comments, identified by NIFA–2013–0009, by any of the following methods:

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

Email: policy@nifa.usda.gov. Include NIFA–2013–0009 in the subject line of the message.

Fax: (202) 401–1706.

Mail: Paper, disk or CD–ROM submissions should be submitted to: Catalino Blanche, NPL, Environmental Systems Division, Institute of Bioenergy, Climate and Environment, USDA/NIFA, Mail Stop 2210, 1400 Independence Avenue SW., Washington, DC 20250–2210.

Hand Delivery/Courier: Catalino Blanche, NPL, Environmental Systems Division, Institute of Bioenergy, Climate and Environment, USDA/NIFA Room 3271, Waterfront Centre, 800 9th Street SW., Washington, DC 20024.

Instructions: All submissions received must include the agency name and reference to NIFA–2013–0009. All comments received will be posted to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Dr. Catalino A. Blanche, (202) 401–4190 (phone), (202) 401–1706 (fax), or *cblanche@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION: Overall the FPR Program provides creative and innovative science and technology and advanced business practices that enhance the domestic and global competitiveness of the U.S. wood products industry. Specifically, it addresses utilization needs of hardwood, southern conifer and western conifer resources. Because of the limited amount of funding for FPR, last year's RFA focused on creating new and improved wood uses and value-added products. Eligibility for the FPR is open to State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962 (16 U.S.C. 582a et seq.), and accredited schools or colleges of veterinary medicine.

Background and Purpose

The FPR program was first funded by Congress in the FY 2012 Appropriations as a special research grant to be awarded competitively. The intent is to stimulate the generation of new knowledge and transfer technologies that are necessary to balance the sustainable use of U.S. forest resources and to maintain a vigorous, globally competitive domestic forest products industry. The FPR program is specifically designed to respond to current and emerging wood utilization issues, create new and improved value-added products, and provide technical information for the production of cross laminated timber from our Nation's wood supply, which are critical to the sustainability of the national economy.

Implementation Plans

NIFA plans to consider stakeholder input received from this notice in developing the FY 2013 RFA. NIFA anticipates releasing the FY 2013 RFA in mid June, 2013.

Done in Washington, DC, this 9th day of April, 2013.

Ralph A. Otto,

Deputy Director, National Institute of Food and Agriculture.

[FR Doc. 2013–08781 Filed 4–12–13; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

On behalf of the Committee for the Implementation of Textile Agreements (CITA), 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: International Trade Administration.

Title: Interim Procedures for Considering Requests under the Commercial Availability Provision of the United States-Peru Trade Promotion Agreement Implementation Act (Act).

Form Number(s): N/A.

OMB Control Number: 0625–0265.

Type of Request: Regular submission.

Burden Hours: 89.

Number of Respondents: 16 (10 for Requests; 3 for Responses; 3 for Rebuttals).

Average Hours per Response: 8 hours per request; 2 hours per response; and 1 hour per rebuttal.

Needs and Uses: The United States and Peru negotiated the U.S.-Peru Trade Promotion Agreement (the Agreement), which entered into force on February 1, 2009. Subject to the rules of origin in Annex 4.1 of the Agreement, pursuant to the textile provisions of the Agreement, a fabric, yarn, or fiber produced in Peru or the United States and traded between the two countries is entitled to duty-free tariff treatment. Annex 3–B of the Agreement also lists specific fabrics, yarns, and fibers that the two countries agreed are not available in commercial quantities in a timely manner from producers in Peru or the United States. The fabrics listed are commercially unavailable fabrics, yarns, and fibers, which are also entitled to duty-free treatment despite not being produced in Peru or the United States.

The list of commercially unavailable fabrics, yarns, and fibers may be changed pursuant to the commercial availability provision in Chapter 3, Article 3.3, Paragraphs 5–7 of the Agreement. Section 203(o) of the Act implements the commercial availability provision of the Agreement. Under this provision, interested entities from Peru or the United States have the right to request that a specific fabric, yarn, or fiber be added to, or removed from, the list of commercially unavailable fabrics, yarns, and fibers in Annex 3–B.

Section 203(o) of the Act provides that the President may modify the list of fabrics, yarns, and fibers in Annex 3–B by determining whether additional fabrics, yarns, or fibers are not available in commercial quantities in a timely manner in the United States or Peru, and that the President will issue procedures governing the submission of requests and providing an opportunity for interested entities to submit comments. The President delegated the responsibility for publishing the procedures and administering commercial availability requests to CITA, which issues procedures and acts on requests through the U.S. Department of Commerce, Office of Textiles and Apparel (OTEXA) (*See* Proclamation No. 8341, 74 FR 4105, Jan. 22, 2009). Interim procedures to implement these responsibilities were published in the **Federal Register** on August 14, 2009 (*See* 74 FR 41111, Commercial Availability Procedures).

The intent of the Commercial Availability Procedures is to foster the use of U.S. and regional products by implementing procedures that allow products to be placed on or removed from a product list, on a timely basis, and in a manner that is consistent with normal business practice. The procedures are intended to facilitate the transmission of requests; allow the market to indicate the availability of the supply of products that are the subject of requests; make available promptly, to interested entities and the public, information regarding the requests for products and offers received for those products; ensure wide participation by interested entities and parties; allow for careful review and consideration of information provided to substantiate requests and responses; and provide timely public dissemination of information used by CITA in making commercial availability determinations.

CITA must collect certain information about fabric, yarn, or fiber technical specifications and the production

capabilities of Peruvian and U.S. textile producers to determine whether certain fabrics, yarns, or fibers are available in commercial quantities in a timely manner in the United States or Peru, subject to Section 203(o) of the Act.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Wendy Liberante, (202) 395–3647.

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 Wendy Liberante, OMB Desk Officer, Fax number (202) 395–5167 or via the Internet at *Wendy_L._Liberante@omb.eop.gov.*

Dated: April 10, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–08755 Filed 4–12–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–825]

Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 22, 2013, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar (SSB) from Brazil. For these final results, we continue to find that Villares Metals S.A. (Villares) has not sold subject merchandise at less than normal value.

DATES: *Effective Date:* April 15, 2013.

FOR FURTHER INFORMATION CONTACT: Sandra Dreisonstok or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0768 and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 22, 2013, the Department published the preliminary results of the administrative review of the antidumping duty order on SSB from Brazil.[1] The period of review is February 1, 2011, through January 31, 2012.

We invited interested parties to comment on the *Preliminary Results.* We received a case brief from Villares on February 21, 2013, in which it alleged two clerical errors in the calculation. The petitioners[2] did not file a case or rebuttal brief.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to the order is SSB. The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.,* cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections. The SSB subject to the order is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[3]

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have corrected two programming errors in the weighted-average dumping margin calculation in the *Preliminary Results.* These changes, however, did not affect the final weighted-average dumping margin for Villares. A detailed discussion of the corrections made is included in the final analysis memorandum,[4] which is hereby adopted by this notice 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.

Final Results of Review

As a result of this review, we determine that a weighted-average dumping margin of 0.00 percent exists for Villares for the period February 1, 2011, through January 31, 2012.

Assessment Rates

In accordance with the *Final Modification,*[5] we will instruct U.S. Customs and Border Protection (CBP) to liquidate entries covered in this review without regard to antidumping duties.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the period of review produced by Villares 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 country-specific all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and*

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[1] *See Stainless Steel Bar From Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 4383 (January 22, 2013) (*Preliminary Results*).

[2] Carpenter Technology Corporation, Crucible Industries LLC, and Valbruna Slater Stainless, Inc.

[3] The HTSUS numbers provided in the scope have changed since the publication of the order. *See Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan,* 60 FR 9661 (February 21, 1995).

[4] *See* Memorandum to the file from Sandra Dreisonstok through Minoo Hatten entitled, ''Administrative Review of the Antidumping Duty Order on Stainless Steel Bar from Brazil: Final Analysis Memorandum for Villares Metals S.A.; 2011–2012,'' dated concurrently with this notice.

[5] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results for all shipments of SSB from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) No cash deposit will be required for Villares which received a rate of 0.00 percent in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, 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 original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 19.43 percent, the all-others rate established in the *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Brazil,* 59 FR 66914 (December 28, 1994). These cash deposit requirements shall remain in effect until further notice.

Notifications

This notice serves as a final 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 doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 9, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–08792 Filed 4–12–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission; 2010–2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 9, 2012, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (the PRC). The period of review (POR) is September 1, 2010, through August 31, 2011. For the final results, we continue to find that certain companies covered by this review made sales of subject merchandise at less than normal value.

DATES: *Effective Date:* April 15, 2013.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3477 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 2012, the Department published the preliminary results of the administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC.[1] On January 14, 2013, we issued a memorandum extending the time limit for the final results of the review to April 9, 2013.[2] On February 25, 2013, we issued a post-preliminary memorandum finding that Xiping Opeck Food Co., Ltd.'s (Xiping Opeck) U.S. customer's customer is a price discriminator, *i.e.,* is in a position to set the price of the product, for most of Xiping Opeck's entries subject to this review.[3]

We received case and rebuttal briefs with respect to the *Preliminary Results* and the Post-Preliminary Analysis Memo, and at the Crawfish Processors Alliance's request, we held a hearing on March 14, 2013.

We have conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by the antidumping duty order is freshwater crawfish tail meat. The freshwater crawfish tail meat subject to the order is currently classifiable under subheadings 1605.40.10.10, 1605.40.10.90, 0306.19.00.10, and 0306.29.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes only. A full description of the scope of the order is contained in the Issues and Decision Memorandum,[4] which is hereby adopted by this notice. The written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case briefs by parties to this administrative review are addressed in the Issues and Decision

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[1] *See Freshwater Crawfish Tail Meat From the People's Republic of China: Antidumping Duty Administrative Review; 2010–2011,* 77 FR 61383 (October 9, 2012) (*Preliminary Results*) and the accompanying Memorandum to Paul Piquado, Assistant Secretary for Import Administration, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Freshwater Crawfish Tail Meat from the People's Republic of China,'' dated October 9, 2012 (Preliminary Decision Memorandum).

[2] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Freshwater Crawfish Tail Meat from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review,'' dated January 14, 2013.

[3] *See* Memorandum to Paul Piquado, Assistant Secretary for Import Administration, entitled, ''Freshwater Crawfish Tail Meat from the People's Republic of China—Post-Preliminary Analysis Memorandum'' dated February 25, 2013 (Post-Preliminary Analysis Memo).

[4] *See* Memorandum to Paul Piquado, Assistant Secretary for Import Administration, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China'' dated concurrently with this notice (Issues and Decision Memorandum).

Memorandum. A list of the issues raised is attached to this notice as an appendix. The Issues and 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). Access to 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 Issues and Decision Memorandum can be accessed directly on the Import Administration Web site at *http://ia.ita.doc.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Rescission of Administrative Review in Part

We preliminarily found that Shanghai Ocean Flavor International Trading Co., Ltd. (Shanghai Ocean Flavor), and Xuzhou Jinjiang Foodstuffs Co., Ltd. (Xuzhou Jinjiang) did not have exports of subject merchandise during the POR and, on this basis, we stated our intent to rescind the review in part.[5] We continue to find that Shanghai Ocean Flavor and Xuzhou Jinjiang had no shipments of freshwater crawfish tail meat from the PRC during the POR. In accordance with 19 CFR 351.213(d)(3), we are rescinding the review of Shanghai Ocean Flavor, and Xuzhou Jinjiang.

Nature of Transactions Pertaining to the Entries Under Review With Respect to Xiping Opeck

In our Post-Preliminary Analysis Memo we preliminarily found that another entity (hereinafter, Company A)[6] plays a role in the pricing associated with most of Xiping Opeck's entries of subject merchandise in this review. For a detailed discussion on this issue and of our calculation of the antidumping margin on the sales made by Company A, *see* the Post-Preliminary Analysis Memo. For these final results, we continue to find that Company A plays a role in the pricing associated with most of Xiping Opeck's entries of subject merchandise in this review.

Separate Rate for a Non-Selected Company

Nanjing Gemsen International Co., Ltd. (Nanjing) is the only exporter of crawfish tail meat from the PRC that demonstrated its eligibility for a separate rate which was not selected for individual examination in this review. The calculated rates of the respondents selected for individual examination have changed since the *Preliminary Results* and are now all zero. Accordingly, we have concluded that in this case a reasonable method for determining the rate for the non-selected company, Nanjing, is to apply its most recent individually calculated rate of 12.37 percent to Nanjing, its calculated rate in a previous administrative review.[7] For a detailed discussion, *see* Issues and Decision Memorandum.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made revisions that have changed the results for certain companies. Additionally, we have made calculation programming changes for the final results. For further details on the changes we made for these final results, *see* the company-specific analysis memoranda, the Post-Preliminary Analysis Memo, and the Issues and Decision Memorandum, which are hereby adopted by this notice.

Final Results of the Review

As a result of the administrative review, we determine that the following percentage weighted-average dumping margins exist for the period September 1, 2010, through August 31, 2011:

Company	Margin (percent)
Xiping Opeck Food Co., Ltd.	0.00
China Kingdom (Beijing) Import & Export Co. Ltd.	0.00
Yangcheng Hi-King Agriculture Developing Co. Ltd.[8]	0.00
Nanjing Gemsen International Co., Ltd.	12.37

Assessment

The Department will determine, and U.S Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. We intend to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

For Xiping Opeck, China Kingdom (Beijing) Import & Export Co. Ltd., and Hi-King Agriculture we will instruct CBP to liquidate all entries during the POR without regard to antidumping duties because their weighted-average dumping margins in these final results are zero or *de minimis.*[9] For Nanjing, the only non-selected respondent that received a separate rate, we will instruct CBP to apply an antidumping duty assessment rate equal to the weighted-average dumping margin in these final results of 12.37 percent to all entries of subject merchandise that entered the United States during the POR.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by the companies listed above that have separate rates, the cash deposit rate will be the rate established in this final results of review for each exporter as listed above, except if the rate is zero or *de minimis,* then no cash deposit will be required for that exporter; (2) for previously investigated companies not listed above that have separate rates, the cash deposit rate will continue to be the company-specific rate published for the investigation; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 223.01 percent; (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 entity that supplied that non-PRC exporter. These deposit requirements shall remain in effect until further notice.

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a

[5] *See* Preliminary Decision Memorandum, at 2–3.

[6] We are withholding the identity of Company A because Xiping Opeck's U.S. customer claimed business-proprietary treatment of this information. *See* Post-Preliminary Analysis Memo at 1.

[7] *See Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative and New-Shipper Reviews,* 75 FR 79337 (December 20, 2010).

[8] For these final results, we continue to find that Yangcheng Hi-King Agriculture Developing Co. Ltd (Hi-King Agriculture) and its affiliates, Yancheng Seastar Seafood Co., Ltd., Wuhan Hi-King Agriculture Development Co., Ltd., Yancheng Hi-King Frozen Food Co., Ltd., Jiangxi Hi-King Poyang Lake Seafood Co., Ltd., and Yancheng Hi-King Aquatic Growing Co., Ltd., are a single entity for the purpose of calculating an antidumping duty margin. *See* Issues and Decision memorandum.

[9] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8103 (February 14, 2012).

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 Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written 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 sanctionable violation.

These final results of review are issued and published in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: April 9, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

1. Use of U.S. Prices to Value Whole Crawfish
2. Use of Post-POR Spanish Prices to Value Whole Crawfish
3. Use of Updated Financial Information to Value Factory Overhead, Selling, General & Administrative (SG&A) Expenses, and Profit

[FR Doc. 2013–08791 Filed 4–12–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–954]

Certain Magnesia Carbon Bricks From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review; 2010–2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 9, 2012, the Department of Commerce (''Department'') published in the **Federal Register** the preliminary results of the first administrative review of the antidumping duty order on certain magnesia carbon bricks from the People's Republic of China (''PRC'').[1] We provided interested parties an opportunity to comment on the *Preliminary Results.* After reviewing the comments and information received, we made no change to the *Preliminary Results.* The final weighted-average dumping margins for this review are listed below in the ''Final Results of Review'' section of this notice. The period of review (''POR'') is March 12, 2010, through August 31, 2011.

DATES: *Effective Date:* April 15, 2013.

FOR FURTHER INFORMATION CONTACT: Jerry Huang, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4047.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 2012, the Department published the *Preliminary Results.* On October 31, 2012, Fengchi Imp. and Exp. Co., Ltd. of Haicheng City, and its affiliated producer Fengchi Refractories Co., of Haicheng City (collectively ''Fengchi'') submitted surrogate value information. On November 13, 2012, the Department received case briefs from Resco Products, Inc. (''Petitioner'') and from Fengchi and Fedmet Resources Corporation (''Fedmet''), an importer of subject merchandise. On November 19, 2012, the Department received rebuttal briefs from Petitioner, ANH Refractories Company (''ANH''), a domestic interested party, Fengchi and Fedmet.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the memorandum entitled, ''Certain Magnesia Carbon Bricks from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2010–2011 Administrative Review (''Issues and Decision Memorandum''),'' which is dated concurrently with, and adopted by, this notice. A list of the issues which parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix I. The Issues and 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 Issues and Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/*. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Order

The merchandise subject to the order includes certain magnesia carbon bricks.[2] Certain magnesia carbon bricks that are the subject of this order are currently classifiable under subheadings 6810.11.0000, 6810.91.0000, 6810.99.0080, 6902.10.1000, 6902.10.5000, 6815.91.0000, 6815.99.2000 and 6815.99.4000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.[3]

Changes Since the Preliminary Results

Based on the comments received from the interested parties, we have made no change to the *Preliminary Results.* For a discussion of the issues, *see* the Issues and Decision Memorandum.

Final Rescission, in Part, of the Administrative Review

In the *Preliminary Results,* the Department indicated its intent to rescind this review with respect to ANH (Xinyi) Refractories (''ANH (Xinyi)''), Yingkou New Century Refractories Ltd. (''Yingkou New Century''), and RHI-Refractories Asia Pacific Pte. Ltd., RHI Refractories (Dalian) Co., Ltd., RHI Refractories Liaoning Co., Ltd., RHI Trading Shanghai Branch, and RHI Trading (Dalian) Co., Ltd. (collectively, ''RHI'') upon preliminarily determining that they had no shipments of subject merchandise to the United States during the POR.[4] Subsequent to the *Preliminary Results,* no information was submitted on the record indicating that these companies made sales to the United States of subject merchandise during the POR and no party provided written arguments regarding this issue. Thus, in accordance with 19 CFR 351.213(d)(3), and consistent with our practice,[5] we

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[1] *See Certain Magnesia Carbon Bricks From the People's Republic of China: Antidumping Duty Administrative Review; 2010–2011,* 77 FR 61394 (October 9, 2012) (''*Preliminary Results*'').

[2] *See* Issues and Decision Memorandum for a complete description of the scope of the order.

[3] *See Certain Magnesia Carbon Bricks From Mexico and the People's Republic of China: Antidumping Duty Orders,* 75 FR 57257 (September 20, 2010).

[4] *See Preliminary Results,* 77 FR 61394–61395.

[5] *See, e.g., Certain Tissue Paper Products from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 18497, 18500 (April

are rescinding this review with respect to ANH (Xinyi), Yingkou New Century and RHI.

PRC-Wide Entity

In the *Preliminary Results,* we assigned to the PRC-wide entity, which included Yingkou Byuquan Refractories Co., Ltd. (''BRC''), a rate of 236.00 percent based upon adverse facts available (''AFA''). We have received no comment or information since the *Preliminary Results* that would warrant reconsideration of our determination. Therefore, the final results are unchanged from the *Preliminary Results,* and we have continued to assign an AFA rate of 236.00 percent to the PRC-wide entity, which includes BRC.

Final Results of Review

The weighted-average dumping margins for the POR are as follows:

Exporter	Weighted-average dumping margin (percent)
Fengchi Imp. and Exp. Co., Ltd. of Haicheng City and Fengchi Refractories Co., of Haicheng City	236.00
PRC-wide entity (including Yingkou Byuquan Refractories Co., Ltd.)	236.00

The Department will disclose calculations performed for these final results to the parties within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Assessment

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

For any individually examined respondents whose weighted-average dumping margin is not below *de minimis* (*i.e.,* 0.5 percent), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[6] The Department 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 not below *de minimis.* Where either the respondent's weighted-average dumping margin is zero or below *de minimis,* or an importer-specific assessment rate is zero or below *de minimis*,[7] the Department will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the PRC-wide entity, the Department will instruct CBP to assess antidumping duties at a rate equal to the weighted-average dumping margin included above in the Final Results of Review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (Act): (1) for the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of review (except, if the rate is zero or below *de minimis, i.e.,* 0.5 percent, a zero cash deposit rate will be required for that exporter); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have a separate rate, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be 236.00 percent, the rate 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 exporters that supplied that non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final 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 POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a 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, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/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 this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: April 9, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Comment 1 Adverse Facts Available for Fengchi's Failure to Report Sales of Magnesia Alumina Carbon Bricks

Comment 2 The Appropriate Weighted-Average Dumping Margin Assigned to Fengchi

Comment 3 Surrogate Values for Dumping Margin Calculations

Comment 4 Customs Instructions

[FR Doc. 2013–08807 Filed 4–12–13; 8:45 am]

BILLING CODE 3510–DS–P

4, 2008) (preliminarily rescinding review because of lack of reviewable entries), unchanged in *Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review,* 73 FR 58113 (October 6, 2008).

[6] In these final 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).

[7] *See* 19 CFR 351.106(c)(2).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843]

Certain Lined Paper Products From India: Final Results of Antidumping Duty Administrative Review; 2010–2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 9, 2012, the Department of Commerce (the Department) published in the **Federal Register** the *Preliminary Results* of the antidumping duty administrative review of certain lined paper products from India (CLPP), and gave interested parties an opportunity to comment on the *Preliminary Results.*[1] The review covers 57 producers/exporters of the subject merchandise, including Riddhi Enterprises (Riddhi) and SAB International (SAB).[2] The period of review (POR) is September 1, 2010, through August 31, 2011. As a result of our analysis of the comments and information received, these final results differ from the *Preliminary Results.*

For our final results, we find that Riddhi and SAB have not made sales of subject merchandise at less than normal value (NV). In addition, we have determined that 51 of the remaining non-selected respondents will receive the weighted-average non-selected respondent rate as calculated in these final results, and four uncooperative non-selected respondents will continue to receive a rate based on adverse facts available (AFA).

DATES: *Effective Date:* April 15, 2013.

FOR FURTHER INFORMATION CONTACT: George McMahon (Riddhi) and Cindy Robinson (SAB), AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1167 and (202) 482–3797, respectively.

SUPPLEMENTARY INFORMATION:

Comments From Interested Parties

In accordance with 19 CFR 351.309(c)(1)(ii), we invited parties to comment on our *Preliminary Results.* On November 8, 2012, Riddhi and SAB submitted their respective case briefs. On November 8, 2012, Pioneer Stationery Private Limited (Pioneer)[3] also submitted its case brief; however, the Department rejected this brief because it contained untimely filed factual information.[4] On November 13, 2012, Petitioner[5] filed case briefs regarding Riddhi and SAB. Pursuant to the Department's instructions, Pioneer submitted its revised case brief on December 3, 2012, excluding the untimely filed factual information. On December 6, 2012, Riddhi and SAB filed their respective rebuttal briefs. On December 7, 2012, Petitioner and Navneet Publications (India) Ltd. (Navneet) filed rebuttal briefs.[6] On January 14, 2013, Petitioner's counsel met with officials from the Department.[7] On January 16, 2013, Pioneer's representative and its counsel met with officials from the Department.[8]

Scope of the Order

The merchandise covered by the *CLPP Order*[9] is certain lined paper products. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.[10]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Memorandum to Paul Piquado, Assistant Secretary for Import Administration, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Certain Lined Paper Products from India: Issues and Decision Memorandum for the Final Results of the Fifth Antidumping Duty Administrative Review of Certain Lined Paper Products from India (2010–2011)'' (''Final Issues and Decision Memorandum''), dated concurrently and hereby adopted by this notice. A list of the issues that parties raised and to which we responded is attached to this notice as Appendix I. The Final Issues and 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 Final Issues and Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/.* The signed Final Issues and Decision Memorandum and the electronic versions of the Final Issues and Decision Memorandum are identical in content.

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 prices have been calculated in accordance with section 772 of the Act. NV has been calculated in accordance with section 773 of the Act. Pursuant to sections 776(a) and (b) of the Act, these findings in part rely on facts available, as well as the application of adverse inferences in selecting from among the facts available,

[1] *See Certain Lined Paper Products From India: Antidumping Duty Administrative Review; 2010–2011,* 77 FR 61381 (October 9, 2012) (*Preliminary Results*), and accompanying Decision Memorandum (*Preliminary Decision Memorandum*).

[2] This review covers 57 manufacturers and exporters of the subject merchandise from India, two of which (Riddhi and SAB) are selected as mandatory respondents. The names of the remaining 55 non-selected respondents are listed below in this notice as well as in the *Initiation Notice. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 76 FR 67133 (October 31, 2011) (*Initiation Notice*).

[3] Pioneer is one of the 55 non-selected respondents and represents one of the 13 Indian companies for which the Department issued a Quantity & Value questionnaire. *See* the Department's December 8, 2011, letter.

[4] *See* the Department's Letter to Pioneer, dated November 26, 2012.

[5] Petitioner includes ACCO Brands USA LLC, Norcom Inc., and Top Flight, Inc. *See* Petitioner's letter titled, ''Notification of Membership Change,'' dated April 1, 2013.

[6] Navneet is one of the 55 non-selected respondents.

[7] *See* Memorandum to the File, Through Melissa Skinner, Director, Office 8, from George McMahon, Case Analyst, Office 8, titled ''Certain Lined Paper Products from India: Meeting with Interested Party,'' dated January 14, 2013.

[8] *See* Memorandum to the File, Through Melissa Skinner, Director, Office 8, from Cindy Robinson, Case Analyst, Office 8, titled ''Certain Lined Paper Products from India: Meeting with Interested Party,'' dated January 16, 2013.

[9] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006) (*CLPP Order*).

[10] For a complete description of the Scope of the Order, *see Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006).

for those respondents that failed to cooperate by not acting to the best of their ability in responding to the Department's requests for information. Pursuant to section 773(b)(1) of the Act, we conducted a cost of production (COP) analysis of Riddhi and SAB sales in India in this review.[11] Based on the COP test, we disregarded Riddhi and SAB sales at below-cost prices in their respective comparison markets.

For a full description of the methodology underlying our conclusions, please see the Final Issues and Decision Memorandum.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we have made company-specific changes to the margin calculations for Riddhi and SAB.[12]

In addition, we determine to apply the rate for non-selected respondents to Pioneer in these final results and not a rate based on AFA.[13] However, we continue to apply an AFA rate to the uncooperative respondents.

Furthermore, following the changes to the dumping margins for the two mandatory respondents in these final results,[14] the AFA rate and the rate for non-selected respondents have also changed. *See* next sections for details.

AFA Rate

With regards to selection of the AFA rate, the Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the rate is sufficiently adverse ''as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' [15] The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' [16]

In the present proceeding, because prior calculated rates involved zeroing, consistent with *AFBs 2012* [17] and pursuant to section 776(b) of the Act, we are relying on information placed on the record by the cooperative respondents.[18] Specifically, the AFA rate we have selected is the highest, non-aberrational transaction-specific margin, 22.02 percent, calculated for one of the mandatory respondents in the instant review.

Rates for Respondents Not Selected for Individual Examination

Generally, when calculating the margin for non-selected respondents, the Department has looked to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others margin in an investigation. Section 735(c)(5)(A) of the Act provides that when calculating the all-others margin, the Department will exclude any zero and *de minimis* weighted-average dumping margins, as well as any weighted-average dumping margins based on total facts available. Accordingly, the Department's usual practice has been to average the margins for selected respondents, excluding margins that are zero, *de minimis,* or based entirely on facts available.[19] Section 735(c)(5)(B) of the Act also provides that where all rates are zero, *de minimis* or based on total facts available, the Department may use ''any reasonable method'' to establish the rate for non-selected respondents, including ''averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.''

In this review, we have calculated weighted-average dumping margins of zero for both mandatory respondents. In past reviews, the Department has determined that a ''reasonable method'' to use when, as here, the margins for respondents selected for individual examination are zero or *de minimis* is to assign non-selected respondents the average of the most recently determined margins that are not zero, *de minimis,* or based entirely on facts available (which may be from a prior review or new shipper review).[20] However, if a non-selected respondent has its own calculated margin that is contemporaneous with or more recent than previous margins, the Department has applied the individually-calculated margin to the non-selected respondent, including when that margin is zero or *de minimis.*[21]

In the present proceeding, all prior margins were calculated using the Department's zeroing methodology. The Department has stated that it will not use its zeroing methodology in administrative reviews with preliminary determinations issued after April 16, 2012.[22] Therefore, the Department has not relied on any weighted-average margins calculated in prior reviews to determine the rate for the non-selected respondents in this review.

We have determined that a reasonable method for assigning a margin to non-selected respondents in this review is to utilize the weighted-average dumping margins calculated for the two mandatory respondents (zero percent) and the AFA rate assigned to the four uncooperative companies (22.02 percent). We have limited the number of rates used in the average, that are based on AFA due to failures to respond to the quantity and value (Q&V) questionnaires, to the same number of companies that we determined we could

[11] The Department disregarded sales by Riddhi that were below the COP in the previous administrative review, therefore, we had a reasonable basis to believe or suspect that Riddhi's sales may have been made at prices below the COP. Accordingly, we requested that Riddhi respond to section D of the Department's questionnaire. *See* Antidumping Questionnaire Cover Letter to Riddhi dated January 20, 2011; *see also Preliminary Results.*

[12] *See* Final Issues and Decision Memorandum; Memorandum to the File, Through Eric B. Greynolds, Program Manager, Office 8, from George McMahon, Case Analyst, Office 8, titled ''Certain Lined Paper Products from India: Calculation Memorandum—Riddhi Enterprises Ltd.,'' dated February 8, 2013 (Riddhi Calculation Memorandum); and Memorandum to the File, Through Eric B. Greynolds, Program Manager, Office 8, from Cindy Robinson, Case Analyst, Office 8, titled ''Certain Lined Paper Products from India: Calculation Memorandum—SAB International,'' dated February 8, 2013 (SAB Calculation Memorandum).

[13] *See* Final Issues and Decision Memorandum at Comment 4 for details.

[14] Both mandatory respondents have a zero dumping margin in these final results.

[15] *See, e.g., Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part,* 71 FR 65082, 65084 (November 7, 2006); *see also Certain Frozen Warmwater Shrimp from India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review,* 72 FR 65082, 65084 (November 7, 2006), unchanged in the final results; *Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 72 FR 65082, 65084 (November 7, 2006).

[16] *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, Vol. I, at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199.

[17] *See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011,* 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1 (*AFBs 2012*).

[18] *See* Final Issues and Decision Memorandum at Comment 5; *see also* Memorandum to the File through Eric Greynolds, Program Manager, AD/CVD Operations 8, from the Team titled ''Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative Review: Selection of Total Adverse Facts-Available Rate, (AFA Memo)'' dated April 9, 2013.

[19] *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part,* 73 FR 52823, 52824 (September 11, 2008) (*AFBs 2008*), and accompanying Issues and Decision Memorandum at Comment 16.

[20] *Id.*

[21] *Id.*

[22] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification for Reviews,* 77 FR 8101 (February 14, 2012) (*Final Modification*).

reasonably examine in this review, which was two. Accordingly, we determined the non-selected rate by taking the simple average of the rates calculated for the two selected mandatory respondents and two AFA rates for companies that failed to respond to the Q&V questionnaire. Thus, we are assigning an average dumping margin of 11.01 percent to all non-selected respondents, including Pioneer, in these final results.[23]

Final Results of the Review

As a result of this review, the Department determines that the dumping margins for the POR are as follows:

A. Calculated Rate for the Two Mandatory Respondents

Producer/Exporter	Weighted-average dumping margin (percent)
Riddhi Enterprises, Ltd.	0.00
SAB International	0.00

B. Rate for the Non-Selected, Cooperative Respondents[24]

Producer/Exporter	Weighted-average dumping margin (percent)
Abhinav Paper Products Pvt Ltd	11.01
American Scholar, Inc. and/or I-Scholar	11.01
A R Printing & Packaging India	11.01
Akar Limited	11.01
Apl Logistics India Pvt. Ltd.	11.01
Artesign Impex	11.01
Arun Art Printers Pvt. Ltd.	11.01
Aryan Worldwide	11.01
Bafna Exports	11.01
Cargomar Pvt. Ltd.	11.01
Cello International Pvt. Ltd. (M/S Cello Paper Products)	11.01
Corporate Stationery Pvt. Ltd.	11.01
Crane Worldwide Logistics Ind Pvt.	11.01
Creative Divya	11.01
D.D International	11.01
Exel India (Pvt.) Ltd.	11.01
Exmart International Pvt. Ltd.	11.01
Expeditors International (India) Pvt/Expeditors Cargo Mgmnt Systems	11.01
Fatechand Mahendrakumar	11.01
FFI International	11.01
Freight India Logistics Pvt. Ltd.	11.01
Gauriputra International	11.01
International Greetings Pvt. Ltd.	11.01
Karur K.C.P. Packagings Ltd	11.01
Kejriwal Paper Ltd. and Kejriwal Exports	11.01
Lodha Offset Limited	11.01
M.S. The Bell Match Company	11.01
Magic International Pvt Ltd	11.01
Mahavideh Foundation	11.01
Marisa International	11.01
Navneet Publications (India) Ltd.	11.01
Orient Press Ltd.	11.01
Paperwise Inc.	11.01
Phalada Agro Research Foundations	11.01
Pioneer Stationery Pvt. Ltd.	11.01
Premier Exports	11.01
Raghunath Exporters	11.01
Rajvansh International	11.01
SAI Suburi International	11.01
SAR Transport Systems	11.01
SDV Intl Logistics Ltd.	11.01
Seet Kamal International	11.01
SGM Paper Products	11.01
Shivam Handicrafts	11.01
Soham Udyog	11.01
Sonal Printers Pvt. Ltd.	11.01
Super Impex	11.01
Swati Growth Funds Ltd.	11.01
Swift Freight (India) Pvt. Ltd	11.01
V&M	11.01
Yash Laminates	11.01

C. AFA Rate for the Uncooperative Respondents[25]

Producer/Exporter	Weighted average dumping margin (percent)
Ampoules & Vials Mfg. Co. Ltd.	22.02
AR Printing & Packaging (India) PVT	22.02
Chitra Exports	22.02
Diki Continental Exports	22.02

Assessment Rates

Pursuant section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those sales. Where the assessment rate is above *de minimis,* we will instruct CBP to assess duties on all entries of subject merchandise by that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent).

The Department clarified its ''automatic assessment'' regulation on May 6, 2003.[26] This clarification applies to entries of subject merchandise during the POR produced by companies examined in this review (*i.e.,* companies for which a dumping margin was calculated) where the companies did not know that their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the 3.91 percent all-others rate established in the original investigation for India if there is no company-specific rate for an intermediary company(ies) involved in the transaction.[27]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results for all shipments of CLPP from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for companies covered by this review, the cash deposit rate will be the rates listed above; (2) for previously reviewed or investigated companies other than those covered by this review, the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the producer of the subject merchandise; and (4) if neither the exporter nor the producer is a firm covered in this review, a prior review, or the original investigation, the cash deposit rate will be 3.91 percent, the all-others rate established in the original investigation.[28] These cash deposit requirements, when imposed, shall remain in effect until further notice.

[23] *See* Final Issues and Decision Memorandum at Comment 5; *see also* Memorandum to the File through Eric Greynolds, Program Manager, AD/CVD Operations 8, from the Team titled ''Certain Lined Paper Products from India: Margin for Respondents Not Selected for Individual Examination: (Non-selected Rate Memo)'' dated April 9, 2013.

[24] *See* Final Issues and Decision Memo at Comment 5; *see also* Non-selected Rate Memo.

[25] *See* Final Issues and Decision Memorandum at Comment 4; *see also* AFA memo.

[26] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[27] *See CLPP Order.*

[28] *Id.*

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 9, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

List of Comments in the Accompanying Final Issues and Decision Memorandum:

A. General Issue

Comment 1: *Whether to Apply Targeted Dumping With Respect to Riddhi and SAB*

B. Company-Specific Issues

Comment 2: *Whether the Department Properly Calculated Riddhi's Comparison Market Net Price (CMNETPRI)*

Comment 3: *Whether the Department Properly Applied the Exchange Rate to SAB's Countervailing Duty Offset (CVDU)*

Comment 4: *Whether to Apply the Adverse Facts Available (AFA) Rate to Pioneer*

Comment 5: *The Proper Rate to Apply to the Non-Selected Respondents*

[FR Doc. 2013–08790 Filed 4–12–13; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–955]

Certain Magnesia Carbon Bricks From the People's Republic of China: Final Results of and Final Partial Rescission of Countervailing Duty Administrative Review; 2010

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 9, 2012, the Department of Commerce (the Department) published the preliminary results of the 2010 administrative review of the countervailing duty (CVD) order on certain magnesia carbon bricks from the People's Republic of China (PRC) covering the two mandatory respondents for the period of review (POR) of August 2, 2010, through December 31, 2010.[1] We invited parties to comment on the *Preliminary Results.*[2] Based on the analysis of the comments received, the Department has not made any changes to the subsidy rates determined for the two mandatory respondents. The final subsidy rates are listed in the ''Final Results of Review'' section below.

DATES: *Effective Date:* April 15, 2013.

FOR FURTHER INFORMATION CONTACT: Toni Page or Elfi Blum, 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) 482–1398 or (202) 482–0197, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 2012, the Department published the *Preliminary Results,* which covered the two mandatory respondents—Fengchi Imp. and Exp. Co., Ltd. of Haicheng City and Fengchi Refractories Co., of Haicheng City (collectively, Fengchi) and Yingkou Bayuquan Refractories Co., Ltd. (BRC)—as well as the remaining producers/exporters for whom we initiated reviews.

On November 13, 2012, the Department received case briefs from Resco Products, Inc. (the petitioner in the original investigation) (Petitioner), the Government of the People's Republic of China (the GOC), and Fengchi. The Department received rebuttal briefs on November 19, 2012, from Petitioner, Fengchi, and ANH Refractories Company (ANH), a domestic producer of subject merchandise.

Analysis of Comments Received

All issues raised by parties in their case briefs are addressed in the Final Decision Memorandum.[3] A list of these issues is attached to this notice in Appendix I. The Final 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). Access to 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 Final Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/.* The signed Final Decision Memorandum and electronic versions of the Final Decision Memorandum are identical in content.

Scope of the Order

The scope of the order includes certain magnesia carbon bricks.[4] Certain magnesia carbon bricks that are the subject of the order are currently classifiable under subheadings 6810.11.0000, 6810.91.0000, 6810.99.0080, 6902.10.1000, 6902.10.5000, 6815.91.0000, 6815.99.2000 and 6815.99.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive.

Changes Since the Preliminary Results

Based on the comments received from the interested parties, we have made no change to the *Preliminary Results.* For a discussion of the issues, *see* the Final Decision Memorandum.

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[1] *See Certain Magnesia Carbon Bricks From the People's Republic of China: 2010 Countervailing Duty Administrative Review,* 77 FR 61397 (October 9, 2012) (*Preliminary Results*).

[2] *See Preliminary Results,* 77 FR 61399.

[3] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, ''Issues and Decision Memorandum for Certain Magnesia Carbon Bricks from the People's Republic of China: Final Results of the 2010 Administrative Review,'' dated concurrently with this notice and herein incorporated by reference (Final Decision Memorandum).

[4] *See* Final Decision Memorandum for a complete description of the scope of the order.

Final Rescission, in Part, of the Administrative Review

In the *Preliminary Results,* we stated that a final decision regarding whether to rescind the review with respect to certain companies would be made in the final results of this review.[5] We continue to find no evidence on the record to indicate that these companies exported subject merchandise during the POR. Accordingly, pursuant to 19 CFR 351.213(d)(3), the Department is rescinding the review with respect to ANH Xinyi, the RHI companies, and NCR for these final results.

Rate for Non-Selected Companies Under Review

With respect to the companies for which we initiated reviews and for which the review has not been rescinded,[6] we are assigning these companies the all others rate from the investigation because the rates determined for the mandatory respondents in this review are based entirely upon AFA. We consider the use of the all-others rate from the investigation, which was based upon a calculated rate for one of the mandatory respondents in the investigation, to be a reasonable method for calculating the rate applicable to the remaining companies under review because it represents the only rate in the history of the CVD order on magnesia carbon bricks from the PRC that is not zero, *de minimis,* or based entirely upon facts available.

Final Results of Review

The subsidy rates for the POR are as follows:

Company	Subsidy rate (percent)
Fengchi Imp. and Exp. Co., Ltd. of Haicheng City and Fengchi Refractories Co., of Haicheng City	262.80
Yingkou Bayuquan Refractories Co. Ltd.	262.80
Rate Applicable to the Remaining Companies Under Review[7]	24.24

[7] *See* Appendix II.

Assessment Rates

The Department intends to issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) 15 days after publication of these final results of review.

Cash Deposit Instructions

The Department also intends to instruct CBP to collect cash deposits of estimated CVDs in the amounts shown above. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated CVDs at the all others rate established in the investigation. Accordingly, the cash deposit rates that will be applied to companies covered by the order, but not examined in this review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested and completed. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an 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(a)(3), which continues to govern business proprietary information in this segment of proceeding. Timely written notification of the return/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. These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 9, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Comment 1: Application of Adverse Facts Available (AFA) to Fengchi for its Failure to Report Period of Review (POR) Information for Magnesia Alumina Carbon Bricks (MACBs)
Comment 2: Selection of the Appropriate AFA Rate to Assign to Fengchi and Corroboration of That Rate
Comment 3: Corrections to the Department's Draft Customs Instructions
Comment 4: Petitioner's Untimely Withdrawal Request

Appendix II

List of Remaining Companies Under Review
Anyang Rongzhu Silicon Industry Co., Ltd.
Bayuquan Refractories Co., Ltd.
Beijing Tianxing Ceramic Fiber Composite Materials Corp.
Changxing Magnesium Furnace Charge Co., Ltd.
Changxing Wangfa Architectural & Metallurgical Materials Co., Ltd.
Changzing Zhicheng Refractory Material Factory
China Metallurgical Raw Material Beijing Company
China Quantai Metallurgical (Beijing) Engineering & Science Co., Ltd.
Chosun Refractories
Cimm Group of China
CNBM International Corporation
Dalian Dalmond Trading Co., Ltd.
Dalian F.T.Z. Maylong Resources Co., Ltd.
Dalian Huayu Refractories International Co., Ltd.
Dalian LST Metallurgy Co., Ltd.
Dalian Mayerton Refractories Co. Ltd.
Dalian Morgan Refractories Ltd.
Dashiqiao Bozhong Mineral Products Co., Ltd.
Dashiqiao City Guangcheng Refractory Co., Ltd.
Dashiqiao Jia Sheng Mining Co., Ltd.
Dashiqiao Jinlong Refractories Co., Ltd.
Dashiqiao RongXing Refractory Material Co., Ltd.
Dashiqiao Sanqiang Refractory Material Co., Ltd.
Dashiqiao Yutong Packing Factory
Dengfeng Desheng Refractory Co., Ltd.
DFL Minmet Refractories Corp.
Duferco BarInvest SA Beijing Office
Duferco Ironet Shanghai Representative Office
Duferco SA
Eastern Industries & Trading Co., Ltd.
Fengchi Mining Co., Ltd of Haicheng City
Fengchi Refractories Co., of Haicheng City
Fengchi Refractories Corp.
Haicheng City Qunli Mining Co., Ltd.
Haicheng City Xiyang Import & Export Corporation
Haicheng Donghe Taidi Refractory Co., Ltd.
Haicheng Ruitong Mining Co., Ltd.

[5] *See Preliminary Results,* 77 FR 61398. The companies are: ANH (Xinyi) Refractories (ANH Xinyi); RHI-Refractories Asia Pacific Pte. Ltd., RHI Refractories (Dalian) Co. Ltd., RHI Refractories Liaoning Co., Ltd., RHI Trading Shanghai Branch, and RHI Trading (Dalian) Co., Ltd. (collectively, the RHI companies); and Yingkou New Century Refractories Ltd. (NCR).

[6] A complete list of the remaining companies on which we initiated a review and for which the review was not rescinded is provided in Appendix II to this notice.

Haiyuan Talc Powder Manufacture Factory
Henan Boma Co. Ltd.
Henan Kingway Chemicals Co., Ltd.
Henan Tagore Refractories Co., Ltd.
Henan Xinmi Changzxing Refractories, Co., Ltd.
Hebei Qinghe Refractory Group Co. Ltd
Huailin Refractories (Dashiqiao) Pte. Ltd.
Jiangsu Sujia Group New Materials Co., Ltd
Jiangsu Sujia Joint-Stock Co., Ltd.
Jinan Forever Imp. & Emp. Trading Co., Ltd.
Jinan Linquan Imp. & Emp. Co. Ltd.
Jinan Ludong Refractory Co., Ltd.
Kosmokraft Refractory Limited
Kuehne & Nagel Ltd. Dalian Branch Office
Lechang City Guangdong Province SongXin Refractories Co., Ltd.
Liaoning Fucheng Refractories Group Co., Ltd.
Liaoning Fucheng Special Refractory Co., Ltd.
Liaoning Jiayi Metals & Minerals Ltd.
Liaoning Jinding Magnesite Group
Liaoning Mayerton Refractories Co., Ltd.
Liaoning Mineral & Metallurgy Group Co., Ltd.
Liaoning Qunyi Group Refractories Co., Ltd.
Liaoning Qunyi Trade Co., Ltd.
Liaoning RHI Jinding Magnesia Co., Ltd.
LiShuang Refractory Industrial Co., Ltd.
Lithomelt Co., Ltd.
Luheng Refractory Co., Ltd.
Luoyang Refractory Group Co., Ltd.
Mayerton Refractories
Minsource International Ltd.
Minteq International Inc.
National Minerals Co., Ltd.
North Refractories Co., Ltd.
Orestar Metals & Minerals Co., Ltd.
Oreworld Trade (Tangshan) Co., Ltd.
Puyang Refractories Co., Ltd.
Qingdao Almatis Co., Ltd. (HQ)
Qingdao Almatis Co., Ltd. (Manufacturing)
Qingdao Almatis Trading Co., Ltd. (Sales Office)
Qingdao Blueshell Import & Emport Corp.
Qingdao Fujing Group Co., Ltd.
Qingdao Huierde International Trade Co., Ltd.
Rongyuan Magnesite Co., Ltd. of Dashiqiao City
Shandong Cambridge International Trade Inc.
Shandong Lunai Kiln Refractories Co., Ltd.
Shandong Refractories Corp.
Shanxi Dajin International (Group) Co., Ltd.
Shanxi Xinrong International Trade Co. Ltd.
Shenyang Yi Xin Sheng Lai Refractory Materials Co., Ltd.
Shinagawa Rongyuan Refractories Co., Ltd.
Sinosteel Corporation
SMMC Group Co., Ltd.
Tangshan Success Import & Export Trading Co., Ltd.
Tianjin New Century Refractories, Ltd.
Tianjin New World Import & Export Trading Co., Ltd.
Tianjin Weiyuan Refractory Co., Ltd.
Vesuvius Advanced Ceramics (Suzhou) Co. Ltd.
Wonjin Refractories Co., Ltd.
Xiyuan Xingquan Forsterite Co., Ltd.
Yanshi City Guangming High-Tech Refractories Products Co., Ltd.
YHS Minerals Co., Ltd.
Yingkou Dalmond Refractories Co., Ltd.
Yingkou Guangyang Refractories Co., Ltd.
Yingkou Guangyang Refractories Co., Ltd. (YGR)
Yingkou Heping Samwha Minerals Co., Ltd.
Yingkou Jiahe Refractories Co., Ltd.
Yingkou Jinlong Refractories Group
Yingkou Kyushu Refractories Co., Ltd.
Yingkou Qinghua Group Imp. & Emp. Co., Ltd.
Yingkou Qinghua Refractories Co., Ltd.
Yingkou Sanhua Refractory Materials Co., Ltd.
Yingkou Tianrun Refractory Co.,Ltd.
Yingkou Wonjin Refractory Material Co., Ltd.
Yingkou Yongji Mag Refractory, Ltd.
Yixing Runlong Trade Co., Ltd.
Yixing Xinwei Leeshing Refractory Material Co., Ltd.
Yixing Zhenqiu Charging Ltd.
Zhejiang Changxing Guangming Special Refractory Material Foundry, Co., Ltd.
Zhejiang Deqing Jinlei Refractory Co., Ltd.
Zhejiang Huzhou Fuzilin Refractory Metals Group Co., Ltd.
Zhengzhou Annec Industrial Co., Ltd.
Zhengzhou Huachen Refractory Co., Ltd.
Zibo Lianzhu Refractory Materials Co., Ltd.

[FR Doc. 2013–08793 Filed 4–12–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Trade Mission to Philippines and Malaysia

AGENCY: International Trade Administration, Department of Commerce

ACTION: Notice

Mission Description

The United States Department of Commerce, International Trade Administration, U.S. & Foreign Commercial Service (US&FCS), is organizing an executive led education industry trade mission to Manila, Philippines and Kuala Lumpur, Malaysia from October 23—October 30, 2013. This mission is open to representatives from regionally accredited educational institutions offering undergraduate, graduate, and associate degree. Undergraduate and graduate programs and community colleges seeking to participate should be accredited by one of the six regional institutional accreditors in the United States. This mission will seek to connect educational institutions in the United States to potential students, university/institution partners, and education consultants in the Philippines and Malaysia. The mission will include one-on-one appointments with potential partners, embassy briefings, student fairs and networking events in Manila and Kuala Lumpur, the largest cities in two dynamic countries, each of which hold high potential for U.S. educational institutions interested in students from this region.

Commercial Setting

Philippines

The U.S. still attracts a commanding share of Filipinos wishing to study abroad. U.S. institutions remain a top choice owing in large part to the firmly established historical, socio-cultural and political ties between the two countries. Due to increased competition from schools in other countries such as Australia, Singapore, the United Kingdom and Canada, U.S. schools are encouraged to establish and sustain outreach activities and to leverage the support offered by key education sector contacts. During the 2011/2012 academic year, 3,194 students from the Philippines were studying in the United States. Of these students, 52.7% were undergraduate students and 32.6% were graduate students.

The current educational system in the Philippines is largely based on the American model. There are about 1,600 higher educational institutions (HEIs) in the Philippines, of which 80% are private. There are several international schools in the Philippines. Many of these schools are concentrated in the Manila metropolitan area and offer International Baccalaureate (IB) programs to help prepare students who wish to study overseas. Filipino families place a premium on quality education, and as long as they can afford it, parents often prefer to send their children to private schools. Many overseas schools are increasing their recruiting efforts in the Phillipines, particularly with respect to certain niche segments of Filipino society, for example the socio-economic political elite, legacy students/alumni network, and upper middle class families. Meanwhile, there has been a wave of international students, notably Koreans, who spend time in the Philippines specifically to learn English. Many of them eventually move on to pursue degrees in English-speaking countries like the United States, Canada and Australia.

Malaysia

Malaysian parents have historically placed a strong emphasis on education. As such, the demand for higher education in Malaysia has traditionally been and continues to be strong. Within the higher education environment, students in Malaysia generally fall into one of two categories: those funded by government scholarships and those funded privately. Government scholarships for higher education are

available. These government funded students typically either study in local public universities or for those who excel, overseas educational institutions. The majority of privately funded students study at private colleges, which often offer transfer, twinning, and external degree programs based on U.S., curriculum. Twinning is defined as a unique degree program where students can complete one part of their education in country and the second part at an international institution.

While a U.S. post secondary education has always been highly regarded, the number of Malaysian students studying in the United States decreased in the early 2000's as a result of an increase in the number of quality local universities and colleges, stronger competition from other countries, the Asian financial crisis, and 9/11. However, since 2006/7, the number of Malaysian students in the United States has increased 21.6%. In the 2011/12 academic year, 6,743 Malaysian students were studying in the United States, which ranks Malaysia as the twenty-first leading place of origin for students coming to the United States. Of these students, 68% were undergraduates and 19.7% were graduate students.

Mission Goals

The goals of the U.S. Education Mission to the Philippines and Malaysia are:

(1) To gain market exposure and introduce participants to two growing student markets in the region, taking advantage of the strong ties and positive reputation that United States educational institutions have in these countries.

(2) To develop market knowledge and relationships that can enhance future recruitment of students, as well as potential partnerships with local educational institutions and education consultants.

Mission Scenario

Participation in the mission will include the following:

- Pre-travel briefings/webinars;
- Embassy/consulate and industry briefings;
- Networking events in Manila and Kuala Lumpur;
- Pre-scheduled meetings with university heads in Manila and Kuala Lumpur;
- Educational consultants and guidance counselors fairs;
- Visits to private high schools;
- Student recruitment fairs in Manila and Kuala Lumpur;
- Airport transfers to hotels and to and from sites in Manila and Kuala Lumpur associated with the trade mission.

The precise schedule will depend on the specific goals and objectives of the mission participants.

Proposed Mission Schedule—October 23–30, 2013

Wednesday, October 23, 2013

Arrive Manila.

Thursday and Friday, October 24 and 25, 2013

Embassy breakfast briefing, meetings with agents and guidance counselors, student fair, networking with local schools All scheduled events in Manila will end Friday evening.

Saturday through Monday, October 26, 27, and 28, 2013

Per clients' suggestions on previous missions, we have left this time open for mission participants to stay in Manila or go on to Kuala Lumpur for potential business meetings. All participants must be in Kuala Lumpur by Monday evening.

Tuesday and Wednesday, October 29 and 30, 2013

Embassy breakfast briefing, meetings with agents and guidance counselors, student fair, visits to local schools.

Participation Requirements

All parties interested in participating in the Mission to the Philippines and Malaysia must complete and submit an application for consideration by the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. The mission will include a minimum of 40 and maximum of 50 qualified, regionally accredited U.S. educational institutions.

Fees and Expenses

After an educational institution has been selected to participate on the mission, a payment to the U.S. Department of Commerce in the form of a participation fee is required. The participation fee is $1,800 for one principal representative from each non-profit educational institution and $2,350 for for-profit universities with over 500 employees. The fee for each additional representative is $500. Expenses for lodging, some meals, incidentals, and all travel (except on group site visits) will be the responsibility of each mission participant.

Conditions for Participation

An applicant must submit a timely, completed and signed mission application and supplemental application materials, including adequate information on the applicant's accreditation, courses offerings, primary market objectives, and goals for participation. If the U.S. Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

- Participants must also travel to both stops on the mission.
- Each participant is subject to and must meet the US&FCS service eligibility requirements.

Selection Criteria for Participation

- Consistency of the applicant's goals and objectives with the stated scope of the mission
- Applicant's potential for doing business in the Philippines and Malaysia, including likelihood of service exports (education)/knowledge transfer resulting from the mission
- Applicant must be appropriately accredited as per paragraph one
- Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the U.S. Department of Commerce trade mission calendar (*http://www.trade.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than August 1, 2013. The mission will be open on a first-come, first-serve basis and applications will be reviewed on a rolling basis. Applications received after that date will be considered only if space and scheduling constraints permit.

How to Apply

Applications can be obtained by contacting Melissa Branzburg or David Edmiston at the U.S. Department of Commerce (see contact details below.) Completed applications should be submitted to Melissa Branzburg.

Contacts

Melissa Branzburg, U.S. Commercial Service, Boston, MA, *Melissa.Branzburg@trade.gov*, 617–565–4309.

David Edmiston, U.S. Commercial Service, Minneapolis, MN, *David.Edmiston@trade.gov*, 612–348–1644.

Thess Sula, U.S. Commercial Service, Manila, Philippines, *Thess.Sula@trade.gov*, 632–888–4088.

Tracy Yeoh, U.S. Commercial Service, Kuala Lumpur, Malaysia, *Tracy.Yeoh@trade.gov*, 60–3–2168–5089.

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2013–08722 Filed 4–12–13; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC037

Endangered Species; File No. 16556

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that NMFS Northeast Fisheries Science Center (NEFSC; Responsible Party: Dr. William Karp), 166 Water St., Woods Hole, MA 02543 has been issued a permit to take loggerhead (*Caretta caretta*), leatherback (*Dermochelys coriacea*), Kemp's ridley (*Lepidochelys kempii*), and green (*Chelonia mydas*) sea turtles for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

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;

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281–9328; fax (978) 281–9394; and

Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Kristy Beard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On May 29, 2012, notice was published in the **Federal Register** (77 FR 31586) that a request for a scientific research permit to take loggerhead, leatherback, Kemp's ridley, and green sea turtles had been submitted by the above-named organization. The requested permit has been issued under the authority of 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 parts 222–226).

The NEFSC has been issued a five-year permit to continue sea turtle ecological research in the Western Atlantic (Florida Keys through Maine). Researchers may capture sea turtles by hand, using nets, or obtain them from other legal authorities. Sea turtles may be counted, examined, photographed, marked, biologically sampled, and/or have transmitters attached to the carapace prior to release and then temporarily tracked. One sea turtle may accidentally die each year during research. Researchers may also salvage carcass, tissue, and parts from dead animals encountered during surveys. A portion of the requested research procedures are not being authorized at this time.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 10, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–08786 Filed 4–12–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC238

Takes of Marine Mammals Incidental to Specified Activities; Marine Geophysical Survey on the Mid-Atlantic Ridge in the Atlantic Ocean, April 2013, Through June 2013

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulation, we hereby give notification that we have issued an Incidental Harassment Authorization (Authorization) to Lamont-Doherty Earth Observatory (Observatory), a part of Columbia University, in collaboration with the National Science Foundation (Foundation), to take marine mammals, by harassment, incidental to conducting a marine geophysical (seismic) survey on the Mid-Atlantic Ridge in the north Atlantic Ocean in international waters, from April 2013 through June 2013.

DATES: Effective April 8, 2013, through June 24, 2013.

ADDRESSES: To obtain an electronic copy of the Authorization, write to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225 or download an electronic copy at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

To obtain an electronic copy of (1) the application containing a list of the references within this document; and (2) the Foundation's draft environmental analysis titled, ''Marine geophysical survey by the R/V *Marcus G. Langseth* on the mid-Atlantic Ridge, April–May 2013,'' for their federal action of funding the Observatory's seismic survey; or (3) our Environmental Assessment titled, ''Issuance of an Incidental Harassment Authorization to Lamont-Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical Survey in the Atlantic Ocean, April–June, 2013,'' and the Finding of No Significant Impact; write to the previously mentioned address, telephone the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or download the file at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

The Service's Biological Opinion will be available online at: *http://www.nmfs.noaa.gov/pr/consultation/opinions.htm*.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, National Marine Fisheries Service, Office of Protected Resources, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce

to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after notice of a proposed authorization to the public for review and public comment: (1) We make certain findings; and (2) the taking is limited to harassment.

We shall grant authorization for the incidental taking of small numbers of marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The authorization must set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat; and requirements pertaining to the mitigation, monitoring and reporting of such taking. We have defined ''negligible impact'' in 50 CFR 216.103 as '' * * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for our review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, we must either issue or deny the authorization and must publish a notice in the **Federal Register** within 30 days of our determination to issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On December 7, 2012, we received an application from the Observatory requesting that we issue an Incidental Harassment Authorization (Authorization) for the take, by Level B harassment only, of small numbers of marine mammals incidental to conducting a marine seismic survey in the north Atlantic Ocean in international waters April through May 13, 2013. We received a revised application from the Observatory on December 23, 2012 and January 17, 2013, which reflected updates to the mitigation safety zones, incidental take requests for marine mammals, and information on marine protected areas. We determined the application complete and adequate on January 18, 2013 and released the application for public comment (see **ADDRESSES**) for consideration of issuing an Authorization to the Observatory.

The Observatory, with research funding from the Foundation, plans to conduct the seismic survey plans to conduct a two-dimensional (2–D) seismic survey on the Mid-Atlantic Ridge in the north Atlantic Ocean to image the Rainbow massif to determine the characteristics of the magma body that supplies heat to the Rainbow hydrothermal field; determine the distribution of the different rock types that form the Rainbow massif; document large- and small-scale faults in the vicinity and investigate their role in controlling hydrothermal fluid discharge. The Observatory plans to use one source vessel, the R/V *Marcus G. Langseth* (*Langseth*), a seismic airgun array, a single hydrophone streamer, and ocean bottom seismometers (seismometers) to conduct the seismic survey. In addition to the operations of the seismic airgun array and hydrophone streamer, and the seismometers, the Observatory intends to operate a multibeam echosounder and a sub-bottom profiler continuously throughout the proposed survey.

Acoustic stimuli (i.e., increased underwater sound) generated during seismic operations, may have the potential to cause behavioral disturbance for marine mammals in the survey area. This is the principal means of marine mammal taking associated with these activities. We expect these disturbances to be temporary and result in a temporary modification in behavior and/or low-level physiological effects (Level B harassment only) of small numbers of certain species of marine mammals.

We do not expect that the movement of the *Langseth,* during the conduct of the seismic survey, has the potential to harass marine mammals because of the relatively slow operation speed of the vessel (4.6 knots (kts); 8.5 kilometers per hour (km/h); 5.3 miles per hour (mph)) during seismic acquisition.

We also do not expect that the operation of the echosounder, sub-bottom profiler, and ocean bottom seismometers have the potential to harass marine mammals because they would already experience affects from the airgun array. Whether or not the airguns are operating simultaneously with the other sources, we expect the marine mammals to exhibit no more than temporary and inconsequential responses to the echosounder, sub-bottom profiler, and ocean bottom seismometers given their characteristics (e.g., narrow, downward-directed beam).

Some minor deviation from the Observatory's requested dates of April through May 2013, is possible, depending on logistics, weather conditions, and the need to repeat some lines if data quality is substandard. Therefore, we would issue an Authorization that is effective from April 8, 2013, to June 24, 2013.

We have outlined the purpose of the program in a previous notice for the proposed Authorization (78 FR 10137, February 13, 2013). The Observatory's proposed activities have not changed between the proposed Authorization notice and this final notice announcing the issuance of the Authorization. Refer to the to the notice of the proposed Authorization (78 FR 10137, February 13, 2013), the application, and the Foundation's environmental analysis for a more detailed description of the authorized action, including vessel and acoustic source specifications.

Description of the Specified Geographic Region

The Observatory would conduct the survey in international waters outside of the Azorean Exclusive Economic Zone. The study area would encompass an area on the Mid-Atlantic Ridge bounded by the following coordinates: approximately 35.5 to 36.5° North by 33.5 to 34.5° West.

Comments and Responses

We published a notice of receipt of the Observatory's application and proposed Authorization in the **Federal Register** on February 13, 2013 (78 FR 10137). During the 30-day public comment period, we received comments from the Marine Mammal Commission (Commission) and one private citizen. These comments are online at: *http://www.nmfs.noaa.gov/pr/permits/*

incidental.htm. Following are the comments and our responses.

Comment 1: One private citizen requested that we deny the Observatory's Authorization application because they believed that the activity would kill marine mammals in the survey area.

Response: As described in detail in the **Federal Resister** notice for the proposed Authorization (78 FR 10137, February 13, 2013), as well as in this document, we do not believe that the Observatory's seismic surveys would cause injury or mortality to marine mammals. The required monitoring and mitigation measures that the Observatory would implement during the survey would further reduce the adverse effect on marine mammals to the lowest levels practicable. Therefore, we do not anticipate that any injuries, serious injuries, or mortalities would occur as a result of the Observatory's planned marine seismic surveys, and we do not propose to authorize injury, serious injury or mortality for this survey. We anticipate only behavioral disturbance to occur during the conduct of the survey activities.

Comment 2: The Commission recommends that, before issuing the requested Authorization, we require the Observatory to: (1) Re-estimate the proposed exclusion zones and buffer zones and associated number of marine mammal takes using operational and site-specific environmental parameters, using simple ratios to adjust for tow depth, and, applying a correction factor of 1.5 to estimate sound propagation in intermediate water depths; and (2) if the Observatory does not re-estimate the zones, provide a detailed justification for basing the proposed survey's zones on modeling that relies on measurements from the Gulf of Mexico instead of the Atlantic Ocean.

Response: With respect to the Commission's first point, based upon the best available information and our analysis of the likely effects of the specified activity on marine mammals and their habitat, we are satisfied that the data supplied by the Observatory and the information that we evaluated in the proposal including the referenced documents comprise the best available information on the likely effects of the activities on marine mammals are sufficient to inform our analysis and determinations under the MMPA, ESA of 1973 (16 U.S.C. 1531 *et seq.*), and the National Environmental Policy Act (NEPA). The identified zones are appropriate for the survey. Thus, for this survey, we will not require the Observatory to re-estimate the proposed exclusion zones and buffer zones and associated number of marine mammal takes using operational and site-specific environmental parameters.

With respect to the Commission's second point, the Observatory has predicted received sound levels in the action area using their acoustic model (Diebold *et al.,* 2010) as a function of distance from the airguns for the 36-airgun array and for a single 1900LL 40-cubic inch (in^3) airgun. This modeling approach uses ray tracing for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half space (infinite homogeneous ocean layer, unbounded by a seafloor). The Observatory's application and the Foundation's environmental analysis includes detailed information on the study, and their modeling process of the calibration experiment in shallow, intermediate, and deep water. Additionally, the conclusions in Appendix H of the ''2011 Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement for Marine Seismic Research Funded by the National Science Foundation or Conducted by the U.S. Geological Survey'' (2011 PEIS) also show that the Observatory's model represents the actual produced sound levels, particularly within the first few kilometers, where the predicted zone (i.e., exclusion zone) lie. At greater distances, local oceanographic variations begin to take effect, and the Observatory's model tends to over predict.

Because the modeling matches the observed measurement data, the authors concluded that those using the models to predict zones can continue to do so, including predicting exclusion zones around the vessel for various tow depths. At present, the Observatory's model does not account for site-specific environmental conditions and the calibration study analysis of the model predicted that using site-specific information may actually estimate less conservative exclusion zones at greater distances.

While it is difficult to estimate exposures of marine mammals to acoustic stimuli, we are confident that the Observatory's approach to quantifying the exclusion and buffer zones uses the best available scientific information (as required by our regulations) and estimation methodologies. After considering this comment and evaluating the respective approaches for establishing exclusion and buffer zones, we have determined that the Observatory's approach and corresponding monitoring and mitigation measures will effect the least practicable impact on the affected marine mammal species or stocks.

Comment 3: The Commission recommends that, before issuing the requested Authorization, we use species-specific maximum densities (i.e., estimated by multiplying the existing density estimates by a precautionary correction factor) to account for uncertainty and then re-estimate the anticipated number of takes.

Response: For purposes of this Authorization, the Observatory used the cetacean densities based on densities calculated from sightings, effort, mean group sizes, and values for f(0) in Waring *et al.* (2008), which extends from the Azores at approximately 38° N to approximately 53° N. The Observatory's use of these peer-reviewed density estimates are the best available information to estimate density for the survey area and to estimate the number of authorized takes for the seismic survey on the Mid-Atlantic Ridge in the Atlantic Ocean. The results of the associated monitoring reports show that our past use of best estimates in international waters was appropriate and has not refuted our past determinations.

Comment 4: The Commission recommends that we prohibit an eight-minute pause following the sighting of a marine mammal in the exclusion zone and extend that pause to cover the maximum dive times of the species likely to be encountered prior to resuming airgun operations after both power-down and shut-down procedures.

Response: The Authorization specifies the conditions under which the *Langseth* will resume full-power operations of the airguns after a power-down or shut-down. During periods of active seismic operations, there are occasions when the airguns need to be temporarily shut-down (e.g., due to equipment failure, maintenance, or shut-down) or when a power-down is necessary (e.g., when a marine mammal is seen entering or about to enter the exclusion zone).

Following a shutdown, if the observer has visually confirmed that the animal has departed the 180-dB exclusion zone within a period of less than or equal to eight minutes after the shutdown, then the *Langseth* may resume airgun operations at full power. Else, if the observer has not seen the animal depart the 180-dB exclusion zone, the *Langseth* shall not resume airgun activity until 15 minutes after the last sighting has passed for species with shorter dive times (i.e., small odontocetes and

pinnipeds) or 30 minutes after the last sighting has passed for species with longer dive durations (i.e., mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales). The *Langseth* may then initiate the 30-minute ramp-up. However, ramp-up will not occur as long as a marine mammal is detected within the exclusion zone, which provides more time for animals to leave the exclusion zone, and accounts for the position, swim speed, and heading of marine mammals within the exclusion zone.

We, the Observatory, and the Foundation believe that the eight-minute period in question is an appropriate minimum amount of time to pass after which a ramp-up process should be followed. In these instances, should it be possible for the Observatory to reactivate the airguns without exceeding the eight-minute period (e.g., equipment is fixed or a marine mammal is visually observed to have left the exclusion zone for the full source level), then the Observatory would reactivate the airguns to the full operating source level identified for the survey (in this case 6,600 in^3) without need for initiating ramp-up procedures.

We recognize that several species of deep-diving cetaceans are capable of remaining underwater for more than 30 minutes (e.g., sperm whales and several species of beaked whales); however, for the following reasons we believe that 30 minutes is an adequate length for the monitoring period prior to the ramp-up of airguns:

(1) Because the *Langseth* is required to monitor before ramp-up of the airgun array, the time of monitoring prior to the start-up of any but the smallest array is effectively longer than 30 minutes (ramp-up will begin with the smallest airgun in the array and airguns will be added in sequence such that the source level of the array will increase in steps not exceeding approximately 6 dB per five minute period over a total duration of about 30 minutes);

(2) In many cases Protected Species Observers are observing during times when the Observatory is not operating the seismic airguns and would observe the area prior to the 30-minute observation period;

(3) The majority of the species that may be exposed do not stay underwater more than 30 minutes; and

(4) All else being equal and if deep-diving individuals happened to be in the area in the short time immediately prior to the pre-ramp-up monitoring, if an animal's maximum underwater dive time is 45 minutes, then there is only a one in three chance that the last random surfacing would occur prior to the beginning of the required 30-minute monitoring period and that the animal would not be seen during that 30-minute period.

(5) Finally, seismic vessels are moving continuously (because of the long, towed array and streamer) and we believe that unless the animal submerges and follows at the speed of the vessel (highly unlikely, especially when considering that a significant part of their movement is vertical [deep-diving]), the vessel will be far beyond the length of the exclusion zone within 30 minutes, and therefore it will be safe to start the airguns again.

Under the MMPA, incidental take authorizations must include means of effecting the least practicable impact on marine mammal species and their habitat. Monitoring and mitigation measures are designed to comply with this requirement. The effectiveness of monitoring is science-based, and monitoring and mitigation measures must be ''practicable.'' We believe that the framework for visual monitoring will: (1) Be effective at spotting almost all species for which take is requested; and (2) that imposing additional requirements, such as those suggested by the Commission, would not meaningfully increase the effectiveness of observing marine mammals approaching or entering exclusion zones and thus further minimize the potential for take.

Comment 5: The Commission recommends that we provide additional justification for our preliminary determination that the proposed monitoring program will be sufficient to detect, with a high level of confidence, all marine mammals within or entering the identified exclusion and buffer zones—such justification should (1) identify those species that it believes can be detected with a high degree of confidence using visual monitoring only under the expected environmental conditions, (2) describe detection probability as a function of distance from the vessel, (3) describe changes in detection probability under various sea state and weather conditions and light levels, and (4) explain how close to the vessel marine mammals must be for observers to achieve high nighttime detection rates.

Response: We believe that the planned monitoring program would be sufficient to detect (using visual monitoring and passive acoustic monitoring), with reasonable certainty, marine mammals within or entering the identified exclusion zones. This monitoring, along with the required mitigation measures, would result in the least practicable impact on the affected species or stocks and would result in a negligible impact on the affected species or stocks of marine mammals. Also, we expect some animals to avoid areas around the airgun array ensonified at the level of the exclusion zone.

We acknowledge that the detection probability for certain species of marine mammals varies depending on the animal's size and behavior, as well as sea state, weather conditions, and light levels. The detectability of marine mammals likely decreases in low light (i.e., darkness), higher Beaufort sea states and wind conditions, and poor weather (e.g., fog and/or rain). However, at present, we view the combination of visual monitoring and passive acoustic monitoring as the most effective monitoring and mitigation techniques available for detecting marine mammals within or entering the exclusion zone. The final monitoring and mitigation measures are the most effective and feasible measures, and we are not aware of any additional measures which could meaningfully increase the likelihood of detecting marine mammals in and around the exclusion zone. Further, public comment has not revealed any additional monitoring and mitigation measures that could be feasibly implemented to increase the effectiveness of detection.

The Foundation and Observatory are receptive to incorporating proven technologies and techniques to enhance the current monitoring and mitigation program. Until proven technological advances are made nighttime mitigation measures during operations include combinations of the use of Protected Species Visual Observers for ramp-ups, passive acoustic monitoring, night vision devices provided to Protected Species Visual Observers, and continuous shooting of a mitigation airgun. Should the airgun array be powered-down the operation of a single airgun would continue to serve as a sound deterrent to marine mammals. In the event of a complete shut-down of the airgun array at night for mitigation or repairs, the Observatory suspends the data collection until 30 minutes after nautical twilight-dawn (when Protected Species Visual Observers are able to clear the exclusion zone). The Observatory will not activate the airguns until the entire exclusion zone is visible and free of marine mammals for at least 30 minutes.

In cooperation with us, the Observatory will be conducting efficacy experiments of night vision devices during a future *Langseth* cruise. In addition, in response to a recommendation from us, the

Observatory is evaluating the use of forward-looking thermal imaging cameras to supplement nighttime monitoring and mitigation practices. During other low-power seismic and seafloor mapping surveys throughout the world, the Observatory successfully used these devices while conducting nighttime seismic operations.

Comment 6: The Commission recommends that we consult with the funding agency (i.e., the Foundation) and individual applicants (i.e., the Observatory and U.S. Geological Survey) to develop, validate, and implement a monitoring program that provides a scientifically sound, reasonably accurate assessment of the types of marine mammal taking and the number of marine mammals taken.

Response: There will be periods of transit time during the cruise, and Protected Species Observers will be on watch prior to and after the seismic portions of the surveys, in addition to during the surveys. The collection of this visual observational data by Protected Species Observers may contribute to baseline data on marine mammals (presence/absence) and provide some generalized support for estimated take numbers, but it is unlikely that the information gathered from these cruises alone would result in any statistically robust conclusions for any particular species because of the small number of animals typically observed.

We acknowledge the Commission's recommendations and are open to further coordination with the Commission, Foundation (the vessel owner), and the Observatory (the ship operator on behalf of the Foundation), to develop, validate, and implement a monitoring program that will provide or contribute towards a more scientifically sound and reasonably accurate assessment of the types of marine mammal taking and the number of marine mammals taken.

Comment 7: The Commission recommends that we require the Observatory to: (1) Report the number of marine mammals that were detected acoustically and for which a power-down or shut-down of the airguns was initiated; (2) specify if such animals also were detected visually; (3) compare the results from the two monitoring methods (visual versus acoustic) to help identify their respective strengths and weaknesses; and (4) use that information to improve mitigation and monitoring methods.

Response: The Authorization requires that Protected Species Acoustic Observers on the *Langseth* do and record the following when a marine mammal is detected by passive acoustic monitoring:

(i) Notify the on-duty Protected Species Visual Observer(s) immediately of a vocalizing marine mammal so a power-down or shut-down can be initiated, if required:

(ii) Enter the information regarding the vocalization into a database. The data to be entered include an acoustic encounter identification number, whether it was linked with a visual sighting, data, time when first and last heard and whenever any additional information was recorded, position, and water depth when first detected, bearing if determinable, species or species group (e.g., unidentified dolphin, sperm whale), types and nature of sounds heard (e.g., clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information.

We acknowledge the Commission's request for a comparison between the Observatory's visual and acoustic monitoring programs, and we will work with the Foundation (the vessel owner) and the Observatory (the ship operator on behalf of the Foundation) to analyze the results of the two monitoring methods to help identify their respective strengths and weaknesses. The results of our analyses may provide information to improve mitigation and monitoring for future seismic surveys.

The Observatory reports on the number of acoustic detections made by the passive acoustic monitoring system within the post-cruise monitoring reports as required by the Incidental Harassment Authorization. The report also includes a description of any acoustic detections that were concurrent with visual sightings, which allows for a comparison of acoustic and visual detection methods for each cruise. The post-cruise monitoring reports also include the following information: total operations effort in daylight (hours), total operation effort at night (hours), total number of hours of visual observations conducted, total number of sightings, and total number of hours of acoustic detections conducted.

Post-cruise monitoring reports produced by the Observatory are currently available on our MMPA Incidental Take Program Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* should there be interest in further analysis of this data by the public.

Comment 8: The Commission recommends that we work with the Foundation to analyze those data collected during ramp-up procedures to help determine the effectiveness of those procedures as a mitigation measure for seismic surveys.

Response: We acknowledge the Commission's request for an analysis of ramp-ups and will work with the Foundation and the Observatory to help identify the effectiveness of the mitigation measure for seismic surveys. The Incidental Harassment Authorization requires that Protected Species Observers on the *Langseth* make observations for 30 minutes prior to ramp-up, during all ramp-ups, and during all daytime seismic operations and record the following information when a marine mammal is sighted:

(i) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from the seismic vessel, sighting cue, apparent reaction of the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc., and including responses to ramp-up), and behavioral pace; and

(ii) Time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state of ramp-up or shut-down), Beaufort wind force and sea state, visibility, and sun glare.

One of the primary purposes of monitoring is to result in ''increased knowledge of the species'' and the effectiveness of required monitoring and mitigation measures. The effectiveness of ramp-up as a mitigation measure and marine mammal reaction to ramp-up would be useful information in this regard. We require the Foundation and the Observatory to gather all data that could potentially provide information regarding the effectiveness of ramp-up as a mitigation measure in its monitoring report. However, considering the low numbers of marine mammal sightings and low number of ramp-ups, it is unlikely that the information will result in any statistically robust conclusions for this particular seismic survey. Over the long term, these requirements may provide information regarding the effectiveness of ramp-up as a mitigation measure, provided Protected Species Observers detect animals during ramp-up.

Description of the Marine Mammals in the Area of the Specified Activity

Twenty-eight marine mammal species under our jurisdiction may occur in the proposed survey area, including seven mysticetes (baleen whales), and 21 odontocetes (toothed cetaceans) during April through June, 2013. Six of these species are listed as endangered under the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), including:

the blue (*Balaenoptera musculus*), fin (*Balaenoptera physalus*), humpback (*Megaptera novaeangliae*), north Atlantic right (*Eubalaena glacialis*), sei (*Balaenoptera borealis*), and sperm (*Physeter macrocephalus*) whales.

Based on the best available data, the Observatory does not expect to encounter the following species because of these species rare and/or extralimital occurrence in the survey area. They include the: Atlantic white-sided dolphin (*Lagenorhynchus acutus*), white-beaked dolphin (*Lagenorhynchus albirostris*), harbor porpoise (*Phocoena phocoena*), Clymene dolphin (*Stenella clymene*), Fraser's dolphin (*Lagenodelphis hosei*), spinner dolphin (*Stenella longirostris*), melon-headed whale (*Peponocephala electra*), Atlantic humpback dolphin (*Souza teuszii*), long-beaked common dolphin (*Delphinus capensis*), and any pinniped species. Accordingly, we did not consider these species in greater detail and the Authorization would only address requested take authorizations for the 28 species.

Of these 28 species, the most common marine mammals in the survey area would be the: short-beaked common dolphin (*Delphinus delphis*), striped dolphin (*Stenella coeruleoalba*), and short-finned pilot whale (*Globicephala macrorhynchus*). We have presented a more detailed discussion of the status of these stocks and their occurrence in the central Pacific Ocean in *Federal Resister* notice for the proposed Authorization (78 FR 10137, February 13, 2013).

Potential Effects on Marine Mammals

Acoustic stimuli generated by the operation of the airguns, which introduce sound into the marine environment, may have the potential to cause Level B harassment of marine mammals in the proposed survey area. The effects of sounds from airgun operations might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007).

Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift is not an injury (Southall *et al.,* 2007). Although we cannot exclude the possibility entirely, it is unlikely that the proposed project would result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, we expect some behavioral disturbance, but we expect the disturbance to be localized.

The notice for the proposed Authorization (78 FR 10137, February 13, 2013) included a discussion of the effects of sounds from airguns on mysticetes and odontocetes including tolerance, masking, behavioral disturbance, hearing impairment, and other non-auditory physical effects. We also refer the reader to the Observatory's application and the Foundation's environmental analysis for additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to seismic vessels. We have reviewed these data and determined them to be the best available scientific information for the purposes of the Authorization. In general, we expect that the masking effects of seismic pulses would be minor, given the normally intermittent nature of seismic pulses.

Anticipated Effects on Marine Mammal Habitat

We included a detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine fish and invertebrates in the notice of the proposed Authorization (78 FR 10137, February 13, 2013) and or our Environmental Assessment titled, ''Issuance of an Incidental Harassment Authorization to Lamont-Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical Survey in the Atlantic Ocean, April–June, 2013.''

While we anticipate that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible. We considered these impacts in detail in the notice of the proposed Authorization (78 FR 10137, February 13, 2013) as behavioral modification. The main impact associated with the activity would be temporarily elevated noise levels and the associated direct effects on marine mammals.

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, we must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

The Observatory has reviewed the following source documents and have incorporated a suite of proposed mitigation measures into their project description.

(1) Protocols used during previous Foundation and Observatory-funded seismic research cruises as approved by us and detailed in the Foundation's 2011 PEIS;

(2) Previous incidental harassment authorizations applications and authorizations that we have approved and authorized; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman, (2007).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, the Observatory, and/or its designees have proposed to implement the following mitigation measures for marine mammals:

(1) Vessel-based visual mitigation monitoring;
(2) Proposed exclusion zones;
(3) Power down procedures;
(4) Shutdown procedures;
(5) Ramp-up procedures; and
(6) Speed and course alterations.

Vessel-Based Visual Mitigation Monitoring

The Observatory would position observers aboard the seismic source vessel to watch for marine mammals near the vessel during daytime airgun operations and during any start-ups at night. Observers would also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations after an extended shutdown (i.e., greater than approximately eight minutes for this proposed cruise). When feasible, the observers would conduct observations during daytime periods when the seismic system is not operating for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on the observations, the *Langseth* would power down or shutdown the airguns when marine mammals are observed within or about to enter a designated 180-dB exclusion zone.

During seismic operations, at least four protected species observers would be aboard the *Langseth.* The Observatory would appoint the observers with our concurrence and they would conduct observations during ongoing daytime operations and nighttime ramp-ups of the airgun array. During the majority of seismic operations, two observers would be on duty from the observation tower to

monitor marine mammals near the seismic vessel. Using two observers would increase the effectiveness of detecting animals near the source vessel. However, during mealtimes and bathroom breaks, it is sometimes difficult to have two observers on effort, but at least one observer would be on watch during bathroom breaks and mealtimes. Observers would be on duty in shifts of no longer than four hours in duration.

Two observers on the *Langseth* would also be on visual watch during all nighttime ramp-ups of the seismic airguns. A third observer would monitor the passive acoustic monitoring equipment 24 hours a day to detect vocalizing marine mammals present in the action area. In summary, a typical daytime cruise would have scheduled two observers (visual) on duty from the observation tower, and an observer (acoustic) on the passive acoustic monitoring system. Before the start of the seismic survey, the Observatory would instruct the vessel's crew to assist in detecting marine mammals and implementing mitigation requirements.

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level would be approximately 21.5 m (70.5 ft) above sea level, and the observer would have a good view around the entire vessel. During daytime, the observers would scan the area around the vessel systematically with reticle binoculars (e.g., 7 x 50 Fujinon), Big-eye binoculars (25 x 150), and with the naked eye. During darkness, night vision devices would be available (ITT F500 Series Generation 3 binocular-image intensifier or equivalent), when required. Laser range-finding binoculars (Leica LRF 1200 laser rangefinder or equivalent) would be available to assist with distance estimation. Those are useful in training observers to estimate distances visually, but are generally not useful in measuring distances to animals directly; that is done primarily with the reticles in the binoculars.

When the observers see marine mammals within or about to enter the designated exclusion zone, the *Langseth* would immediately power down or shutdown the airguns. The observer(s) would continue to maintain watch to determine when the animal(s) are outside the exclusion zone by visual confirmation. Airgun operations would not resume until the observer has confirmed that the animal has left the zone, or if not observed after 15 minutes for species with shorter dive durations (small odontocetes and pinnipeds) or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales).

Proposed Exclusion Zones—The Observatory would use safety radii to designate exclusion zones and to estimate take for marine mammals. Table 1 shows the distances at which one would expect to receive three sound levels (160- and 180-dB) from the 36-airgun array and a single airgun. The 180-dB level shutdown criteria are applicable to cetaceans as specified by us (2000). The Observatory used these levels to establish the exclusion zones.

TABLE 1—MODELED DISTANCES TO WHICH SOUND LEVELS GREATER THAN OR EQUAL TO 160 AND 180 DB RE: 1 μPA COULD BE RECEIVED DURING THE PROPOSED SURVEY OVER THE MID-ATLANTIC RIDGE IN THE NORTH ATLANTIC OCEAN, DURING APRIL THROUGH JUNE, 2013

Source and volume (in^3)	Tow depth (m)	Water depth (m)	Predicted RMS distances [1] (m)	
			160 dB	180 dB
Single Bolt airgun (40 in^3)	12	> 1,000	388	100
		100 to 1,000	582	100
36-Airgun Array (6,600 in^3)	12	> 1,000	6,908	1,116
		100 to 1,000	10,362	1,674

[1] Diebold, J.B., M. Tolstoy, L. Doermann, S.L. Nooner, S.C. Webb, and T.J. Crone. 2010. R/V Marcus G. Langseth seismic source: Modeling and calibration. Geochem. Geophys. Geosyst.

If the protected species visual observer detects marine mammal(s) within or about to enter the appropriate exclusion zone, the *Langseth* crew would immediately power down the airgun array, or perform a shutdown if necessary (see Shut-down Procedures).

Power Down Procedures—A power down involves decreasing the number of airguns in use such that the radius of the 180-dB zone is smaller to the extent that marine mammals are no longer within or about to enter the exclusion zone. A power down of the airgun array can also occur when the vessel is moving from one seismic line to another. During a power down for mitigation, the *Langseth* would operate one airgun (40 in^3). The continued operation of one airgun is intended to alert marine mammals to the presence of the seismic vessel in the area. A shutdown occurs when the *Langseth* suspends all airgun activity.

If the observer detects a marine mammal outside the exclusion zone and the animal is likely to enter the zone, the crew would power down the airguns to reduce the size of the 180-dB exclusion zone before the animal enters that zone. Likewise, if a mammal is already within the zone when first detected, the crew would power-down the airguns immediately. During a power down of the airgun array, the crew would operate a single 40-in^3 airgun which has a smaller exclusion zone. If the observer detects a marine mammal within or near the smaller exclusion zone around the airgun (Table 1), the crew would shut down the single airgun (see next section).

Resuming Airgun Operations After a Power Down—Following a power-down, the *Langseth* crew would not resume full airgun activity until the marine mammal has cleared the 180-dB exclusion zone (see Table 1). The observers would consider the animal to have cleared the exclusion zone if:

- The observer has visually observed the animal leave the exclusion zone; or
- An observer has not sighted the animal within the exclusion zone for 15 minutes for species with shorter dive durations (i.e., small odontocetes or pinnipeds), or 30 minutes for species with longer dive durations (i.e., mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales); or

The *Langseth* crew would resume operating the airguns at full power after 15 minutes of sighting any species with short dive durations (i.e., small odontocetes or pinnipeds). Likewise, the crew would resume airgun operations at full power after 30 minutes of sighting any species with longer dive durations

(i.e., mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales).

The *Langseth's* observers are continually monitoring the exclusion zone for the full source level while the mitigation airgun is firing. On average, observers can observe to the horizon (10 km; 6.2 mi) from the height of the *Langseth's* observation deck and should be able to say with a reasonable degree of confidence whether a marine mammal would be encountered within this distance before resuming airgun operations at full power.

Shutdown Procedures—The *Langseth* crew would shutdown the operating airgun(s) if a marine mammal is seen within or approaching the exclusion zone for the single airgun. The crew would implement a shutdown:

(1) If an animal enters the exclusion zone of the single airgun after the crew has initiated a power down; or

(2) If an animal is initially seen within the exclusion zone of the single airgun when more than one airgun (typically the full airgun array) is operating.

Considering the conservation status for north Pacific right whales, the *Langseth* crew would shutdown the airgun(s) immediately in the unlikely event that this species is observed, regardless of the distance from the vessel. The *Langseth* would only begin ramp-up would only if the north Pacific right whale has not been seen for 30 minutes.

Resuming Airgun Operations After a Shutdown—Following a shutdown in excess of eight minutes, the *Langseth* crew would initiate a ramp-up with the smallest airgun in the array (40-in^3). The crew would turn on additional airguns in a sequence such that the source level of the array would increase in steps not exceeding 6 dB per five-minute period over a total duration of approximately 30 minutes. During ramp-up, the observers would monitor the exclusion zone, and if he/she sights a marine mammal, the *Langseth* crew would implement a power down or shutdown as though the full airgun array were operational.

During periods of active seismic operations, there are occasions when the *Langseth* crew would need to temporarily shut down the airguns due to equipment failure or for maintenance. In this case, if the airguns are inactive longer than eight minutes, the crew would follow ramp-up procedures for a shutdown described earlier and the observers would monitor the full exclusion zone and would implement a power down or shutdown if necessary.

If the full exclusion zone is not visible to the observer for at least 30 minutes prior to the start of operations in either daylight or nighttime, the *Langseth* crew would not commence ramp-up unless at least one airgun (40-in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the vessel's crew would not ramp up the airgun array from a complete shutdown at night or in thick fog, because the outer part of the zone for that array would not be visible during those conditions.

If one airgun has operated during a power down period, ramp-up to full power would be permissible at night or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. The vessel's crew would not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable exclusion zones during the day or close to the vessel at night.

Ramp-up Procedures—Ramp-up of an airgun array provides a gradual increase in sound levels, and involves a step-wise increase in the number and total volume of airguns firing until the full volume of the airgun array is achieved. The purpose of a ramp-up is to ''warn'' marine mammals in the vicinity of the airguns, and to provide the time for them to leave the area and thus avoid any potential injury or impairment of their hearing abilities.

Ramp-up would begin with the smallest airgun in the array (40 in^3). The crew would add airguns in a sequence such that the source level of the array would increase in steps not exceeding six dB per five-minute period over a total duration of approximately 30 to 35 minutes. During ramp-up, the observers would monitor the exclusion zone, and if marine mammals are sighted, the Observatory would implement a power-down or shut-down as though the full airgun array were operational.

If the complete exclusion zone has not been visible for at least 30 minutes prior to the start of operations in either daylight or nighttime, the Observatory would not commence the ramp-up unless at least one airgun (40 in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the crew would not ramp up the airgun array from a complete shut-down at night or in thick fog, because the outer part of the exclusion zone for that array would not be visible during those conditions. If one airgun has operated during a power-down period, ramp-up to full power would be permissible at night or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. The Observatory would not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable exclusion zones.

Speed and Course Alterations

If during seismic data collection, the Observatory detects marine mammals outside the exclusion zone and, based on the animal's position and direction of travel, is likely to enter the exclusion zone, the *Langseth* would change speed and/or direction if this does not compromise operational safety. Due to the limited maneuverability of the primary survey vessel, altering speed and/or course can result in an extended period of time to realign onto the transect. However, if the animal(s) appear likely to enter the exclusion zone, the *Langseth* would undertake further mitigation actions, including a power down or shut down of the airguns.

We have carefully evaluated the Authorization's mandatory mitigation measures and have considered a range of other measures in the context of ensuring that we have prescribed the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, we expect that the successful implementation of the measure would minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation.

Based on our evaluation of the measures, as well as other measures considered by us or recommended by the public for previous low-energy seismic surveys, we have determined that the mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an incidental take authorization for an activity, section 101(a)(5)(D) of the MMPA states that we must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The Act's implementing

regulations at 50 CFR 216.104(a)(13) indicate that requests for an authorization must include the suggested means of accomplishing the necessary monitoring and reporting that would result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals present in the action area.

Monitoring

The Observatory would conduct marine mammal monitoring during the present project, in order to implement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the issued Authorization. We describe the Observatory's Monitoring Plan below this section. The Observatory has planned the monitoring work as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same regions. Further, the Observatory would discuss coordination of its monitoring program with any other related work by other groups working in the same area, if practical.

Vessel-Based Passive Acoustic Monitoring

Passive acoustic monitoring would complement the visual mitigation monitoring program, when practicable. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Passive acoustical monitoring can be used in conjunction with visual observations to improve detection, identification, and localization of cetaceans. The passive acoustic monitoring would serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals call, but it can be effective either by day or by night, and does not depend on good visibility. The acoustic observer would monitor the system in real time so that he/she can advise the visual observers if they acoustic detect cetaceans.

The passive acoustic monitoring system consists of hardware (i.e., hydrophones) and software. The ''wet end'' of the system consists of a towed hydrophone array that is connected to the vessel by a tow cable. The tow cable is 250 m (820.2 ft) long, and the hydrophones are fitted in the last 10 m (32.8 ft) of cable. A depth gauge is attached to the free end of the cable, and the cable is typically towed at depths less than 20 m (65.6 ft). The *Langseth* crew would deploy the array from a winch located on the back deck. A deck cable would connect the tow cable to the electronics unit in the main computer lab where the acoustic station, signal conditioning, and processing system would be located. The acoustic signals received by the hydrophones are amplified, digitized, and then processed by the Pamguard software. The system can detect marine mammal vocalizations at frequencies up to 250 kHz.

One acoustic observer, an expert bioacoustician with primary responsibility for the passive acoustic monitoring system would be aboard the *Langseth* in addition to the four visual observers. The acoustic observer would monitor the towed hydrophones 24 hours per day during airgun operations and during most periods when the *Langseth* is underway while the airguns are not operating. However, passive acoustic monitoring may not be possible if damage occurs to both the primary and back-up hydrophone arrays during operations. The primary passive acoustic monitoring streamer on the *Langseth* is a digital hydrophone streamer. Should the digital streamer fail, back-up systems should include an analog spare streamer and a hull-mounted hydrophone.

One acoustic observer would monitor the acoustic detection system by listening to the signals from two channels via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans. The observer monitoring the acoustical data would be on shift for one to six hours at a time. The other observers would rotate as an acoustic observer, although the expert acoustician would be on passive acoustic monitoring duty more frequently.

When the acoustic observer detects a vocalization while visual observations are in progress, the acoustic observer on duty would contact the visual observer immediately, to alert him/her to the presence of cetaceans (if they have not already been seen), so that the vessel's crew can initiate a power down or shutdown, if required. The observer would enter the information regarding the call into a database. Data entry would include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (e.g., unidentified dolphin, sperm whale), types and nature of sounds heard (e.g., clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. The acoustic detection can also be recorded for further analysis.

Observer Data and Documentation

Observers would record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. They would use the data to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They would also provide information needed to order a power down or shut down of the airguns when a marine mammal is within or near the exclusion zone.

When an observer makes a sighting, they would record the following information:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

The observer would record the data listed under (2) at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

Observers would record all observations and power downs or shutdowns in a standardized format and would enter data into an electronic database. The observers would verify the accuracy of the data entry by computerized data validity checks as the data are entered and by subsequent manual checking of the database. These procedures will allow the preparation of initial summaries of data during and shortly after the field program, and would facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations would provide:

1. The basis for real-time mitigation (airgun power down or shutdown).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which the Observatory must report to the Office of Protected Resources.

3. Data on the occurrence, distribution, and activities of marine mammals and turtles in the area where

the Observatory would conduct the seismic study.

4. Information to compare the distance and distribution of marine mammals and turtles relative to the source vessel at times with and without seismic activity.

5. Data on the behavior and movement patterns of marine mammals detected during non-active and active seismic operations.

Reporting

The Observatory would submit a report to us and to the Foundation within 90 days after the end of the cruise. The report would describe the operations that were conducted and sightings of marine mammals and turtles near the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report would also include estimates of the number and nature of exposures that could result in ''takes'' of marine mammals by harassment or in other ways.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not permitted by the authorization (if issued), such as an injury, serious injury, or mortality (e.g., ship-strike, gear interaction, and/or entanglement), the Observatory shall immediately cease the specified activities and immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov.* The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

The Observatory shall not resume its activities until we are able to review the circumstances of the prohibited take. We shall work with the Observatory to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Observatory may not resume their activities until notified by us via letter, email, or telephone.

In the event that the Observatory discovers an injured or dead marine mammal, and the lead visual observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), the Observatory would immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov.* The report must include the same information identified in the paragraph above this section. Activities may continue while we review the circumstances of the incident. We would work with the Observatory to determine whether modifications in the activities are appropriate.

In the event that the Observatory discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Observatory would report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov*, within 24 hours of the discovery. The Observatory would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

We anticipate and authorize take by Level B harassment only for the proposed seismic survey in the Atlantic Ocean. Acoustic stimuli (i.e., increased underwater sound) generated during the operation of the seismic airgun array may have the potential to result in the behavioral disturbance of some marine mammals. There is no evidence that planned activities could result in injury, serious injury, or mortality within the specified geographic area for which we have issued the requested authorization. Take by injury, serious injury, or mortality is thus neither anticipated nor authorized. We have determined that the required mitigation and monitoring measures would minimize any potential risk for injury, serious injury, or mortality.

The following sections describe the Observatory's methods to estimate take by incidental harassment and present their estimates of the numbers of marine mammals that could be affected during the proposed seismic program. The estimates are based on a consideration of the number of marine mammals that could be harassed by seismic operations with the 36-airgun array during approximately 5,572 km^2 (2,151 mi^2) of transect lines on the Mid-Atlantic Ridge in the Atlantic Ocean.

We assume that during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the echosounder and sub-bottom profiler would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, we expect that the marine mammals would exhibit no more than temporary and inconsequential responses to the echosounder and profiler given their characteristics (e.g., narrow downward-directed beam) and other considerations described previously. Based on the best available information, we do not consider that these reactions constitute a ''take'' (NMFS, 2001). Therefore, the Observatory did not provide any additional allowance for animals that could be affected by sound sources other than the airguns.

We have presented a more detailed discussion of the Observatory's methods to estimate take by incidental harassment in the notice of the proposed Authorization (78 FR 10137, February 13, 2013). Refer to the notice for more detailed information on the density data and their methodology to estimate take.

The Observatory's estimates of exposures to various sound levels

assume that they will complete the surveys in full (i.e., approximately 20 days of seismic airgun operations); however, the ensonified areas calculated using the planned number of line-kilometers have been increased by 25 percent to accommodate lines that may need to be repeated, equipment testing, account for repeat exposure, etc. As is typical during offshore ship surveys, inclement weather and equipment malfunctions are likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken. Furthermore, any marine mammal sightings within or near the designated exclusion zone will result in the shutdown of seismic operations as a mitigation measure. Thus, the following estimates of the numbers of marine mammals potentially exposed to 160-dB re:1 μPa sounds are precautionary, and probably overestimate the actual numbers of marine mammals that might be involved. These estimates assume that there will be no weather, equipment, or mitigation delays, which is highly unlikely.

Table 2 in this notice shows estimates of the number of individual cetaceans that potentially could be exposed to greater than or equal to 160 dB re: 1 μPa during the seismic survey if no animals moved away from the survey vessel. We present the take authorization in the third column from the left in Table 2.

TABLE 2—ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO SOUND LEVELS GREATER THAN OR EQUAL TO 160 DB RE: 1 μPA DURING THE PROPOSED SEISMIC SURVEY OVER THE MID-ATLANTIC RIDGE IN THE NORTH ATLANTIC OCEAN, DRING APRIL THROUGH JUNE, 2013

Species	Estimated number of individuals exposed to Sound Levels ≥ 160 dB re: 1 μPa [1]	Requested or adjusted take authorization [2]	Regiona population [3]	Approx. percent of regional population [3]
Mysticetes:				
Humpback whale	0	50	11,570	0.43
Minke whale	0	3 [4]	121,000	0
Bryde's whale	1	1	Not available	Not available
Sei whale	1	9	13,000	0.07
Fin whale	25	198	24,887	0.80
Blue whale	8	66	937	7.04
Odontocetes:				
Sperm whale	21	164	13,190	1.24
Cuvier's beaked whale	0	7 [4]	3,513	0.2
Mesoplodon spp.	39	39	3,502	1.12
True's beaked whale				
Gervais beaked whale				
Sowerby's beaked whale				
Blainville's beaked whale				
Northern bottlenose whale	0	4 [4]	~40,000	0
Common bottlenose dolphin	47	47	81,588	0.06
Atlantic spotted dolphin	112	112	50,978	0.22
Striped dolphin	1,034	1,034	94,462	1.09
Short-beaked common dolphin	2,115	2,115	120,741	1.75
Risso's dolphin	21	21	20,479	0.10
False killer whale	7	7	Not available	Not available
Killer whale	0	5 [4]	Not available	0
Short-finned pilot whale	674	674	780,000	0.09

N/A = Not Available.

[1] Estimates are based on densities in the Observatory's application an ensonified area of (5,571 km^2; (2,151 mi^2)

[2] Requested or adjusted take includes a 25 percent contingency for repeated exposures due to the overlap of parallel survey tracks or adjusted take for listed species based on the Section 7 consultation.

[3] Regional population size estimates are from the Observatory's application or based on the Section 7 consultation.

[4] Requested take authorization increased to group size for species for which densities were not calculated but for which there were OBIS sightings around the Azores.

The total estimate of the number of individual cetaceans that could be exposed to seismic sounds with received levels greater than or equal to 160 dB re: 1 μPa during the survey is 4,556 (see Table 2 in this notice). That total includes: 50 humpback whales (0.43 percent of the regional population); nine Sei whales (0.07 percent of the regional population); 25 fin whales (0.80 percent of the regional population); 66 blue whales (7.04 percent of the regional population); and 164 sperm whales (1.24 percent of the regional population) could be exposed during the survey. These species are listed as endangered under the ESA.

The Observatory did not estimate take of endangered north Atlantic right whale because of the low likelihood of encountering these species during the cruise. Most of the cetaceans that could be potentially exposed are delphinids (e.g., striped and short-beaked common dolphins are estimated to be the most common species in the area) with maximum estimates ranging from four to 2,115 species potentially exposed to levels greater than or equal to 160 dB re: 1 μPa.

Encouraging and Coordinating Research

The Observatory would coordinate the planned marine mammal monitoring program associated with the seismic survey on the Mid-Atlantic Ridge in the north Atlantic Ocean with other parties that may have interest in the area and/or may be conducting marine mammal studies in the same region during the seismic surveys.

Negligible Impact and Small Numbers Analysis and Determination

We have defined ''negligible impact'' in 50 CFR 216.103 as ''* * *an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, we consider:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited); and

(3) The context in which the takes occur (i.e., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

For reasons stated previously in this document, and in the notice of the proposed Authorization (78 FR 10137, February 13, 2013), the specified activities associated with the marine seismic surveys are not likely to cause permanent threshold shift, or other non-auditory injury, serious injury, or death. They include:

(1) The likelihood that, given sufficient notice through relatively slow ship speed, we expect marine mammals to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The potential for temporary or permanent hearing impairment is relatively low and that we would likely avoid this impact through the incorporation of the required monitoring and mitigation measures (including power-downs and shutdowns); and

(3) The likelihood that marine mammal detection ability by trained visual observers is high at close proximity to the vessel.

We do not anticipate that any injuries, serious injuries, or mortalities would occur as a result of the Observatory's planned marine seismic surveys, and we do not propose to authorize injury, serious injury or mortality for this survey. We anticipate only behavioral disturbance to occur during the conduct of the survey activities.

Table 2 in this document outlines the number of requested Level B harassment takes that we anticipate as a result of these activities. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see ''Potential Effects on Marine Mammals'' section in this notice), we do not expect the activity to impact rates of recruitment or survival for any affected species or stock.

Further, the seismic surveys would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (i.e., 24 hour cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While we anticipate that the seismic operations would occur on consecutive days, the estimated duration of the survey would last no more than 20 days. Additionally, the seismic survey would be increasing sound levels in the marine environment in a relatively small area surrounding the vessel (compared to the range of the animals), which is constantly travelling over distances, and some animals may only be exposed to and harassed by sound for shorter less than day.

Of the 28 marine mammal species under our jurisdiction that are known to occur or likely to occur in the study area, six of these species are listed as endangered under the ESA, including: the blue, fin, humpback, north Atlantic right, sei, and sperm whales. These species are also categorized as depleted under the MMPA. With the exception of the north Atlantic right whale, the Observatory has requested authorized take for these listed species. The Observatory did not request take of endangered north Atlantic right whales because of the low likelihood of encountering these species during the cruise. We agree that the likelihood of co-occurrence of the north Atlantic right whales with the survey activities is extremely low and we have determined that the survey activities are likely to have no effect on this species. To protect these animals (and other marine mammals in the study area), the Observatory must cease or reduce airgun operations if animals enter designated zones.

As mentioned previously, we estimate that 28 species of marine mammals under our jurisdiction could be potentially affected by Level B harassment over the course of the proposed authorization. For each species, these take numbers are small (most estimates are less than or equal to seven percent) relative to the regional or overall population size and we have provided the regional population estimates for the marine mammal species that may be taken by Level B harassment in Table 2 in this document.

Our practice has been to apply the 160 dB re: 1 μPa received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provides a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]).

We have determined, provided that the Observatory implements the previously described mitigation and monitoring measures, that the impact of conducting a seismic survey on the Mid-Atlantic Ridge in the Atlantic Ocean in international waters, from April 2013 through June, 2013, may result, at worst, in a modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals. While these species may make behavioral modifications, including temporarily vacating the area during the operation of the airgun(s) to avoid the resultant acoustic disturbance, the availability of alternate areas within these areas and the short and sporadic duration of the research activities, have led us to determine that this action would have a negligible impact on the species in the specified geographic region.

Based on the analysis contained in this document, and in the notice of the proposed Authorization (78 FR 10137, February 13, 2013) of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we find that the Observatory's planned research activities would result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the required measures mitigate impacts to affected species or stocks of marine mammals to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the Marine Mammal Protection Act also requires us to determine that the authorization

would not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (on the Mid-Atlantic Ridge in the north Atlantic Ocean in international waters) that implicate section 101(a)(5)(D) of the Marine Mammal Protection Act.

Endangered Species Act

Of the species of marine mammals that may occur in the proposed survey area, several are listed as endangered under the Endangered Species Act, including the blue, fin, humpback, north Atlantic right, sei, and sperm whales. The Observatory did not request take of endangered north Atlantic right whales because of the low likelihood of encountering these species during the cruise.

Under section 7 of the Act, the Foundation has initiated formal consultation with the Service's, Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on this proposed seismic survey. We (i.e., National Marine Fisheries Service, Office of Protected Resources, Permits and Conservation Division), have also consulted under section 7 of the Act with the Endangered Species Act Interagency Cooperation Division to obtain a Biological Opinion (Opinion) evaluating the effects of issuing an incidental harassment authorization for threatened and endangered marine mammals and, if appropriate, authorizing incidental take. These two consultations were consolidated and addressed in a single Biological Opinion addressing the direct and indirect effects of these interdependent actions.

In April 2013, the Endangered Species Act Interagency Cooperation Division issued an Opinion to us and the Foundation which concluded that the issuance of the Authorization and the conduct of the seismic survey were not likely to jeopardize the continued existence of blue, fin, humpback, sei, and sperm whales. The Opinion also concluded that the issuance of the Authorization and the conduct of the seismic survey would not affect designated critical habitat for these species.

The Foundation and the Observatory must comply with the Relevant Terms and Conditions of the Incidental Take Statement corresponding to the Opinion issued to us, the Foundation, and the Observatory. The Observatory must also comply with the Authorization's mitigation and monitoring requirements-incorporated as Terms and Conditions in the Incidental Take Statement in order for take of listed species otherwise prohibited under Section 9 of the Act to be exempt.

National Environmental Policy Act (NEPA)

To meet our NEPA requirements for the issuance of an Authorization to the Observatory, we prepared an Environmental Assessment (EA) titled ''Issuance of an Incidental Harassment Authorization to the Lamont-Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical on the Mid-Atlantic Ridge in the north Atlantic Ocean, from April 2013 through June 2013.'' This EA incorporated relevant portions of the Foundation's 2013 Environmental Analysis Pursuant To Executive Order 12114 (NSF, 2010) titled, ''Marine geophysical survey by the R/V *Marcus G. Langseth* on the mid-Atlantic Ridge, April–May 2013,'' and the Foundation's 2011 ''Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement for Marine Seismic Research Funded by the National Science Foundation or Conducted by the U.S. Geological Survey,'' by reference pursuant to 40 CFR 1502.21 and NOAA Administrative Order (NAO) 216–6 § 5.09(d).

We provided relevant environmental information to the public through notice of the proposed Authorization (78 FR 10137, February 13, 2013) and considered public comments received in response prior to finalizing our EA and deciding whether or not to issue a Finding of No Significant Impact (FONSI).

We conclude that issuance of an Incidental Harassment Authorization would not significantly affect the quality of the human environment and have issued a FONSI. Because of this finding, it is not necessary to prepare an environmental impact statement for the issuance of an Authorization to the Observatory for this activity. Our EA and FONSI for this activity are available upon request (see **ADDRESSES**).

Authorization

We have issued an Incidental Harassment Authorization to the Observatory for the take of marine mammals incidental to conducting a marine seismic survey in the Atlantic Ocean, April to June, 2013, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 10, 2013.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–08795 Filed 4–12–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0047]

Agency Information Collection Activities; Comment Request; IDEA Part B State Performance Plan (SPP) and Annual Performance Report (APR)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 June 14, 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–0047 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: IDEA Part B State Performance Plan (SPP) and Annual Performance Report (APR).

OMB Control Number: 1820–0624.

Type of Review: a revision of an existing information collection.

Respondents/Affected Public: Federal Government.

Total Estimated Number of Annual Responses: 60.

Total Estimated Number of Annual Burden Hours: 102,000.

Abstract: In accordance with 20 U.S.C. 1416(b)(1), not later than 1 year after the date of enactment of the Individuals with Disabilities Education, as revised in 2004, each State must have in place a performance plan that evaluates the States efforts to implement the requirements and purposes of Part B and describe how the State will improve such implementation. This plan is called the Part B State Performance Plan (Part B—SPP). In accordance with 20 U.S.C. 1416(b)(2)(C)(ii) the State shall report annually to the public on the performance of each local educational agency located in the State on the targets in the States performance plan. The State also shall report annually to the Secretary on the performance of the State under the States performance plan. This report is called the Part B Annual Performance Report (Part B—APR). Information Collection 1820–0624 corresponds to 34 CFR 300.600–300.602.

Dated: April 9, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–08703 Filed 4–12–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0051]

Agency Information Collection Activities; Comment Request; FFEL/Direct Loan/Perkins Military Service Deferment/Post-Active Duty Student Deferment Request & SCRA Request

AGENCY: Federal Student Aid (FSA), 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 June 14, 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–0051 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: FFEL/Direct Loan/Perkins Military Service Deferment/Post-Active Duty Student Deferment Request & SCRA Request.

OMB Control Number: 1845–0080.

Type of Review: a revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 20,708.

Total Estimated Number of Annual Burden Hours: 9,177.

Abstract: The Military Service/Post-Active Duty Student Deferment request form serves as the means by which a FFEL, Perkins, or Direct Loan borrower requests a military service deferment and/or post-active duty student deferment and provides his or her loan holder with the information needed to determine whether the borrower meets the applicable deferment eligibility requirements. The form also serves as the means by which the U.S. Department of Education identifies Direct Loan borrowers who qualify for the Direct Loan Program's no accrual of interest benefit for active duty service members.

The SCRA Request form services as one of the means by which a FFEL or Direct Loan borrower requests that his or her loan holder limit the interest rate on his or her FFEL or Direct Loan Program loans to 6% during the period of the borrower's eligible military service. This is an optional form. Borrowers would continue to be able to simply request the limitation in writing.

Dated: April 9, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–08708 Filed 4–12–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0048]

Agency Information Collection Activities; Comment Request; IDEA Part C State Performance Plan (SPP) and Annual Performance Report (APR)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 June 14, 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–0048 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: IDEA Part C State Performance Plan (SPP) and Annual Performance Report (APR).

OMB Control Number: 1820–0578.

Type of Review: a revision of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 61,600.

Abstract: The Individuals with Disabilities Education Improvement Act of 2004, signed on December 3, 2004, became PL 108–446. In accordance with 20 U.S.C. 1416(b)(1) and 20 U.S.C. 1442, not later that 1 year after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, each Lead Agency must have in place a performance plan that evaluates the Lead Agency's efforts to implement the requirements and purposes of Part C and describe how the Lead Agency will improve such implementation. This plan is called the Part C State Performance Plan (Part C—SPP). In accordance with 20 U.S.C. 1416(b)(2)(C)(ii) and 20 U.S.C. 1442 the Lead Agency shall report annually to the public on the performance of each Part C program located in the State on the targets in the Lead Agency's performance plan. The Lead Agency shall report annually to the Secretary on the performance of the State under the Lead Agency's performance plan. This report is called the Part C Annual Performance Report (Part C—APR).

Dated: April 9, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–08705 Filed 4–12–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0049]

Agency Information Collection Activities; Comment Request; Study of the Delivery of Services Under the State Vocational Rehabilitation Grants Program

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 new information collection.

DATES: Interested persons are invited to submit comments on or before June 14, 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–0049 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: Study of the Delivery of Services under the State Vocational Rehabilitation Grants Program.

OMB Control Number: 1820–NEW.

Type of Review: a new information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 83.

Total Estimated Number of Annual Burden Hours: 312.

Abstract: The Vocational Rehabilitation (VR) Program provides a wide range of services to help individuals with disabilities to prepare for and engage in gainful employment. Eligible individuals are those who have a physical or mental impairment that results in a substantial impediment to employment, who can benefit from VR services for employment, and who require VR services. If a State is unable to serve all eligible individuals, priority must be given to serving individuals with the most significant disabilities. The program is funded through formula-based grants awarded by the Rehabilitation Services Administration (RSA) to State VR agencies receive funding from the basic Title I formula grant program.

The Rehabilitation Act Title I formula grant program provides funds to Vocational Rehabilitation (VR) agencies to help individuals with disabilities prepare for and engage in gainful employment consistent with their strengths, abilities, interests, and informed choice through such supports as counseling, medical, and psychological services, job training, and other individualized services.

RSA proposes to conduct a national survey of all 80 state VR agencies. RSA seeks to evaluate how State VR agencies deliver services for individuals with disabilities, how and to what extent state VR agencies work with partner agencies or programs to deliver services, and to review program outcomes and their associated costs, including identifying cost effective practices for serving specific target populations.

RSA will address the following objectives: determine the methods and practices used by State VR agencies in delivering services to individuals with disabilities, including optimal patterns of delivery in serving specific populations; determine how, and to what extent, State VR agencies work with partner agencies or programs to deliver services; examine program outcomes and their associated costs, including identifying cost effective practices for serving specific target populations.

Dated: April 9, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–08707 Filed 4–12–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0006]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Evaluation of State Expanded Learning Time

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 new information collection.

DATES: Interested persons are invited to submit comments on or before May 15, 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–0006 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: Evaluation of State Expanded Learning Time.

OMB Control Number: 1850–NEW.

Type of Review: a new collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 22.

Total Estimated Number of Annual Burden Hours: 7.

Abstract: This package requests approval to conduct semi-structured interviews with 21st Century Community Learning Centers (21st CCLC) state coordinators in states which received the optional Elementary and Secondary Education Act (ESEA) waiver to use 21st CCLC funds for expanded learning time (ELT). The interviews will be used to produce a descriptive report, which will summarize how states plan to use 21st CCLC funds to support ELT, the process for awarding 21st CCLC funds to support ELT, and how states will monitor subgrantees' ELT implementation.

Dated: April 9, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–08709 Filed 4–12–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a combined meeting of the Environmental Monitoring, Surveillance and Remediation Committee and Waste Management Committee of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico (known locally as the Northern New Mexico Citizens' Advisory Board [NNMCAB]). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, May 8, 2013, 2:00 p.m.–4:00 p.m.

ADDRESSES: NNMCAB Conference Room, 94 Cities of Gold Road, Pojoaque, NM 87506.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *menice.santistevan@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Purpose of the Environmental Monitoring, Surveillance and Remediation Committee (EMS&R): The EMS&R Committee provides a citizens' perspective to NNMCAB on current and future environmental remediation activities resulting from historical Los Alamos National Laboratory operations and, in particular, issues pertaining to groundwater, surface water and work required under the New Mexico Environment Department Order on Consent. The EMS&R Committee will keep abreast of DOE–EM and site programs and plans. The committee will work with the NNMCAB to provide assistance in determining priorities and the best use of limited funds and time. Formal recommendations will be proposed when needed and, after consideration and approval by the full NNMCAB, may be sent to DOE–EM for action.

Purpose of the Waste Management (WM) Committee: The WM Committee reviews policies, practices and procedures, existing and proposed, so as to provide recommendations, advice, suggestions and opinions to the NNMCAB regarding waste management operations at the Los Alamos site.

Tentative Agenda

1. Approval of Agenda
2. Approval of Minutes of March 13, 2013
3. 2:05 p.m. Old Business
   - Terminology usage ''Contaminant''
4. 2:15 p.m. New Business
   - Consideration and Action on Recommendation 2013–03, ''Fiscal Year 2015 Budget Request for Los Alamos National Laboratory Environmental Management Work''
   - Appoint Nominating Committee (per Section X, F. of NNMCAB Bylaws)
5. 2:35 p.m. Update from Executive Committee—Carlos Valdez, Chair
6. 2:45 p.m. Update from DOE—Lee Bishop, Deputy Designated Federal Officer
7. 3:00 p.m. Presentation by DOE/Los Alamos National Security
   - Update on Monitoring Wells at Area G
8. 3:45 p.m. Public Comment Period
9. 4:00 p.m. Adjourn

Public Participation: The NNMCAB's EMS&R and WM Committees welcome the attendance of the public at their combined committee meeting 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 Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Committees either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/.*

Issued at Washington, DC, on April 9, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–08748 Filed 4–12–13; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Portsmouth

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Portsmouth. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, May 2, 2013, 6:00 p.m.

ADDRESSES: Ohio State University, Endeavor Center, 1862 Shyville Road, Piketon, Ohio 45661.

FOR FURTHER INFORMATION CONTACT: Greg Simonton, Alternate Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, Post Office Box 700, Piketon, Ohio 45661, (740) 897–3737, *Greg.Simonton@lex.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda
- Approval of March Minutes
- Deputy Designated Federal Officer's Comments
- Federal Coordinator's Comments
- Liaison's Comments
- Presentation
- Administrative Issues
- Draft Recommendation 13–02
  - Public Comments on Recommendation 13–02
  - Board Comments on Recommendation 13–02
- Subcommittee Updates
- Public Comments
- Final Comments from the Board
- Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Portsmouth, 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 Greg Simonton at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or

after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Greg Simonton at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Greg Simonton at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.ports-ssab.energy.gov/.*

Issued at Washington, DC, on April 10, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–08750 Filed 4–12–13; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPA–2007–0042; FRL–9802–2]

Proposed Information Collection Request; Comment Request; The National Oil and Hazardous Substances Pollution Contingency Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), The National Oil and Hazardous Substances Pollution Contingency Plan (EPA ICR No. 1664.09, OMB Control No. 2050–0141) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through October 31, 2013. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before June 14, 2013.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OPA–2007–0042 online using *www.regulations.gov* (our preferred method), by email to *Docke.rcra@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: William Nichols, Office of Emergency Management Regulation and Policy Development Division, (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave NW., Washington, DC 20460; telephone number: 202–564–1970; fax number: 202–564–8222; email address: *nichols.nick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This Information Collection Request (ICR) renewal supports activities to implement the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Subpart J (40 CFR 300.900, ''Use of Dispersants and Other Chemicals'').

The use of bioremediation agents, dispersants, surface washing agents, surface collecting agents and miscellaneous agents in response to oil spills in U.S. waters or adjoining shorelines is governed by Subpart J of the NCP regulation (40 CFR 300.900). Subpart J requirements include criteria for listing oil spill mitigating agents on the NCP Product Schedule, hereafter referred to as the Schedule. EPA's regulation, which is codified at 40 CFR 300.00, requires that EPA prepare a schedule of ''dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the NCP.'' The Schedule is required by section 311(d)(2)(G) of the Clean Water Act (CWA), as amended by the Oil Pollution Act of 1990. The Schedule is used by federal On-Scene Coordinators (OSCs), Regional Response Teams (RRTs), and Area Planners to identify spill mitigating agents in preparation for and response to oil spills.

Under Subpart J, respondents who want to add a product to the Schedule must submit technical product data to the U.S. Environmental Protection Agency (EPA or Agency) as stipulated in 40 CFR 300.915. Specifically, Subpart J requires the manufacturer to conduct specific toxicity and effectiveness tests and submit the corresponding technical product data along with other detailed information to the EPA Office of Emergency Management, Office of Solid Waste and Emergency Response. For example, a dispersant must exceed the 50-percent (±5 percent) efficacy threshold in order to be listed on the Schedule. EPA places oil spill mitigating agents on the Schedule if all the required data are submitted and the product satisfies all requirements and meets or exceeds testing thresholds. The Product Schedule is available to federal OSCs, RRTs, and Area Committees for determining the most appropriate products to use in various spill scenarios.

Products currently listed on the Schedule are divided into five basic categories: dispersants, surface washing agents, surface collecting agents, bioremediation agents, and

miscellaneous oil spill control agents. As of March, 2013, 112 products are listed on the Schedule. It is estimated that 11 products per year will be submitted to EPA for listing on the Schedule. Over the three-year period covered by this ICR, an estimated 33 products may be listed. Additionally, EPA estimates that approximately 10 manufacturers will submit information to obtain sorbent certifications. The annual public reporting burden will be 315 hours. The total annual cost (including labor and non-labor) to manufacturers under Subpart J is estimated to be $88,743.

At 40 CFR 300.920(c), respondents are allowed to assert that certain information in the technical product data submissions is confidential business information. EPA will handle such claims pursuant to the provisions in 40 CFR Part 2, Subpart B. Such information must be submitted separately from non-confidential information, clearly identified, and clearly marked ''Confidential Business Information.'' If the applicant fails to make such a claim at the time of submittal, EPA may make the information available to the public without further notice.

Form Numbers: None.

Respondents/affected entities: Respondents include, but are not limited to, manufacturers of bioremediation agents, dispersants, surface collecting agents, surface washing agents, miscellaneous oil spill control agents, and other chemical agents and biological additives used as countermeasures against oil spills. Affected private industries can be expected to fall within the following industrial classifications:

- Manufacturers of industrial inorganic chemicals (SIC 281/NAICS 325188),
- Manufacturers of industrial organic chemicals (SIC 286/NAICS 325199), and
- Manufacturers of miscellaneous chemical products (SIC 289/NAICS 325988).

Respondent's obligation to respond: An oil spill mitigating agent does not have to be listed on the Product Schedule unless a manufacturer wants the product to be applied as part of an emergency response to an oil spill. If so, then certain mandatory product testing and information is required to be considered for listing on the Schedule. (The Schedule is required by section 311(d)(2)(G) of the Clean Water Act (CWA), as amended by the Oil Pollution Act of 1990).

Estimated number of respondents: Eleven per year. There are 96 manufacturers and 112 products (26 bioremediation agents, 18 dispersants, 14 miscellaneous agents, and 53 surface washing agents, 2 surface collecting agents) listed on the March, 2013 Schedule. EPA estimates that manufacturers will apply to list 11 products on the Schedule each year, including 2 bioremediation agents, 3 dispersants, 2 miscellaneous agents, 1 surface collecting agent, and 3 surface washing agents. Over a three-year period, EPA anticipates that manufacturers will apply to list a total of 6 bioremediation agents, 9 dispersants, 6 miscellaneous agents, 3 surface collecting agent, and 9 surface washing agents on the Schedule.

Frequency of response: Each manufacturer responds one time per product submittal.

Total estimated burden: 315 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $ 72,450 (per year).

Changes in estimates: There is a decrease in burden hours and cost. All regulatory requirements are the same as in 2010. There is a decrease in total cost of $10,550 due to less manufacturers applying to list products (11 instead of 14 per year) on the Schedule even though laboratory pricing and labor rates have risen.

Dana S. Tulis,

Deputy Director, Office of Emergency Management.

[FR Doc. 2013–08702 Filed 4–12–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0268; FRL–9707–2]

Updates to Protective Action Guides Manual: Protective Action Guides (PAGs) and Planning Guidance for Radiological Incidents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of document availability for interim use and public comment.

SUMMARY: As part of its mission to protect human health and the environment, the Environmental Protection Agency (EPA) publishes protective action guides to help federal, state, local and tribal emergency response officials make radiation protection decisions during emergencies. EPA, in coordination with a multi-agency working group within the Federal Radiological Preparedness Coordinating Committee (FRPCC), is proposing updates to the 1992 Manual of Protective Action Guides and Protective Actions for Nuclear Incidents, referred to as ''The 1992 PAG Manual'' (EPA 400–R–92–001, May 1992).

The updated guidance in this revised 2013 PAG Manual—Protective Action Guides and Planning Guidance for Radiological Incidents (''2013 PAG Manual'' hereafter) applies the PAGs to incidents other than just nuclear power plant accidents, updates the radiation dosimetry and dose calculations based on current science and incorporates late phase guidance.

While there is no drinking water PAG provided in the proposal, the Agency continues to seek input on this. The newly proposed 2013 PAG Manual is available for interim use and review at *www.regulations.gov.*

DATES: Comments must be received on or before July 15, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0268, by one of the following methods—

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email:* to *a-and-r-docket@epa.gov;* Docket ID No. EPA–HQ–OAR–2007–0268.
- *Fax:* (202) 566–1741
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave NW., Washington, DC 20460.

Instructions: Direct your comments to Attn: Docket ID No. EPA–HQ–OAR–2007–0268. The Agency's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you

include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. EPA has established a docket for this action under Docket ID No. [EPA–HQ–OAR–2007–0268; FRL–9707–2]. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave NW., Washington, DC 20004. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Air and Radiation Docket is (202) 566–1742. In accordance with EPA's regulations at 40 CFR Part 2 and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Sara DeCair, Radiation Protection Division, Center for Radiological Emergency Management, Mail Code 6608J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 343–9108 ; fax number: (202) 343–2304; Email: *decair.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. What authority does EPA have to provide Protective Action Guidance?

The historical and legal basis of EPA's role in the 2013 PAG Manual begins with Reorganization Plan No. 3 of 1970, in which the Administrator of EPA assumed all the functions of the Federal Radiation Council (FRC), including the charge to ''* * * advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with states.'' (Reorg. Plan No. 3 of 1970, sec. 2(a) (7), 6(a) (2); § 274.h of the Atomic Energy Act of 1954, as amended (AEA), codified at 42 U.S.C. 2021(h)). Recognizing this role, FEMA directed EPA in their Radiological Emergency Planning and Preparedness Regulations to ''establish Protective Action Guides (PAGs) for all aspects of radiological emergency planning in coordination with appropriate federal agencies.'' (44 CFR 351.22(a)). FEMA also tasked EPA with preparing ''guidance for state and local governments on implementing PAGs, including recommendations on protective actions which can be taken to mitigate the potential radiation dose to the population.''(44 CFR 351.22(b)). All of this information was to ''be presented in the Environmental Protection Agency (EPA) 'Manual of Protective Action Guides and Protective Actions for Nuclear Incidents.'''(44 CFR 351.22(b)).

Additionally, section 2021(h) charged the Administrator with performing ''such other functions as the President may assign to him [or her] by Executive order.'' Executive Order 12656 states that the Administrator shall ''[d]evelop, for national security emergencies, guidance on acceptable emergency levels of nuclear radiation * * *.'' (Executive Order No. 12656, sec.1601(2)). EPA's role in PAGs development was reaffirmed by the *National Response Framework, Nuclear/Radiological Incident Annex* of June 2008.

B. What is the PAG Manual: Protective Action Guides and Planning Guidance for Radiological Incidents?

The 2013 PAG Manual provides federal, state and local emergency management officials with guidance for responding to radiological emergencies. A protective action guide (PAG) is the projected dose to an individual from a release of radioactive material at which a specific protective action to reduce or avoid that dose is recommended. Emergency management officials use PAGs for making decisions regarding actions to protect the public from exposure to radiation during an emergency. Such actions include, but are not limited to, evacuation, shelter-in-place, temporary relocation, and food restrictions.

Development of the PAGs was based on the following essential principles, which also apply to the selection of any protective action during an incident—

- Prevent acute effects.
- Balance protection with other important factors and ensure that actions result in more benefit than harm.
- Reduce risk of chronic effects.

The 2013 PAG Manual is not a legally binding regulation or standard and does not supersede any environmental laws; PAGs are not intended to define ''safe'' or ''unsafe'' levels of exposure or contamination. This guidance does not address or impact site cleanups occurring under other statutory authorities such as the United States Environmental Protection Agency's (EPA) Superfund program, the Nuclear Regulatory Commission's (NRC) decommissioning program, or other federal or state cleanup programs. As indicated by the use of non-mandatory language such as ''may,'' ''should'' and ''can,'' the 2013 Manual only provides recommendations and does not confer any legal rights or impose any legally binding requirements upon any member of the public, states, or any other federal agency. Rather, the 2013 PAG Manual recommends projected radiation doses at which specific actions may be warranted in order to reduce or avoid that dose. The 2013 PAG Manual is designed to provide flexibility to be more or less restrictive as deemed appropriate by decision makers based on the unique characteristics of the incident and the local situation.

C. What updates are in the 2013 PAG Manual?

The draft updates to the 1992 PAG Manual were developed by a multi-agency Subcommittee of the Federal Radiological Preparedness Coordinating Committee (FRPCC) and are published by EPA with concurrence from the Department of Energy (DOE); the Department of Defense (DoD); the Department of Homeland Security (DHS), including the Federal Emergency Management Agency (FEMA); the Nuclear Regulatory Commission; the Department of Health and Human Services (HHS), including both the Centers for Disease Control (CDC) and the Food and Drug Administration (FDA); the U.S. Department of Agriculture (USDA); and the Department of Labor (DOL).

The 2013 PAG Manual focuses on the following key objectives—

- Clarify that the 1992 PAGs and protective actions are useful for all radiological and nuclear scenarios of concern, based both on the 1991 symposium, ''Implementation of Protective Actions for Radiological Incidents at Other Than Nuclear Power Reactors'' and the 2008 interagency ''Planning Guidance for Protection and

Recovery Following Radiological Dispersal Device (RDD) and Improvised Nuclear Device (IND) Incidents.'' [1]

• Refer the reader to DOE's Federal Radiological Monitoring and Assessment Center (FRMAC) Assessment Manuals [2] for calculation methods and measurable derived response levels (DRLs) and other appropriate dose assessment methods so that PAGs are implemented using the latest science.

• Refer users to the current Food PAGs published in FDA's ''Accidental Radioactive Contamination of Human Food and Animal Feeds: Recommendations for State and Local Agencies,'' as issued in 1998.[3]

• Recommend a simplified PAG approach for administering potassium iodide (KI) as a supplementary protective action based on FDA guidance issued in 2001.[4]

• Provide basic planning guidance on reentry, cleanup and waste disposal.

• Substantively incorporate the 2008 ''*Planning Guidance for Protection and Recovery Following Radiological Dispersal Device (RDD) and Improvised Nuclear Device (IND) Incidents''* particularly for late phase cleanup after a nationally significant radiological incident, like a disaster at a NPP, an RDD or an IND. The 2008 RDD–IND Planning Guidance will remain in effect until the PAG Manual, with public comments incorporated, is finalized for use.

• Streamline the Manual to enhance usability, while retaining the 1992 PAG Manual in its entirety as a historical online reference.

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

1. Submitting Confidential Business Information (CBI)

Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for Preparing Your Comments

When submitting comments, remember to—

• Identify the rulemaking by docket number, subject heading, **Federal Register** date and page number.

• Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing the chapter number.

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

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

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

• Illustrate your concerns with specific examples and suggest alternatives.

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

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

E. What specific comments are being sought?

While all comments regarding any aspect of the 2013 PAG Manual are welcome, comments on the following issues are specifically requested—

Issues across the scope of the entire 2013 PAG Manual:

• To implement the PAGs, the reader is referred to dose calculations in the Federal Radiological Monitoring and Assessment Center (FRMAC) Assessment Manuals. The Assessment Manuals are updated with current International Commission on Radiological Protection (ICRP) dosimetry models (i.e., ICRP 60 series) and dose coefficients. The FRPCC also encourages the use of computational tools such as DOE's Turbo FRMAC, RESRAD RDD and NRC's RASCAL or other appropriate tools and methods to implement the PAGs. We request comment on the usefulness of this approach and seek feedback on how to facilitate implementation of these methods in emergency management plans.

• The Agency recognizes a short-term emergency drinking water guide may be useful for public health protection in light of the Fukushima nuclear power plant accident, which impacted some Japanese drinking water supplies. Input on the appropriateness of, and possible values for, a drinking water PAG is being sought.

• FDA's 1998 food guidance is incorporated by reference. Since it is already final and published, comments are not requested on the Food PAGs.

Chapter 2—Early Phase:

• The most substantive PAG change in the Early Phase is the 2001 guidance from the FDA that lowers the threshold for administration of potassium iodide (KI) to the public from 25 rem projected adult thyroid dose to 5 rem projected child thyroid dose. Chapter 2 includes a streamlined implementation scheme based on FDA's guidance. Please comment on the usefulness of this simplified guidance in the text of Chapter 2.

• The skin and thyroid evacuation thresholds were removed to avoid confusion with the KI threshold. The skin and thyroid doses were 5 and 50 times higher, respectively, than the 1 to 5 rem whole-body dose guideline. Please comment specifically on the appropriateness of not retaining the skin and thyroid evacuation thresholds.

Chapter 3—Intermediate Phase:

• The most substantive PAG change in the Intermediate Phase is the removal of the 5 rem over 50 years relocation PAG which was potentially being confused with long term cleanup. Please comment on the appropriateness of this change.

• As an extension of the PAGs, new guidance on reentry to relocation areas is provided to inform plans and procedures to protect workers and members of the public as the Intermediate Phase progresses. Please comment on the format and utility of this material.

• Please comment on whether it would be useful to develop a new, combined Intermediate Phase PAG considering all exposure pathways to potentially simplify decision making.

Chapter 4—Late Phase:

• A brief planning guidance on the cleanup process is included. Please comment on the usefulness of this information, as well as how it might best be implemented in state, tribal and local plans. It should be noted that the extent and scope of contamination as a result of an NPP, RDD or IND incident may be at a much larger scale than a site or facility decommissioning or remedial cleanup normally experienced under established regulatory frameworks.

[1] Planning Guidance for Protection and Recovery Following Radiological Dispersal Device (RDD) and Improvised Nuclear Device (IND) Incidents, DHS/FEMA (73 FR 45029, Aug 1, 2008).

[2] See: *http://www.nv.doe.gov/nationalsecurity/homelandsecurity/frmac/manuals.aspx*.

[3] Accidental Radioactive Contamination of Human Food and Animal Feeds: Recommendations for State and Local Agencies, FDA (63 FR 43402, Aug 13, 1998).

[4] Guidance: Potassium Iodide as a Thyroid Blocking Agent in Radiation Emergencies, FDA (66 FR 64046, Dec. 11, 2001).

Lesser radiological incidents may be well addressed under existing emergency response and environmental cleanup programs.

• A suggested process and organization for approaching the late phase cleanup is provided from the 2008 RDD-IND Planning Guidance. Please comment on the merging of that guidance with the 2013 PAG Manual.

• Basic planning guidance on approaching radioactive waste disposal is included. Please comment on this material and how it should be implemented in emergency response and recovery plans at all levels of government.

After considering public comments as appropriate, EPA intends to issue a final PAG Manual which will supersede the 1992 PAG Manual and the 2008 RDD–IND Planning Guidance.

Dated: April 5, 2013.

Bob Perciasepe,

Acting Administrator.

[FR Doc. 2013–08666 Filed 4–12–13; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

Sub-Saharan Africa Advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank); Notice of Open Special Meeting

SUMMARY: The Sub-Saharan Africa Advisory Committee was established by Public Law 105–121, November 26, 1997, to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion of the Bank's financial commitments in Sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank. Further, the Committee shall make recommendations on how the Bank can facilitate greater support by U.S. commercial banks for trade with Sub-Saharan Africa.

Time and Place: Tuesday, April 30, 2013, between 11:00 a.m. and 3:00 p.m. A break for lunch will be at the expense of the attendee. Security processing will be necessary for reentry into the building. The meeting will be held at Ex-Im Bank in the Main Conference Room 326, 811 Vermont Avenue NW., Washington, DC 20571.

Agenda: Presentation on recent developments in Sub-Saharan Africa markets by Ex-Im Bank staff; an update on the Bank's on-going business development initiatives in the region; and Committee discussion of current challenges and opportunities for U.S. exporters.

Public Participation: The meeting will be open to public participation and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If you plan to attend, a photo ID must be presented at the guard's desk as part of the clearance process into the building and you may contact Exa Richards to be placed on an attendee list. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to April 22, 2013, Exa Richards, 811 Vermont Avenue NW., Washington, DC 20571, (202) 565–3455.

FURTHER INFORMATION: For further information, contact Exa Richards, 811 Vermont Avenue NW., Washington, DC 20571, (202) 565–3455.

Sharon Whitt,

Director, Information Quality and Records Management.

[FR Doc. 2013–08776 Filed 4–12–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted to the Office of Management and Budget for Review and Approval

AGENCY: Federal Communications Commission.

ACTION: Notice and 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 May 15, 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, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov*. To submit your PRA comments by email send them to: *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0953.

Title: Sections 95.1111 and 95.1113, Frequency Coordination/Coordinator, Wireless Medical Telemetry Service.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 3,000 respondents; 3,000 responses.

Estimated Time per Response: 1–4 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement and recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits.

Total Annual Burden: 12,000 hours.

Total Annual Cost: $600,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: No information is requested that would require assurance of confidentiality.

Needs and Uses: The Commission will submit this information collection to OMB as an extension (there has been an adjustment in the reporting, recordkeeping requirements and/or third party disclosure requirements, the number of respondents/operators increased from 2,728 to 3,000, therefore, the annual burden and cost has also increased) after this 60 day comment period to obtain the full three-year clearance from them.

On June 12, 2000, the Commission released a Report and Order, ET Docket No. 99–255, FCC 00–211, which allocated spectrum and established rules for a ''Wireless Medical Telemetry Service'' (WMTS) that allows potentially life-critical equipment to operate in an interference-protected basis. Medical telemetry equipment is used in hospitals and health care facilities to transmit patient measurement data such as pulse and respiration rate to a nearby receiver, permitting greater patient mobility and increased comfort. The Commission designated a frequency coordinator, who maintains a database of all WMTS equipment. All parties using equipment in the WMTS are required to coordinate/register their operating frequency and other relevant technical operating parameters with the designated coordinator. The database provides a record of the frequencies used by each facility or device to assist parties in selecting frequencies to avoid interference. Without a database, there would be no record of WMTS usage because WMTS transmitters will not be individually licensed. The designated frequency coordinator has the responsibility to maintain an accurate engineering database of all WMTS transmitters, identified by location (coordinates, street address, building), operating frequency, emission type and output power, frequency range(s) used, modulation scheme used, effective radiated power, number of transmitters in use at the health care facility at the time of registration, legal name of the authorized health care provider, and point of contact for authorized health care provider. The frequency coordinator will make the database available to WMTS users, equipment manufacturers and the public. The coordinator will also notify users of potential frequency conflicts.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–08675 Filed 4–12–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before June 14, 2013.

ADDRESSES: You may submit comments, identified by FR 2060, FR 4006, FR 4008, FR 4013, or FR 4014, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov*. Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx*.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov*. Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following reports:

1. *Report title:* Survey to Obtain Information on the Relevant Market in Individual Merger Cases.

Agency form number: FR 2060.

OMB control number: 7100–0232.

Frequency: On occasion.

Reporters: Small businesses and consumers.

Annual reporting hours: 9 hours.

Estimated average hours per response: Small businesses, 10 minutes; consumers, 6 minutes.

Number of respondents: 25 small businesses and 50 consumers per survey.

General description of report: This information collection is voluntary pursuant to the Change in Bank Control Act (12 U.S.C. 1817(j)(7)(A) and (B)), the Bank Merger Act (12 U.S.C. 1828(c)(5)), and section 3(c)(1) of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1842(c)(1)). Individual responses are confidential pursuant to the Freedom of Information Act (5 U.S.C. 552 (b)(4) and (b)(6)) for small businesses and consumers, respectively.

Abstract: The Federal Reserve uses this information to define relevant banking markets for specific merger and acquisition applications and to evaluate changes in competition that would result from proposed transactions, including purchase and assumption agreements.

Current Actions: The Federal Reserve proposes to include savings and loan holding companies (SLHCs) in the evaluation of changes in local banking markets.

2. *Report title:* Notice Claiming Status as an Exempt Transfer Agent.

Agency form number: FR 4013.

OMB control number: 7100–0137.

Frequency: On occasion.

Reporters: Banks, Bank Holding Companies (BHCs), SLHCs, and certain trust companies.

Annual reporting hours: 20 hours.

Estimated average hours per response: 2 hours.

Number of respondents: 10.

General description of report: This information collection is mandatory pursuant to section 17A(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(c)) as amended by the Securities Acts Amendments of 1975. This section provides for the registration of transfer agents within the appropriate regulatory agencies (including the Federal Reserve under 15 U.S.C. 78c(a)(34)(B)(ii). The data collected are not given confidential treatment.

Abstract: Banks, BHCs, and trust companies subject to the Federal Reserve's supervision that are low-volume transfer agents voluntarily file the notice on occasion with the Federal Reserve. Transfer agents are institutions that provide securities transfer, registration, monitoring, and other specified services on behalf of securities issuers. The purpose of the notice, which is effective until the agent withdraws it, is to claim exemption from certain rules and regulations of the Securities and Exchange Commission (SEC). The Federal Reserve uses the notices for supervisory purposes because the SEC has assigned to the Federal Reserve responsibility for collecting the notices and verifying their accuracy through examinations of the respondents. There is no formal reporting form and each notice is filed as a letter.

Current Actions: The Federal Reserve proposes to include SLHCs in the respondent panel.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following reports:

1. *Report title:* Request for Extension of Time to Dispose of Assets Acquired in Satisfaction of Debts Previously Contracted.

Agency form number: FR 4006.

OMB control number: 7100–0129.

Frequency: Annual.

Reporters: BHCs.

Annual reporting hours: 885 hours.

Estimated average hours per response: 5 hours.

Number of respondents: 177.

General description of report: This information collection is required to obtain a benefit pursuant to sections 4(a) and 4(c)(2) of the BHC Act (12 U.S.C. 1843(a) and (c)(2)) and may be given confidential treatment upon request. The Federal Reserve has established a procedure for requesting an extension in its Regulation Y (12 CFR 225.22(d)(1) and 225.140).

Abstract: A BHC that acquired voting securities or assets through foreclosure in the ordinary course of collecting a debt previously contracted may not retain ownership of those shares or assets for more than two years without prior Federal Reserve approval. There is no formal reporting form and each request for extension must be filed at the appropriate Reserve Bank of the BHC. The Federal Reserve uses the information provided in the request to fulfill its statutory obligation to supervise BHCs.

2. Report title: Stock Redemption Notification.

Agency form number: FR 4008.

OMB control number: 7100–0131.

Frequency: On occasion.

Reporters: BHCs.

Annual reporting hours: 155 hours.

Estimated average hours per response: 15.5 hours.

Number of respondents: 10

General description of report: This information collection is mandatory pursuant to Sections 5(b) and (c) of the BHC Act (12 U.S.C. 1844(b) and (c)) and is generally not given confidential treatment. However, a respondent may request that the information be kept confidential on a case-by-case basis.

Abstract: The BHC Act and Regulation Y generally require a BHC to seek prior Federal Reserve approval before purchasing or redeeming its equity securities. Given that a BHC is exempt from this requirement if it meets certain financial, managerial, and supervisory standards, only a small portion of proposed stock redemptions actually require the prior approval of the Federal Reserve. There is no formal reporting form. The Federal Reserve uses the information provided in the redemption notice to fulfill its statutory obligation to supervise BHCs.

3. *Report title:* Investment in Bank Premises Notification.

Agency form number: FR 4014.

OMB control number: 7100–0139.

Frequency: On occasion.

Reporters: State member banks (SMBs).

Annual reporting hours: 6 hours.

Estimated average hours per response: 30 minutes.

Number of respondents: 11.

General description of report: This information collection is required to obtain a benefit pursuant to Section 24A(a) of the Federal Reserve Act (12 U.S.C. 371d(a)) and is not given confidential treatment. However, a respondent may request confidential treatment for all or part of a notification, which would be reviewed on a case-by-case basis.

Abstract: The Federal Reserve Act requires SMBs to seek prior Federal Reserve approval before making an investment in bank premises that exceeds certain thresholds. There is no formal reporting form, and each required request for prior approval must be filed as a notification with the appropriate Reserve Bank of the SMB. The Federal Reserve uses the information provided in the notice to fulfill its statutory obligation to supervise SMBs.

Board of Governors of the Federal Reserve System, April 10, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–08731 Filed 4–12–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 30, 2013.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Ronald D. Absher,* Carmi, Illinois; to retain voting shares of Southern Illinois Bancorp, Inc., and thereby indirectly retain voting shares of The First National Bank of Carmi, both in Carmi, Illinois.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Timothy H. Hume, Leslie J. Hume, James H. Hume, and Kay L. Hume,* all of Walsh, Colorado; and Samuel A. Hume, Fort Worth, Texas; to acquire voting shares of FarmBank Holding, Inc., and thereby indirectly acquire voting shares of First FarmBank, both in Greeley, Colorado.

Board of Governors of the Federal Reserve System, April 10, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–08754 Filed 4–12–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 10, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *1st United Bancorp,* Boca Raton, Florida; to merge with Enterprise Bancorp, Inc., Palm Beach Gardens, Florida, and thereby indirectly acquire Enterprise Bank of Florida, North Palm Beach, Florida.

Board of Governors of the Federal Reserve System, April 10, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–08753 Filed 4–12–13; 8:45 am]

BILLING CODE 6210–01–P

GOVERNMENT ACCOUNTABILITY OFFICE

Advisory Council on the Standards for Internal Control in the Federal Government; Meeting

AGENCY: U.S. Government Accountability Office.

ACTION: Advisory Council on the Standards for Internal Control in the Federal Government; Notice of Meeting.

SUMMARY: The US Government Accountability Office (GAO) is initiating efforts to revise the Standards for Internal Control in the Federal Government ''Green Book'' under our authority in 31 U.S.C. 3512 (c), (d) (commonly known as the Federal Managers' Financial Integrity Act). As part of the revision process, GAO has established and is holding its inaugural meeting with the Green Book Advisory Council (GBAC). The Comptroller General has established the GBAC to provide input and recommendations to the Comptroller General on revisions to the ''Green Book.'' The purpose of the meeting is to discuss proposed revisions to the ''Green Book.''

DATES: The meeting will be held May 20, 2013, from 9:00 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the US Government Accountability Office, 441 G St. NW., Washington, DC 20548 in the 7th floor Staats Briefing Room, Room 7C13.

FOR FURTHER INFORMATION CONTACT: For information on the Green Book Advisory Council and the Standards for Internal Control in the Federal Government please contact Kristen Kociolek, Assistant Director, Financial Management and Assurance telephone 202–512–2989, 441 G Street NW., Washington, DC 20548–0001.

SUPPLEMENTARY INFORMATION: Members of the public will be provided and opportunity to address the Council with a brief (five-minute) presentation in the afternoon on matters directly related to the proposed update and revision. Any interested person who plans to attend the meeting as an observer must contact Kristen Kociolek, Assistant Director, 202–512–2989, prior to May 16, 2013. A form of picture identification must be presented to the GAO Security Desk on the day of the meeting to obtain access to the GAO building. Please enter the building at the G Street entrance.

Authority: 31 U.S.C. 3512 (c), (d).

James Dalkin,

Director, Financial Management and Assurance.

[FR Doc. 2013–08621 Filed 4–12–13; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed

information collection project: ''Evaluating the Knowledge and Educational Needs of Students of Health Professions on Patient-Centered Outcomes Research.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on January 28th, 2013 and allowed 60 days for public comment. No substantive comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by May 15, 2013.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Evaluating the Knowledge and Educational Needs of Students of Health Professions on Patient-Centered Outcomes Research AHRQ's Effective Health Care Program, which was authorized by Section 1013 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, 42 U.S.C. 299b-7, is the Federal Government's first program to conduct patient-centered outcomes research (PCOR) and share the findings with the public. PCOR is research that assesses the benefits and harms of preventive, diagnostic, therapeutic, palliative or health delivery system interventions. This research helps clinicians, patients and other caregivers make decisions about health care choices by highlighting comparisons and outcomes that matter to people, such as survival, function, symptoms, and health related quality of life. The Program funds individual researchers, research centers, and academic organizations to work together with the Agency to produce effectiveness and comparative effectiveness research.

The Effective Health Care Program also translates research findings into a variety of products for diverse stakeholders. These products include summary guides for clinicians, patients/consumers, and policy-makers, continuing education modules and faculty slide sets for clinicians, patient decision aids, and audio and video podcasts.

Most of the PCOR materials and translation products that are currently available are designed to help practicing clinicians, consumers/patients, and policymakers in making important decisions about health care. AHRQ recognizes the importance of insuring that clinicians in training are also exposed to PCOR and that they fully understand their role and value in shared clinical decision making. AHRQ and the Effective Health Care Program have started developing some tools, such as faculty slide sets based on comparative effectiveness reviews of the literature, to reach this audience through traditional clinical curricula. However, exposure to PCOR may occur and even be more effective in more non-traditional extracurricular settings, such as special interest projects created and sponsored by student groups or even Web-based events involving social media.

This evaluation study addresses AHRQ's need for a report to inform strategic planning for dissemination and educational activities targeted to clinicians in training. The evaluation is intended to assess students' and faculties' needs and preferences for integrating PCOR into the health professions' curricula, learning environment, and other training opportunities through a series of structured interviews with selected faculty members and an online survey directed at students in the health professions. The outcome will be a roadmap, which will include a set of recommendations for strategies and tools for educational and dissemination activities, along with a suggested approach and timeline for implementation of the recommendations. The recommendations will inform AHRQ's strategic plan for future efforts which will engage and develop information and materials for the health professions student audience.

The goals of this project are to:

(1) Understand the extent to which PCOR is currently integrated into the curriculum and how it is disseminated to students in the health professions.

(2) Understand health professions students' attitudes toward and knowledge of PCOR.

(3) Explore differences in health professions student experiences with PCOR by health profession.

(4) Identify informational and training needs and preferences of health professions students in primary care-oriented training programs.

This study is being conducted by AHRQ through its contractor, James Bell Associates, pursuant to (1) 42 U.S.C. 299b–7, (2) AHRQ's authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services, 42 U.S.C. 299a(a)(1), and (3) AHRQ's authority to support the synthesis and dissemination of available scientific evidence for use by patients, consumers, practitioners, providers, purchasers, policy makers, and educators, 42 U.S.C. 299(b)(2).

Method of Collection

To achieve these goals the following data collections will be implemented:

(1) *Student Survey.* The purpose of the survey is to assess health professions students' attitudes toward and knowledge of PCOR, the extent to which they value PCOR, what they would like to know, and how they would prefer to receive this information now and as they move into clinical practice.

(2) *Faculty Interview.* The faculty interview will focus on gaining an understanding of where PCOR fits into the current curriculum for each health professions field; how both the philosophy and substantive findings of PCOR information are disseminated to instructors and subsequently to students; and perceived gaps and suggested strategies for filling these gaps.

Data will be gathered through structured interviews of faculty in health professions programs and a broad web-based survey of a cross-section of health professions students. The outcome from the project will be used immediately and directly by AHRQ's Office of Communications and Knowledge Transfer (OCKT) staff to guide strategic planning for addressing the educational needs of health professions students. Subsequent activities may include, but are not limited to, modifying specific information about PCOR and developing novel approaches to providing information on PCOR as determined by the student survey responses. This information will also help guide the determination of the AHRQ OCKT resource needs.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this research. Faculty interviews will be conducted with 24 faculty members and will last about one hour. The student survey will include 1,800 students and takes 10 minutes to complete. The total burden is estimated to be 324 hours annually.

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in this research. The total cost burden is estimated to be $4,790 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Faculty Interview	24	1	1	24
Student Survey	1,800	1	10/60	300
Total	1,824	na	na	324

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden	Average hourly wage rate *	Total cost burden
Faculty Interview	24	24	$47.70	$1,145
Student Survey	1,800	300	12.15	3,645
Total	1,824	324	na	4,790

* Based on the mean wages for Health Specialties Teachers, Postsecondary (25–1071; $47.70/hour) and Teacher Assistants (25–9041; $12.15/hour. Many of the students will be teaching and research assistants, making this the best occupational code for them), National Compensation Survey: Occupational wages in the United States May 2011, "U.S. Department of Labor, Bureau of Labor Statistics." *http://www.bls.gov/oes/current/oes_nat.htm#25–0000*.

Estimated Annual Costs to the Federal Government

Exhibit 3 shows the total and annualized cost to the federal government for conducting this research. The total cost to the Federal Government is $683,335. The total annualized cost is estimated to be approximately $341,667. The total annual costs include the questionnaire development, administration, analysis, and study management.

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST

Cost component	Total cost	Annualized cost
Project Development	$144,707	$72,353
Data Collection Activities	283,667	141,833
Data Processing and Analysis	135,523	67,762
Publication of Results	9,012	4,506
Project Management	65,722	32,861
Overhead	44,704	22,352
Total	683,335	341,667

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: March 25, 2013.

Carolyn M. Clancy,

Director.

[FR Doc. 2013–08410 Filed 4–12–13; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''The Feasibility of Alternative Models for Collecting New Data on Physicians and Their Practices.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by June 14, 2013.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

The Feasibility of Alternative Models for Collecting New Data on Physicians and Their Practices Physicians play a vital role in the American health care system. Physicians, and other providers in their practices, provide direct medical care, and they also refer patients for many other medical services. Directly or indirectly, therefore, physician activities can have an important impact on healthcare access, quality, and cost. Given their key role, accurate and timely longitudinal information about physicians is essential to understanding the functioning of the health care system, identifying best practices and potential efficiencies, and assessing the impact of programmatic and policy reforms, including the development of new organizational forms relevant to physician practices (e.g., accountable care organizations).

At present, however, no comprehensive longitudinal data collection effort addresses all levels of the current complexity of physician practices and, most importantly, the larger organizational context of their decision making. This has limited the ability of researchers to monitor and predict the behavior of health care providers; assess or anticipate the likely impact of proposed policy changes; understand geographic variations in the provision, cost, and quality of health care services; assess health care provider availability and labor resource issues; and provide timely information and analyses about such issues to public policymakers and private sector decision makers and managers.

The Agency for Healthcare Research and Quality (AHRQ), policymakers, researchers who directly inform policymakers, and Federal and other stakeholders, all working together, have identified a clear need for an ongoing, regular way to collect new data in order to provide a comprehensive picture of physicians, their immediate practice sites, and the larger organizational and market contexts in which individual practices sit. The long term aims are to track, monitor, and analyze how physicians are responding to: (1) Ongoing health reform initiatives (both Federal and State) and (2) associated market and technological changes. AHRQ has developed survey instruments (questions) and, with this project, will test the feasibility of extracting this new policy relevant information from a random sample of physicians and their practices. The questionnaire development was based on an extensive environmental scan which reviewed all surveys of physicians conducted over the last decade and through discussions with our technical expert panel and stakeholders, in order to avoid duplication with other efforts and to build on and use other efforts in strategically productive ways.

This research seeks to add to the knowledge available from current surveys in two important ways. First, we are testing the addition of questions for all physicians specialties, including radiology, anesthesiology, and pathology which are currently excluded from other surveys. Second, this effort includes an innovative experiment to obtain information about the organization within which the sampled physician practices. Many of the changes taking place in the health care market are occurring at the organizational level. Physicians may or may not be the most reliable respondent for questions about organizational changes that do not directly affect the physician-patient interaction. However, organizational information is vitally important for assessing the changing health care system. This project aims to fill that gap by providing data on optimal methods for collecting organizational information. For example, the data collection effort involves experimental solicitation of information from the physician, a designated manager, or both. Other experiments involve variation in how particular questions might be asked.

This data collection will enable AHRQ and the Department to pretest new physician questions and new physician practice questions, so that future acquisitions of such information—whether in a new survey or an expansion of an existing federal survey—rest on empirical analyses derived from a real-world fielding of the questions.

This study is being conducted by AHRQ through its contractor, Mathematica Policy Research, pursuant to AHRQ's statutory authority to conduct and support research on health care and systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness, and value of health care services, clinical practice, and health statistics and surveys (42 U.S.C. 299a(a)(1), (4), and (8)).

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annual burden hours for each respondent's participation time in this research project. The physician questionnaire will be completed by 1,750 physicians and takes 20 minutes to complete. The practice questionnaire will be completed by 334 practice administrators and 333 physicians (667 total) and takes 10 minutes to complete. The total annual burden is estimated to be 694 hours.

Exhibit 2 shows the estimated annual cost burden associated with the respondents' time to participate in this research. The total annual cost burden is estimated to be $63,725.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Physician Questionnaire	1,750	1	20/60	583
Practice Organization Questionnaire	667	1	10/60	111
Total	2,417	na	na	694

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Physician Questionnaire	1750	583	$95.79 [a]	$55,846
Practice Organization Questionnaire	667	111	70.98 [b]	7,879
Total	2,417	694	na	63,725

* National Compensation Survey: Occupational wages in the United States May 2011, "U.S. Department of Labor, Bureau of Labor Statistics."
[a] Based on the mean wages for Pediatricians, General (29–1065); Family and General Practitioners (29–1062); Internists, General (29–1063); Psychiatrists (29–1066); Anesthesiologists (29–1061); Surgeons (29–1067); Obstetricians and Gynecologists (29–1064); and Physicians & Surgeons, All Other (29–1069)
[b] Based on the mean wages for 334 Medical and Health Services Managers (11–9111) and 333 physicians (as defined above).

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: March 12, 2013.

Carolyn M. Clancy,

Director.

[FR Doc. 2013–08409 Filed 4–12–13; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-13–0457]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Ron Otten, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

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. Written comments should be received within 60 days of this notice.

Proposed Project

Aggregate Reports for Tuberculosis Program Evaluation (0920–0457—Exp. 9–30–2013)—Extension—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC requests the extension of the Aggregate Reports for Tuberculosis Program Evaluation, previously approved under OMB No. 0920–0457 for 3-years. There are no revisions to the report forms, data definitions, or reporting instructions.

To ensure the elimination of tuberculosis in the United States, CDC monitors indicators for key program activities, such as finding tuberculosis infections in recent contacts of cases and in other persons likely to be infected and providing therapy for latent tuberculosis infection. In 2000, CDC implemented two program evaluation reports for annual submission: Aggregate report of follow-up for contacts of tuberculosis, and Aggregate report of screening and preventive therapy for tuberculosis infection (OMB No. 0920–0457). The respondents for these reports are the 68 state and local tuberculosis control programs receiving federal cooperative agreement funding through the CDC Division of Tuberculosis Elimination (DTBE). These reports emphasize treatment outcomes, high-priority target populations vulnerable to tuberculosis,

and programmed electronic report entry, which transitioned to the National Tuberculosis Indicators Project (NTIP), a secure web-based system for program evaluation data, in 2010. No other federal agency collects this type of national tuberculosis data, and the Aggregate report of follow-up for contacts of tuberculosis, and Aggregate report of screening and preventive therapy for tuberculosis infection are the only data source about latent tuberculosis infection for monitoring national progress toward tuberculosis elimination with these activities. CDC provides ongoing assistance in the preparation and utilization of these reports at the local and state levels of public health jurisdiction. CDC also provides respondents with technical support for the NTIP software (Electronic—100%, Use of Electronic Signatures—No).

There is no cost to respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Data clerks and Program Managers.	Follow-up and Treatment of Contacts to Tuberculosis Cases Form.	100	1 (electronic)	30/60	50
Program Mangers	Follow-up and Treatment of Contacts to Tuberculosis Cases Form.	18	1 (manual)	30/60	9
Data clerks	Follow-up and Treatment of Contacts to Tuberculosis Cases Form.	18	1 (manual)	3	54
Data clerks and Program Managers.	Targeted Testing and Treatment for Latent Tuberculosis Infection.	100	1 (electronic)	30/60	50
Program Mangers	Targeted Testing and Treatment for Latent Tuberculosis Infection.	18	1 (manual)	30/60	9
Data clerks	Targeted Testing and Treatment for Latent Tuberculosis Infection.	18	1 (manual)	3	54
Total					226

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. 2013–08730 Filed 4–12–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panels (SEP): Initial Review

The meeting announced below concerns Conducting Public Health Research in Kenya, FOA GH10–003; Conducting Public Health Research in Thailand by the Ministry of Public Health (MOPH), FOA GH11–002; Conducting Public Health Research in China, FOA GH12–005; Strengthening Disease Prevention Research Capacity for Public Health Action in Guatemala and the Central American Region, FOA GH13–001; Detecting Etiologies of Emerging Infectious Diseases at the Regional Level—Western Ghat Region of Karnataka and Kerala, India, FOA GH13–003; Strengthening Surveillance for Japanese Encephalitis in India, FOA GH13–004; and Research and Technical Assistance for Public Health Interventions in Haiti to Support Post-earthquake Reconstruction, Cholera and HIV/AIDS, FOA GH13–006, initial review.

Correction: The notice was published in the **Federal Register** on April 4, 2013, Volume 78, Number 65, Pages 20319–20320. The meeting announced and matters to be discussed should read as follows:

Conducting Public Health Research in Kenya, FOA GH10–003; Conducting Public Health Research in Thailand by the Ministry of Public Health (MOPH), FOA GH11–002; Conducting Public Health Research in China, FOA GH12–005; Strengthening Disease Prevention Research Capacity for Public Health Action in Guatemala and the Central American Region, FOA GH13–001; Detecting Etiologies of Emerging Infectious Diseases at the Regional Level—Western Ghat Region of Karnataka and Kerala, India, FOA GH13–003; Strengthening Surveillance for Japanese Encephalitis in India, FOA GH13–004; and Research and Technical Assistance for Public Health Interventions in Haiti to Support Post-earthquake Reconstruction, Cholera and HIV/AIDS, FOA GH13–006.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Conducting Public Health Research in Kenya, FOA GH10–003; Conducting Public Health Research in Thailand by the Ministry of Public Health (MOPH), FOA GH11–002; Conducting Public Health Research in China, FOA GH12–005; Strengthening Disease Prevention Research Capacity for Public Health Action in Guatemala and the Central American Region, FOA GH13–001; Detecting Etiologies of Emerging Infectious Diseases at the Regional Level—Western Ghat Region of Karnataka and Kerala, India, FOA GH13–003; Strengthening Surveillance for Japanese Encephalitis in India, FOA GH13–004; and Research and Technical Assistance for Public Health Interventions in Haiti to Support Post-earthquake Reconstruction, Cholera and HIV/AIDS, FOA GH13–006, initial review.''

Contact Person for More Information: Lata Kumar, Scientific Review Officer, CGH Science Office, Center for Global Health, CDC, 1600 Clifton Road, NE.,

Mailstop D–69, Atlanta, Georgia 30033, Telephone (404) 639–7618.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–08716 Filed 4–12–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0369]

International Conference on Harmonisation; Draft Guidance on M7 Assessment and Control of DNA Reactive (Mutagenic) Impurities in Pharmaceuticals To Limit Potential Carcinogenic Risk; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''M7 Assessment and Control of DNA Reactive (Mutagenic) Impurities in Pharmaceuticals to Limit Potential Carcinogenic Risk.'' The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guidance emphasizes considerations of both safety and quality risk management in establishing levels of mutagenic impurities that are expected to pose negligible carcinogenic risk. It outlines recommendations for assessment and control of mutagenic impurities that reside or are reasonably expected to reside in a final drug substance or product, taking into consideration the intended conditions of human use. The draft guidance is intended to provide guidance for new drug substances and new drug products during their clinical development and subsequent applications for marketing.

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 on 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 June 14, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

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.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance:

David Jacobson-Kram, Office of New Drugs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5299, Silver Spring, MD 20993–0002, 301–796–0175.

Regarding the ICH:

Michelle Limoli, International Programs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3342, Silver Spring, MD 20993–0002, 301–796–8377.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In February 2013, the ICH Steering Committee agreed that a draft guidance entitled ''M7 Assessment and Control of DNA Reactive (Mutagenic) Impurities in Pharmaceuticals to Limit Potential Carcinogenic Risk'' should be made available for public comment. The draft guidance is the product of the M7 Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the M7 Expert Working Group.

The draft guidance provides guidance on the regulation of genotoxic impurities in new drug substances and drug products.

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 this topic. 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 statutes and regulations.

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 may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov, http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: April 9, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–08723 Filed 4–12–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Joint Meeting of the Endocrinologic and Metabolic Drugs Advisory Committee and the Drug Safety and Risk Management 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 Committees: Endocrinologic and Metabolic Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee.

General Function of the Committees: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 5 and 6, 2013, from 8 a.m. to 5 p.m.

Location: FDA White Oak Campus, Building 31, the Great Room, White Oak Conference Center (rm. 1503), 10903 New Hampshire Ave., Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm*; under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Minh Doan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., WO31–2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *EMDAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On June 5 and 6, 2013, the committees will discuss the results of an independent readjudication of the Rosiglitazone Evaluated for Cardiovascular Outcomes and Regulation of Glycemia in Diabetes (RECORD) trial, for new drug application (NDA) 21071, AVANDIA (rosiglitazone maleate) tablets. Rosiglitazone is a thiazolidinedione, indicated as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus. AVANDIA is manufactured by GlaxoSmithKline.

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 committees. Written submissions may be made to the contact person on or before May 21, 2013. Oral presentations from the public will be scheduled between approximately 10:15 a.m. and 11:15 a.m. on June 6, 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 13, 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 14, 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 Minh Doan 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 5, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–08744 Filed 4–12–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

[Docket Number: OIG–1302–N2]

Special Fraud Alert: Physician-Owned Entities

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice; Correction.

SUMMARY: This document sets forth a correction to the OIG **Federal Register**

notice published on March 29, 2012 (78 FR 19271), on our recently issued Special Fraud Alert on Physician-Owned Entities. Specifically, the Special Fraud Alert addressed physician-owned entities that derive revenue from selling, or arranging for the sale of, implantable medical devices ordered by their physician-owners for use in procedures the physician-owners perform on their own patients at hospitals or ambulatory surgical centers. An inadvertent error appeared in the **DATES** caption of that document regarding the effective date. Accordingly, we are removing the language regarding the effective date to ensure technical correctness of the document.

FOR FURTHER INFORMATION CONTACT: Patrice S. Drew, Congressional and Regulatory Affairs, Office of Inspector General, (202) 619–1368.

SUPPLEMENTARY INFORMATION: In our publication of the Special Fraud Alert on Physician-Owned Entities, an inadvertent error appeared in the **DATES** caption on page 19271 regarding the effective date of the Special Fraud Alert. The caption incorrectly indicated that the effective date is March 29, 2013. Since this document is a notice, no effective date is applicable and all language regarding any effective date is deleted.

Daniel R. Levinson,

Inspector General.

[FR Doc. 2013–08749 Filed 4–12–13; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed collection; 60-day comment request: NLM PEOPLE LOCATOR® System

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Library of Medicine (NLM), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and For Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: David Sharlip, NLM Project Clearance Liaison, Office of Administrative and Management Analysis Services, OAMAS, NLM, NIH, Building 38A, Room B2N12, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll-free number (301) 496–5441, or Email your request, including your address to: *sharlipd@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection

NLM People Locator System 0925–0612, Expiration *Date:* 06/30/2013, Type of submission: Revision, National Library of Medicine (NLM), National Institutes of Health (NIH).

Need and Use of Information Collection

This collection of data is intended to assist in the reunification of family members and friends who are separated during a disaster. Experience in operational drills and during real-world disasters such as the January 2010 earthquakes in Haiti demonstrates that family members and loved ones are often separated during disasters and have significant difficulty determining each other's safety, condition, and location. Reunification can not only improve their emotional well-being during the recovery period, but also improve the chances that injured victims will be cared for once they are released from urgent medical care. Family and friends are also a valuable source of medical information that may be important to the care of injured victims (*e.g.,* by providing family or personal medical history, information about allergies). The National Library of Medicine (NLM) aims to assist Federal, State and Local agencies in disaster relief efforts and to serve its mission of supporting national efforts to the response to disasters via the PEOPLE LOCATOR® system and related mobile app (ReUnite™) developed as part of the intramural Lost Person Finder (LPF) R&D project. The information collection would support efforts to reunite family and friends who are separated during a disaster. Information about missing (''lost'') people would be collected from family members or loved ones who are searching for them. Information about recovered (''found'') people could be provided by medical personnel, volunteers and other relief workers assisting in the disaster recovery effort. Information collected about missing and recovered persons would vary including any one of the following and possibly all: a photograph, name (if available for a found person), age group (child, adult) and/or range, gender, status (alive and well, injured, deceased, unknown), and location. The information collection would be voluntary. It would be activated only during times of declared emergencies, training and demonstration support activities, and would operate in declared emergencies until relief efforts have ceased in response to a particular disaster. This data collection is authorized pursuant to sections 301, 307, 465 and 478A of the Public Health Service Act [42 U.S.C. 241, 242l, 286 and 286d]. NLM has in its mission the development and coordination of communication technology to improve the delivery of health services.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 7,500.

ESTIMATED ANNUALIZED BURDEN HOURS

Types of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Emergency Care First-Responders, Physicians, Other Health Care Providers	500	100	3/60	2,500
Family members seeking a missing person	50,000	2	3/60	5,000

Dated: April 9, 2013.

David Sharlip,

Project Clearance Liaison, NLM, NIH.

[FR Doc. 2013–08788 Filed 4–12–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Leveraging Existing Natural Experiments to Advance the Health of People with Severe Mental Illness (R24).

Date: May 14, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–1225, *aschulte@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 9, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08802 Filed 4–12–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Loan Repayment Program.

Date: May 6, 2013.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0287, *Pintuccig@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 9, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08801 Filed 4–12–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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 Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: May 15, 2013.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: To present the Director's Report and other scientific presentations.

Place: National Institutes of Health, Building 31C, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Closed: 4:15 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31C, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes And Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council; Kidney, Urologic and Hematologic Diseases Subcommittee.

Date: May 15, 2013.

Open: 1:00 p.m. to 2:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31C, Conference Room 7, 31 Center Drive, Bethesda, MD 20892.

Closed: 2:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31C, Conference Room 7, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council; Diabetes, Endocrinology and Metabolic Diseases Subcommittee.

Date: May 15, 2013.

Open: 1:00 p.m. to 2:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31C, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Closed: 2:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31C, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division Of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council; Digestive Diseases and Nutrition Subcommittee.

Date: May 15, 2013.

Open: 1:00 p.m. to 2:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31C, Conference 6, 31 Center Drive, Bethesda, MD 20892.

Closed: 2:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31C, Conference 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.niddk.nih.gov/fund/divisions/DEA/Council/coundesc.htm.*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 10, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08798 Filed 4–12–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, National Advisory Neurological Disorders and Stroke.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Neurological Disorders and Stroke, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

Date: May 12–14, 2013.

Time: 7:00 p.m. to 11:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Residence Inn Bethesda, Montgomery Room, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alan P. Koretsky, Ph.D., Scientific Director, Division of Intramural Research, National Institute of Neurological Disorders and Stroke, NIH, 35 Convent Drive, Room 6A908, Bethesda, MD 20892, (301) 435–2232, *koretskya@ninds.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: April 10, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08797 Filed 4–12–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Acute Kidney Injury.

Date: June 6, 2013.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: D.G. Patel, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health,

Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 9, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08796 Filed 4–12–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the National Advisory Neurological Disorders and Stroke Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Neurological Disorders and Stroke Council.

Date: May 23–24, 2013.

Open: May 23, 2013, 8:00 a.m. to 2:45 p.m.

Agenda: Report by the Director, NINDS; Report by the Associate Director for Extramural Research; Administrative and Program Developments; and an Overview of the NINDS Intramural Program.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Conference Room 10, Bethesda, MD 20892.

Closed: May 23, 2013, 2:45 p.m. to 4:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Conference Room 10, Bethesda, MD 20892.

Closed: May 23, 2013, 4:45 p.m. to 5:15 p.m.

Agenda: To review and evaluate the Division of Intramural Research Board of Scientific Counselors' Reports.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Conference Room 10, Bethesda, MD 20892.

Closed: May 24, 2013, 8:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Conference Room 10, Bethesda, MD 20892.

Contact Person: Robert Finkelstein, Ph.D., Associate Director for Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, 6001 Executive Blvd., Suite 3309, MSC 9531, Bethesda, MD 20892, (301) 496–9248.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http:// www.ninds.nih.gov*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: April 9, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08800 Filed 4–12–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''Leadership Group for a Clinical Research Network on Microbicides to Prevent HIV Infection (UM1)''.

Date: May 9–10, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, Lakeside Ballroom, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Raymond R. Schleef, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/ NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 451–3679, *schleefrr@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 9, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08799 Filed 4–12–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0016]

Agency Information Collection Activities: Office of Biometric Identity Management (OBIM) Biometric Data Collection at the Ports of Entry

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 60-Day notice and request for comments;

SUMMARY: The Department of Homeland Security (DHS), National Protection and Programs Directorate (NPPD), Office of Biometric Identity Management (OBIM), formerly the United States Visitor and Immigrant Status Indicator Technology (US–VISIT) Program, will submit the following Information Collection Request to the Office of Management and Budget (OMB) for review and

clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until June 14, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Written comments and questions about this Information Collection Request should be forwarded to Department of Homeland Security (Attn: NPPD/OBIM 245 Murray Lane SW., Mail Stop 0675, Arlington, VA 20598–0675. Emailed requests should go to Steven P. Yonkers at *Steve.Yonkers@dhs.gov.* Written comments should reach the contact person listed no later than June 14, 2013. Comments must be identified by ''DHS–2013–0016'' and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Email:* Include the docket number in the subject line of the message.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

SUPPLEMENTARY INFORMATION: DHS established OBIM, formerly the US–VISIT Program, to meet specific legislative mandates intended to strengthen border security, address critical needs in terms of providing decision-makers with critical information, and demonstrate progress toward performance goals for national security, expediting of trade and travel, and supporting immigration system improvements. OBIM collects and disseminates biometric information (digital fingerprint images and facial photos) from individuals during their entry into the United States. This information is disseminated to specific DHS components; other Federal agencies; Federal, state, and local law enforcement agencies; and the Federal intelligence community to assist in the decisions they make related to, and in support of, the homeland security mission. Beginning on December 10, 2007, OBIM expanded the collection of fingerprints from two prints to ten. The new collection time of 35 seconds, an increase from the previous 15 seconds, is a result of this change, and includes officer instructions. Additionally, DHS published a final rule, entitled ''United States Visitor and Immigrant Status Indicator Technology Program (US–VISIT); Enrollment of Additional Aliens in US–VISIT; Authority To Collect Biometric Data From Additional Travelers and Expansion to the 50 Most Highly Trafficked Land Border Ports of Entry,'' which became effective on January 18, 2009, and expanded the population of aliens subject to the requirement of having to provide biometrics in connection with their admission to the United States. *See* 73 FR 77473 (Dec. 19, 2008).

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate, Office of Biometric Identity Management.

Title: Office of Biometric Identity Management (OBIM) Biometric Data Collection at the Ports of Entry.

OMB Number: 1600–0006.

Frequency: One-time collection.

Affected Public: Foreign visitors and immigrants into the United States.

Number of Respondents: 156,732,422.

Estimated Time per Respondent: 35 seconds.

Total Burden Hours: 1,520,300 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Recordkeeping Burden: $63,853,000.

Total Burden Cost (operating/maintaining): $63,853,000.

Michael Butcher,

Acting Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2013–08718 Filed 4–12–13; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2012–1006]

Collection of Information under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding Information Collection Requests (ICRs), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collections of information: 1625–0065, Offshore Supply Vessels—Title 46 CFR Subchapter L and 1625–0105, Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District and the Illinois Waterway, Ninth Coast Guard District.

Our ICRs describe the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before May 15, 2013.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2012–1006] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by email via: *OIRA-submission@omb.eop.gov.*

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–611), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2100 2nd St. SW., STOP 7101, Washington DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532 or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICRs referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2012–1006], and must be received by May 15, 2013. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2012–1006], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**, but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2012–1006'' in the ''Keyword'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2012–1006'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Numbers: 1625–0065 and 1625–0105.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (78 FR 5192, January 24, 2013) required by 44 U.S.C. 3506(c)(2). That Notice elicited one comment, a request for a copy of the ICR for 1625–0065. Agency sent the commenter a copy.

Information Collection Requests

1. *Title:* Offshore Supply Vessels—Title 46 CFR Subchapter L.

OMB Control Number: 1625–0065.

Type of Request: Extension of a currently approved collection.

Respondents: Owners and operators of vessels.

Abstract: The OSV posting/marking requirements are needed to provide instructions to those on board of actions to be taken in the event of an emergency. The reporting/recordkeeping requirements verify compliance with regulations without presence to witness routine matters, including OSVs based overseas as an alternative to Coast Guard reinspection.

Forms: None.

Burden Estimate: The estimated burden remains 2,068 hours a year.

2. *Title:* Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District and the Illinois Waterway, Ninth Coast Guard District.

OMB Control Number: 1625–0105.

Type of Request: Extension of a currently approved collection.

Respondents: Owners, agents, masters, towing vessel operators, or persons in charge of barges loaded with CDCs or having CDC residue operating on the inland rivers located within the Eighth and Ninth Coast Guard Districts.

Abstract: The Coast Guard needs this information in order to safeguard vessels, ports and waterfront facilities from sabotage or terrorist acts. This information will be used to control vessel traffic, develop contingency plans, enforce regulations, and enhance maritime security. Respondents are operators of barges loaded with certain dangerous cargoes.

Forms: None.

Burden Estimate: The estimated burden remains 2,196 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: April 8, 2013.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2013–08733 Filed 4–12–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5691–N–01]

Notice of Proposed Information Collection: Comment Request Office of Sustainable Housing Communities Progress Report Template

AGENCY: Office of Sustainable Housing and Communities (OSHC), HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

The Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10, approved April 15, 2011) (2011 Appropriations Act), provided a total of $100,000,000 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning. Of that total, $70,000,000 is available for the Sustainable Communities Regional Planning Grant Program, and $30,000,000 is available for the Community Challenge Planning Grant Program.

The Consolidated Appropriations Act, 2010 (Pub. L. 111–117, December 16, 2009), (2010 Appropriations Act) provided a total of $150 million in fiscal year 2010 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning.

DATES: *Comments Due Date:* June 14, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Thaddeus Wincek, Office of Sustainable Housing and Communities, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–6617 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION:

I. Background

HUD's Sustainable Communities Initiative (SCI) Planning Grant Programs, which comprise of the Sustainable Communities Regional Planning Grant Program, the Community Challenge Planning Grant Program, and the Capacity Building for Sustainable Communities Grant Program, require progress reporting by grantees on a semi-annual basis (i.e. Twice per year: January 30th and July 30th). The grant program terms and conditions require the grantee to submit a semi-annual progress report which reflects activities undertaken, obstacles encountered and solutions achieved, and accomplishments. Progress reports that show progress of the program in meeting approved work plan goals, objectives are to be submitted.

II. Proposed Information Collection

HUD is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: OSHC Progress Report Template.

OMB Control Number, if applicable: Pending.

Description of the need for the information and proposed use: The Appropriations Act, provided a total of $100,000,000 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning. Of that total, $70,000,000 is available for the Sustainable Communities Regional Planning Grant Program, and $30,000,000 is available for the Community Challenge Planning Grant Program.

The Appropriations Act, 2010, provided a total of $150 million in fiscal year 2010 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning.

This information collection is necessary to fulfill the reporting requirements of HUD's Sustainable Communities Initiative (SCI) Planning Grant Programs, which comprise of the Sustainable Communities Regional Planning Grant Program, the Community Challenge Planning Grant Program, and the Capacity Building for Sustainable Communities Grant Program. All grant programs require progress reporting by grantees on a semi-annual basis (i.e. Twice per year: January 30th and July 30th). The grant program terms and conditions require the grantee to submit a semi-annual progress report which reflects activities undertaken, obstacles encountered and solutions achieved, and accomplishments. Progress reports that show progress of the program in meeting approved work plan goals, objectives are to be submitted.

Agency form numbers, if applicable: Pending.

Estimation of the total numbers of hours needed to prepare the information collection including number of

respondents, frequency of response, and hours of response: The total number of annual burden hours is 226.5. The number of respondents is 151, the number of responses is 302, the frequency of response is semi-annually (6 months), and the burden hour per response is 0.75 (45 minutes).

Status of the proposed information collection: This is a new information collection request.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: April 5, 2013.

Shelley Poticha,

Director, Office of Sustainable Housing and Communities.

[FR Doc. 2013–08808 Filed 4–12–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2013–N085; FXES11120100000–134–FF01E00000]

Proposed Amendment of Habitat Conservation Plan and Associated Documents; Green Diamond Resource Company; Mason, Grays Harbor, Lewis, Pacific, and Thurston Counties, WA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), have received an application, under the Endangered Species Act of 1973 (Act), as amended, from Green Diamond Resource Company (GDRCo) for a proposed low-effect amendment to their Habitat Conservation Plan (HCP) and Implementation Agreement (IA). If approved, the GDRCo incidental take permit (ITP), as well as the HCP and IA, would be amended to increase the amount of lands covered under the ITP and HCP; some of the HCP management prescriptions would change, including those associated with marbled murrelet (*Brachyramphus marmoratus*) habitat protection; and the IA would be amended to include a new clause and a new marbled murrelet habitat map. The amendment would change the management of GDRCo's added lands from prescriptions currently required under the standard Washington State Forest Practices Rules (FP Rules) and Forest Practices HCP (FP HCP) to those of the GDRCo HCP. We invite public comment on the proposed amendment of the ITP, HCP, IA, and associated documents.

DATES: To ensure consideration, please send your written comments by May 15, 2013.

ADDRESSES: You may download a copy of the permit application, HCP, and associated documents on the Internet at *http://www.fws.gov/wafwo/.* The proposed amendment to the HCP and IA and the Draft Environmental Action Statement are available for review and comment. The original HCP, IA, and Final Environmental Impact Statement are available for review.

Please specify permit number TE032463–0 on all correspondence. You may submit comments or requests for hard copies or a CD–ROM of the documents by one of the following methods:

- *Email: Louellyn_Jones@fws.gov*. Include ''Permit Number TE032463–0'' in the subject line of the message.
- *Facsimile:* Ken Berg, Manager, 360–753–9405; Attn.: Lou Ellyn Jones, Permit number TE032463–0.
- *U.S. Mail:* Please address written comments to Ken Berg, Manager; Attention: Lou Ellyn Jones; Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service; 510 Desmond Drive SE., Lacey, WA 98503.
- *In-Person:* Written comments can be dropped off during regular business hours (8 a.m.–4:30 p.m.) at the above address. Call Lou Ellyn Jones, Fish and Wildlife Biologist, at (360) 753–5822 to make an appointment to view or pick up draft documents.

FOR FURTHER INFORMATION CONTACT: Lou Ellyn Jones, Fish and Wildlife Biologist, at address under **ADDRESSES**, above; by email at *Louellyn_Jones@fws.gov*; or by telephone at (360) 753–5822.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act (16 U.S.C. 1531 et seq.) and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR 17 prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532). However, under section 10 of the Act, for limited circumstances, we issue permits to authorize incidental take of threatened or endangered species—i.e., take that is incidental to, and not the purpose of, the carrying out of otherwise lawful activities. A permit to take bald eagles can also be issued under the Act when associated with a conservation plan such as an HCP, as long as the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668c) standards are met.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. Regulations governing take of bald eagles are at 50 CFR 22. In addition to meeting other criteria, an incidental take permit must not jeopardize the continued existence of federally listed threatened or endangered species, and authorized take of bald eagles must be consistent with the goal of maintaining stable or increasing breeding populations of this species.

Introduction

The GDRCo has requested an amendment to the HCP, IA, and ITP originally issued on October 13, 2000, with a term of 50 years. The species covered under the existing and amended ITP would remain the same; however, for some species, listing status has changed since the permit was issued. Covered species under the amended HCP include the bull trout (*Salvelinus confluentus*), which was listed as threatened on June 10, 1998 (63 FR 31693); the marbled murrelet (*Brachyramphus marmoratus*), which was listed as threatened on October 1, 1992 (57 FR 45328); and the bald eagle (*Haliaeetus leucocephalus*), which was listed as threatened in Washington on February 14, 1978 (43 FR 6230), and delisted throughout the United States on July 9, 2007 (72 FR 37346). Also covered are 5 anadromous fish species under the jurisdiction of the National Marine Fisheries Service, 2 of which are listed, and 43 additional non-listed species associated with western forests, streams, and wetlands.

The northern spotted owl (*Strix occidentalis caurina*), which was listed as threatened on June 26, 1990 (55 FR 26114), is not covered in the existing or proposed amendment to the HCP. Management of northern spotted owls and their habitat on GDRCo lands would continue to be guided by applicable FP Rules, as well as by the take prohibitions under the Act.

Applicant's Proposal

The proposed amendment would add to the permit approximately 53,000 acres and 854 stream miles of covered lands, for a total of approximately 319,000 acres and 2,575 stream miles on GDRCo lands, to be managed in accordance with their HCP. Any additional lands that may be acquired by GDRCo within the Chehalis and Willapa Basins during the term of the permit may also be added to the HCP,

according to the process outlined in the amended IA. The area of the Chehalis (about 1.7 million acres) and Willapa (166,000 acres) Basins totals about 2,920 mi^2 (about 1.87 million acres), which includes part of the original HCP boundary and the proposed expansion area. The new HCP boundary would include lands in Mason, Grays Harbor, Lewis, Pacific, and Thurston Counties in the State of Washington. The amendment would change the management of GDRCo's added lands from prescriptions currently required under FP Rules and the FP HCP to those of the GDRCo HCP. The amendment also changes some of the original GDRCo HCP prescriptions.

Under the amendment, suitable marbled murrelet habitat on the added lands and any future additions to the HCP would be determined based on the most recent (2011) Pacific Seabird Group criteria, which are more stringent than those of both FP Rules (WAC 222–16–010) and the original GDRCo HCP. For example, under the new criteria, only one nesting platform, at least 10 cm (4 inches) wide, is required per acre to meet the definition of suitable marbled murrelet habitat. In contrast, under FP Rules, two nesting platforms, at least 18 cm (7 inches) wide, are required per acre.

Most of the lands covered under the amended HCP are within the marbled murrelet special landscape (WAC 222–16–087). FP Rules protect stands of occupied murrelet habitat and unsurveyed suitable habitat patches that are 5 acres or larger within the marbled murrelet special landscape and marbled murrelet detection areas. Elsewhere, occupied and unsurveyed suitable habitat patches 7 acres or larger are protected. Under the amended GDRCo HCP, suitable stands on the added lands that are 5 acres or larger would be protected, regardless of whether or not they are occupied or within the marbled murrelet special landscape or a detection area. The original HCP Area will continue to focus on protection of occupied murrelet habitat, per the original HCP prescriptions.

The proposed amendment includes an update to HCP prescriptions based on the most recent Pacific Region guidelines to avoid disturbance and take at communal bald eagle roosts and important foraging areas. It also addresses protection of newly discovered bald eagle nests, roosts, and important foraging areas, and a yearly monitoring and reporting requirement. The Service may review yearly reports to evaluate whether prescriptions need to be updated to remain compliant with the Bald and Golden Eagle Protection Act.

The proposed amendment would change the forest cover prescriptions for rain-on-snow zones within the Chehalis Watershed to reflect a watershed analysis conducted for that watershed and consistent with FP Rules (WAC 222–20–100). Conservation measures that are part of the original HCP will continue to be applied in the added lands and lands acquired in the future. These include the implementation of the Riparian Conservation Reserve (RCR), wetland, and steep slope management programs. Established RCRs will be thinned to promote late seral stand characteristics, and they may develop into marbled murrelet and spotted owl habitat over time. No additional buffer areas will be established for murrelet habitat that lies within the RCRs, given the large extent of contiguous forest (17 percent of the plan area) within these areas.

Text and exhibits in the IA would be amended to reflect the expanded HCP boundary around lands eligible for inclusion under the HCP, a new marbled murrelet habitat map, and the addition of a severability and savings clause.

Anticipated Effects of Implementing the Amended HCP

Bull trout are only occasionally found within the covered area for the amended HCP. The FP HCP and the GDRCo HCP contain similar conservation measures for the bull trout and other aquatic species. Given the low occurrence of bull trout within the covered area for the amended HCP and the similarity of the two sets of HCP conservation measures, the anticipated effects to the bull trout of changing from the FP HCP prescriptions to the GDRCo HCP prescriptions are negligible. All private timberlands in Washington State, including those under GDRCo ownership, are excluded from the area designated as bull trout critical habitat (75 FR 63898); therefore, the amendment would have no effect on designated bull trout critical habitat.

Both beneficial and adverse impacts to marbled murrelet are anticipated. Under the amended HCP, it is anticipated that more acres of suitable marbled murrelet habitat would be protected than under standard FP Rules, due to the use of the more current and stringent suitable habitat criteria and due to protection of suitable habitat patches that are 5 acres or larger on the added lands regardless of their occupancy status or location relative to the marbled murrelet special emphasis area.

Adverse effects to the marbled murrelet likely to be caused by the amended HCP are associated with removal of suitable habitat patches that are less than 5 acres. Very few suitable habitat patches less than 5 acres are anticipated because most of them would have already been removed under FP Rules unless they are within regulatory buffers or difficult-to-harvest locations. Thus, the area where these adverse effects could occur is very small. In addition, suitable murrelet habitat within GDRCo RCRs, wetland or steep slope buffers, or on adjacent ownerships could be degraded by windthrow or exposure to wind if harvest occurs within 300 feet of murrelet habitat. The probability of this is low, because suitable habitat is not likely to develop in the RCRs and other buffers for another 35–40 years. The same potential for adverse effects to the murrelet also exists under the original GDRCo HCP and FP rules. Although the Service considers this habitat degradation likely to occur, the area where this could occur is limited; moreover, due to the current declining population status of marbled murrelet, the Service is not reasonably certain that murrelet would occupy these small or marginal habitat areas. Therefore, we do not believe that take of marbled murrelet is likely to increase under the amended HCP. Despite the small possibility of adverse effects, the overall result of the modified marbled murrelet prescriptions is beneficial, because the modifications protect habitat that would not otherwise be protected under the FP Rules.

Marbled murrelet critical habitat has not been designated on private lands in Washington State. A portion of designated critical habitat exists in the extreme eastern corner and on State-owned lands within the covered area under the amended HCP. It is unlikely GDRCo would purchase land in the immediate area of marbled murrelet critical habitat, because access to many of these areas is difficult or they are within the Mineral Spotted Owl Special Emphasis Area, which has encumbrances on private lands. Therefore, the potential for affecting marbled murrelet critical habitat is very low.

There are no anticipated effects to spotted owls in association with the amendment, because they are not a covered species under the original or amended GDRCo HCP, and management of their habitat would continue to comply with the requirements of FP Rules and the Federal ESA. Spotted owl critical habitat has been designated (77 FR 71875) in a small portion of the amended assessment area, but is not

adjacent to any GDRCo lands. It is unlikely that GDRCo would purchase land adjacent to spotted owl critical habitat in the future. Thus, the effect of the amendment will be negligible on northern spotted owls and their designated critical habitat.

Over the decades-long term of the amended HCP, it is estimated that there may be two occurrences of disturbance to a nesting pair of bald eagles. This low level of impact is expected to be consistent with maintaining stable or increasing numbers of bald eagles in the area covered by the amended HCP. Monitoring reports and Service reviews will ensure that implementation of the HCP will remain consistent with the requirements of the Bald and Golden Eagle Protection Act.

There are 43 other non-listed covered species. Effects caused by the amended HCP are anticipated to be negligible for those non-listed covered species associated with mainstem streams and rivers as well as tributaries, because riparian buffer requirements are very similar under the amended GDRCo HCP compared to those of the FP Rules and FP HCP. Effects are anticipated to be beneficial for species associated with forested wetlands and headwater areas, because the GDRCo HCP prescriptions protect forested wetlands and riparian buffers on headwater streams, while the FP Rules do not. Effects are also anticipated to be beneficial for snag-dependent species, due to the higher number of conserved wildlife trees required under the GDRCo HCP.

Our Preliminary Determination

The proposed amendment of the ITP is a Federal action that triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) (NEPA). The Service has made a preliminary determination that the permit application, the proposed amendment of the HCP, and the pending issuance of an amended ITP are eligible for categorical exclusion under NEPA as provided by the Department of the Interior Manual (516 DM 2 Appendix 2 and 516 DM 8), based on the following criteria: (1) Implementation of the amended HCP would result in minor or negligible adverse effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the amended HCP would result in minor or negligible adverse effects on other environmental values or resources; and (3) impacts of the amended HCP, considered together with the impacts of other past, present, and reasonably foreseeable similarly-situated projects, would not result, over time, in cumulative adverse effects to environmental values or resources which would be considered significant. We explain the basis for this preliminary determination above under Anticipated Effects of Implementing the Amended HCP, and in more detail in a draft Environmental Action Statement that is also available for public review. Based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

Next Steps

The public process for the proposed Federal permit action will be completed after the public comment period, at which time we will evaluate the permit amendment application and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act, applicable regulations, and NEPA requirements. If we determine that those requirements are met, we will amend the ITP to reflect the revised HCP and IA.

Public Comments

We invite public comment on the proposed amendments of the ITP, HCP, and IA. If you wish to comment on the proposed amendment of the ITP, HCP, and associated documents, you may submit comments by any one of the methods discussed above under **ADDRESSES**.

Public Availability of Comments

Comments and materials we receive, as well as supporting documentation we use in preparing the EIS under NEPA, will become part of the public record and will be available for public inspection by appointment, during regular business hours, at the Service's Washington Fish and Wildlife Office (see **ADDRESSES**). Before including your address, phone number, email address, or other personal identifying information in your comments, 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

This notice is provided in accordance with section 10 of the Act (16 U.S.C. 1531 et seq.) and NEPA regulations (40 CFR 1506.6).

Dated: April 5, 2013.

Richard R. Hannan,

Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 2013–08766 Filed 4–12–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO9230000–L14300000–FQ0000; COC–28247]

Public Land Order No. 7812; Partial Revocation of a Secretarial Order Dated April 27, 1905; CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a withdrawal created by a Secretarial Order insofar as it affects 35.89 acres of public land withdrawn on behalf of the Bureau of Reclamation for the Gore Canyon Reservoir, Colorado River Storage Project.

DATES: *Effective Date:* April 15, 2013.

FOR FURTHER INFORMATION CONTACT: John D. Beck, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7093, 303–239–3882. 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. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation has determined that a portion of the withdrawal created by a Secretarial Order dated April 27, 1905, for the Gore Canyon Reservoir, Colorado River Storage Project, is no longer needed for the purpose for which the land was withdrawn and has requested this partial revocation. The land will remain closed to settlement, sale, location, or entry under the general land laws, including the United States mining laws, by Public Land Order No. 7466 (65 FR 61182 (2000)). The lands have been and will remain open to mineral leasing.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

The withdrawal created by a Secretarial Order dated April 27, 1905, which withdrew public lands from all

forms of appropriation under the public land laws, including the United States mining laws, and reserved them for use by the Bureau of Reclamation for the Gore Canyon Reservoir, Colorado River Storage Project, is hereby partially revoked insofar as it affects the following described land:

Sixth Principal Meridian

T. 1 N., R. 81 W.,
Sec. 27, lot 1.

The area described contains 35.89 acres, more or less, in Grand County.

Dated: March 27, 2013.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2013–08775 Filed 4–12–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY921000.L14300000.ET0000; WYW 111611]

Public Land Order No. 7811; Extension of Public Land Order No. 6960; WY.

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order No. 6960, as corrected by Public Land Order No. 6980, for an additional 20-year period. The extension is necessary to continue protection of the natural elk feeding ground, winter range, and capital investments in the area.

DATES: *Effective Date:* March 30, 2013.

FOR FURTHER INFORMATION CONTACT: Janelle Wrigley, Bureau of Land Management, Wyoming State Office, 5353 N. Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003, 307–775–6257. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The purpose for which the withdrawal was first made requires this extension to continue protection of the natural elk feeding ground, winter range, and capital investments in the area. The withdrawal extended by this order will expire on March 29, 2033, unless as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 6960 (58 FR 16628 (1993)), as corrected by PLO No. 6980 (58 FR 33025 (1993)), which withdrew 10,535.30 acres of public mineral estate from location or entry under the United States mining laws (30 U.S.C. Ch. 2), is hereby extended for an additional 20-year period, until March 29, 2033.

Dated: March 27, 2013.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2013–08778 Filed 4–12–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR936000–L14300000–ET0000; FUND 13XL1109AF; HAG–13–0116; OR–46473]

Public Land Order No. 7810; Extension of Public Land Order No. 6963; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order No. 6963, as amended, for an additional 20-year period. The extension is necessary to continue protection of the natural values of the Florence Sand Dunes located in Lane County, Oregon, which would otherwise expire on April 12, 2013.

DATES: *Effective Date:* April 13, 2013.

FOR FURTHER INFORMATION CONTACT: Michael L. Barnes, Bureau of Land Management, Oregon/Washington State Office, 503–808–6155, or Tracy Maahs, Bureau of Land Management, Eugene District Office, 541–683–6376. 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 either of the above individuals. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with either of the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The purpose for which the withdrawal was first made requires this extension to continue the protection of the Florence Sand Dunes. The withdrawal extended by this order will expire on April 12, 2033, unless as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 6963 (58 FR 19212 (1993)), as amended (77 FR 65906 (2012)), which withdrew approximately 250.66 acres of public lands from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Chapter 2), but not from leasing under the mineral leasing laws, to protect the Florence Sand Dunes, is hereby extended for an additional 20-year period until April 12, 2033.

Dated: March 29, 2013.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2013–08759 Filed 4–12–13; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTB05000 L12320000.FV0000 LVDRMT050000.XXXL5413AR]

Notice of Intent To Collect Fees at the Henneberry House on Public Land in Beaverhead County, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the Federal Lands Recreation Enhancement Act (REA), the Bureau of Land Management (BLM) Dillon Field Office is proposing to charge an expanded amenity recreation fee for recreational rental of the Henneberry House (or Ney House), a historic cabin along the Beaverhead River, approximately 15 miles south of Dillon, Montana.

DATES: To ensure that comments will be considered, the BLM must receive

written comments on the proposed cabin rental fees by May 15, 2013. Six months after the publication of this notice, the BLM Dillon Field Office will begin charging an expanded amenity fee for the recreational rental of Henneberry House. The Western Montana Resource Advisory Council will review consideration of the new fees prior to the proposed initiation date.

ADDRESSES: Comments may be mailed or hand delivered to the BLM Dillon Field Office, Attn: Field Manager, 1005 Selway Drive, Dillon, MT 59725, or emailed to *BLM_MT_Dillon_FO@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Waldrup, BLM Outdoor Recreation Planner, at the above address, or by calling 406–683–8000. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Pursuant to the REA (16 U.S.C. 6801 *et seq.*), the Secretary may establish, modify, charge and collect recreation fees at Federal recreation lands and waters. Specifically, pursuant to Section 6802 (g)(2)(C) of the REA, the Secretary may charge an expanded amenity recreation fee, either in addition to a standard amenity fee, or by itself, for the rental of cabins or historic structures. Therefore, by this Notice, the BLM Dillon Field Office is proposing to collect an expanded amenity fee for the rental of the Henneberry House cabin and historic site. Proposed cabin rental fees would be identified and posted on the Dillon Field Office Web site, at the Dillon Field Office, and distributed in the local media. Fees would be collected as outlined in the field office's Fee Business Plan. The Henneberry House is the historic house associated with the Henneberry Homestead built in 1905. The William F. Henneberry homestead is one of the best preserved examples of early homesteading activities that remain on public lands in Beaverhead County. The buildings and the landscape have not been greatly modified or changed since 1883 when William F. Henneberry settled on the property. The Henneberry homestead reflects the agricultural patterns of ranching that still characterize the county and the settlement patterns that helped establish Beaverhead County.

The 1905 house represents the distinct characteristics of log structure construction in the late 1800s early 1900s. The building displays excellent workmanship, with detailed full dovetail notching, and, given its age, is in remarkably good condition. This historic property was in a state of disrepair and would likely have been lost without restoration efforts to protect the property. Funding under the American Recovery and Reinvestment Act enabled the BLM to prevent the loss of this property to the elements. The Henneberry House is in the immediate vicinity of several popular recreational activities that are available on the surrounding public lands, including fishing on the Beaverhead River, waterfowl hunting on the river and adjacent man-made duck ponds and hunting both in the river corridor and surrounding uplands. The BLM is committed to providing and receiving fair value for the use of developed recreation facilities and services in a manner that meets public-use demands, provides quality experiences, and protects important resources. In an effort to meet increasing demands for services and maintenance of this existing historic structure, the BLM would collect fees to offset those ongoing costs.

The BLM's mission for the Dillon Field Office Fee Business Plan (Project) is to ensure that funding is available to maintain existing facilities and recreational opportunities, to provide for law enforcement presence, to develop additional services, and to protect resources. This mission entails communication with those who will be most directly affected by the Project, for example recreationists, other recreation providers, neighbors, as well as those who will have a stake in solving concerns that may arise throughout the life of the Project, including elected officials and other agencies. In February 2006, the BLM completed the Record of Decision (ROD) and Approved Dillon Resource Management Plan which emphasizes protection and restoration of the natural resources while still providing for resource use and enjoyment. This 2006 ROD provides for enhancing recreation opportunities and maintaining existing facilities to a standard consistent with the recreational setting. Collecting expanded amenity fees for Henneberry House rentals would provide a reliable source of funding to ensure the long-term maintenance of this facility for future recreational use. The collection of user fees was also addressed in the Dillon Field Office Recreation Fee Business Plan, prepared pursuant to the REA and BLM recreation fee program policy. This Business Plan establishes the rationale for charging recreation fees. In accordance with BLM recreation fee program policy, the Business Plan explains the fee collection process and outlines how the fees will be used within the Dillon Field Office. The BLM has notified and involved the public at each stage of the public participation process addressed by REA, including the proposal to collect fees, through the Western Montana Resource Advisory Council and other public scoping avenues.

Fee amounts will be posted on the BLM Dillon Field Office Web site and at the Dillon Field Office. Copies of the Fee Business Plan are available at the Dillon Field Office and the BLM Montana State Office.

The BLM welcomes public comments on this Notice and on the proposed expanded amenity recreation fee at the Henneberry House.

Before including your address, phone number, email address or other personal identifying information in your comment, be advised 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: 16 U.S.C. 6803(b); 43 CFR 2932.31.

Cornelia H. Hudson,

Field Manager.

[FR Doc. 2013–08757 Filed 4–12–13; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12674; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate a Cultural Item: U.S. Department of the Interior, National Park Service, Little Bighorn Battlefield National Monument, Crow Agency, MT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, National Park Service, Little Bighorn Battlefield National Monument, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets

the definition of sacred objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim the cultural item should submit a written request to Little Bighorn Battlefield National Monument. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Little Bighorn Battlefield National Monument at the address in this notice by May 15, 2013.

ADDRESSES: Denice Swanke, Superintendent, Little Bighorn Battlefield National Monument, P.O. Box 39, Crow Agency, MT 59022–0039, telephone (406) 638–3201, email *denice_swanke@nps.gov*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the U.S. Department of the Interior, National Park Service, Little Bighorn Battlefield National Monument, Crow Agency, MT, that meets the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the Superintendent, Little Bighorn Battlefield National Monument.

History and Description of the Cultural Item

In 1960, one cultural item was purchased by Thomas K. Garry, Superintendent of Custer Battlefield National Monument, now known as Little Bighorn Battlefield National Monument. The cultural item originally belonged to Charles Whistling Elk, a member of the Northern Cheyenne Tribe. On April 27, 1960 it was purchased from Charles Whistling Elk's son-in-law, Albert Tallbull, also of the Northern Cheyenne Tribe. The sacred object is a medicine bundle containing multiple objects including rattles, a buffalo tail, a beaded leather bag, and several small bags containing herbs, roots, and amulets.

Gilbert Whitedirt, grandson of Charles Whistling Elk, is requesting repatriation of the cultural item described above. The medicine bundle is needed by Mr. Whitedirt to continue traditional ceremonies. Little Bighorn Battlefield National Monument consulted with the Northern Cheyenne Cultural Commission and Tribal Historic Preservation Office to determine that Gilbert Whitedirt is an appropriate recipient under the Northern Cheyenne traditional kinship system and common law system of descendance.

Determinations Made by Little Bighorn Battlefield National Monument

Officials of Little Bighorn Battlefield National Monument have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3005(a)(5)(A), Mr. Gilbert Whitedirt is the direct lineal descendant of the individual who owned this sacred object.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Denice Swanke, Superintendent, Little Bighorn Battlefield National Monument, P.O. Box 39, Crow Agency, MT 59022–0039, telephone (406) 638–3201, email *denice_swanke@nps.gov,* by May 15, 2013. After that date, if no additional claimants have come forward, transfer of control of the sacred object to Mr. Gilbert Whitedirt may proceed.

Little Bighorn Battlefield National Monument is responsible for notifying Mr. Gilbert Whitedirt; the Arapaho Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne and Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma); Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Flandreau Santee Sioux Tribe of South Dakota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe (previously listed as the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota); Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and Yankton Sioux Tribe of South Dakota that this notice has been published.

Dated: March 26, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–08769 Filed 4–12–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12675; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: U.S. Department of the Interior, National Park Service, Everglades National Park, Homestead, FL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, National Park Service, Everglades National Park, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to Everglades National Park. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Everglades National Park at the address in this notice by May 15, 2013.

ADDRESSES: Dan Kimball, Superintendent, Everglades National Park, 4001 State Road 9336, Homestead, FL 33034, telephone (305) 242–7707, email *Dan_Kimball@nps.gov*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the U.S. Department of the Interior, National Park Service, Everglades National Park, Homestead, FL, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the Superintendent, Everglades National Park.

History and Description of the Cultural Items

In 1982, two cultural items were removed from the Mosquito Island Site in Monroe County, FL. During an authorized survey, human remains and associated funerary objects were collected from Mosquito Island. The human remains and 41 objects were described in a Notice of Inventory Completion published in the **Federal Register** in 1996 (61 FR 8971, March 6, 1996) and were repatriated after the 30 day waiting period expired. The two cultural items were mentioned in the March 6, 1996 Notice of Inventory Completion, but could not be located prior to publication and so were not included in the total number of associated funerary objects described in the notice. In 2011, the two objects were found in National Park Service collections. The two unassociated funerary objects are one carbide lamp and one incomplete boat lantern.

Archeological and ethnographic information indicates that the Mosquito Island Site was a Miccosukee campsite during the mid-20th century.

Determinations Made by Everglades National Park

Officials of Everglades National Park have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the two cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Miccosukee Tribe of Indians.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Dan Kimball, Superintendent, Everglades National Park, 4001 State Road 9336, Homestead, FL 33034, telephone (305) 242–7707, email *Dan_Kimball@nps.gov* by May 15, 2013. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Miccosukee Tribe of Indians may proceed.

Everglades National Park is responsible for notifying the Miccosukee Tribe of Indians that this notice has been published.

Dated: March 26, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–08767 Filed 4–12–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12627; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate a Cultural Item: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and the Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, Bureau of Indian Affairs, and the Robert S. Peabody Museum of Archaeology, in consultation with the appropriate Indian tribes, have determined that the cultural item listed in this notice meets the definition of unassociated funerary object. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the U.S. Department of the Interior, Bureau of Indian Affairs. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the U.S. Department of the Interior, Bureau of Indian Affairs at the address in this notice by May 15, 2013.

ADDRESSES: Anna Pardo, Museum Program Manager/NAGPRA Coordinator, U.S. Department of the Interior, Indian Affairs, 12220 Sunrise Valley Drive, Room 6084, Reston, VA 20191, telephone (703) 390–6343, email *Anna.Pardo@bia.gov*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA, that meets the definition of unassociated funerary object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

Between 1934 and 1935, a cultural item was removed from the Snaketown site (AZ U:13:1) on the Gila River Indian Reservation, in Pinal County, AZ, during legally authorized excavations conducted by the Gila Pueblo Foundation. In 1940, this item was donated to the Robert S. Peabody Museum of Archaeology as part of a larger collection donation. The one unassociated funerary object is a projectile point which was found in association with a human burial, but the human remains are not present in the collections. Archeological evidence places the Snaketown site within the archeologically-defined Hohokam tradition. The occupation of the Snaketown site spans the years from circa A.D. 500 or 700 to 1100 or 1150.

Continuities of mortuary practices, ethnographic materials, and technology indicate affiliation of Hohokam settlements with present-day O'odham (Piman) and Puebloan cultures. An August 2000 cultural affiliation study, submitted by the Gila River Indian Community of the Gila River Indian Reservation, addresses continuities

between the Hohokam and the O'odham tribes.

Determinations Made by the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and the Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA

Officials of the Bureau of Indian Affairs and the Robert S. Peabody Museum of Archaeology have determined that:

• Pursuant to 25 U.S.C. 3001(3)(B), the one cultural item described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary object and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Anna Pardo, Museum Program Manager/NAGPRA Coordinator, U.S. Department of the Interior, Indian Affairs, 12220 Sunrise Valley Drive, Room 6084, Reston, VA 20191, telephone (703) 390–6343, email *Anna.Pardo@bia.gov,* by May 15, 2013. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary object to The Tribes may proceed.

The Bureau of Indian Affairs is responsible for notifying The Tribes that this notice has been published.

Dated: March 21, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–08772 Filed 4–12–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12676; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Carnegie Museum of Natural History, Pittsburgh, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Carnegie Museum of Natural History has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Carnegie Museum of Natural History. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Carnegie Museum of Natural History at the address in this notice by May 15, 2013.

ADDRESSES: Dr. Sandra L. Olsen, Carnegie Museum of Natural History, 5800 Baum Blvd., Pittsburgh, PA 15206, telephone (412) 665–2606, email *SandraLOlsen@gmail.com.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Carnegie Museum of Natural History, Pittsburgh, PA. The human remains and associated funerary objects were removed from Emerson Cemetery, in Hancock County, ME.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Carnegie Museum of Natural History professional staff in consultation with representatives of the Aroostook Band of Micmac (previously listed as the Aroostook Band of Micmac Indians); Houlton Band of Maliseet Indians; Passamaquoddy Tribe; and the Penobscot Nation (previously listed as the Penobscot Tribe of Maine).

History and Description of the Remains

In 1912, human remains representing, at minimum, one individual were removed from the Emerson Cemetery near Lake Alamoosook, in Orland, Hancock County, ME. This was part of an exploration of archaeological sites in Maine by the Phillips Academy, Andover, MA. In 1923, Phillips Academy transferred a single individual's remains and associated funerary objects to the Carnegie Museum of Natural History, as part of a large, representative sample of archaeological material from all over the United States. The individual is represented by a single bone fragment from Grave 65. No known individuals were identified. The 18 associated funerary objects are 3 gouges, 5 points, 1 broken point, 1 pebble, 3 celts, 1 knife, 1 adze, 1 plummet, and 2 water-worn stones removed from Grave 65 and Graves 61, 83, and 90.

The human remains and associated funerary objects were identified by archaeologists at Phillips Academy as being from the Red Paint phase, identified by the extensive use of red ochre in the burials. Red ochre has a spiritual significance in the Wabanaki cultural worldview, as illustrated in oral tales published in 1894 (Rand, *Legends of the Micmacs*). Creation stories and other narratives place the Wabanaki tribes in Maine from the earliest days. The Wabanaki people have a long history of protecting burial places. Records from the 18th century document the Wabanaki tribes desire to maintain ancestral burials and cemeteries undisturbed.

Orland, ME, is within the traditional hunting and fishing territory of the Penobscot tribe, and specific places in the area are referenced in Penobscot

tribal legends (Speck, *Penobscot Man: The Life History of a Forest Tribe in Maine;* Siebert, *Penobscot Legends*). In 1775, the Provincial Congress of Massachusetts recognized the Penobscot tribe's claim to ''territories or possessions, beginning at the Head of Tide on the Penobscot-river, extending six miles on each side of said river'' (Godfrey, ''The Ancient Penobscot, or Panawanskek,'' *Historical Magazine,* Vol. 1., Series 3: 85–92). Although the Emerson Cemetery was on property not owned by Penobscot tribe, in 1918, the same excavators from Phillips Academy were refused permission to examine similar Red Paint graves on located on Indian Island, ME, on Penobscot tribal lands.

Today, the Wabanaki tribes are represented by the Aroostook Band of Micmac (previously listed as the Aroostook Band of Micmac Indians); Houlton Band of Maliseet Indians; Passamaquoddy Tribe; and the Penobscot Nation (previously listed as the Penobscot Tribe of Maine).

Determinations Made by the Carnegie Museum of Natural History

Officials of the Carnegie Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 18 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Aroostook Band of Micmac (previously listed as the Aroostook Band of Micmac Indians); Houlton Band of Maliseet Indians; Passamaquoddy Tribe; and the Penobscot Nation (previously listed as the Penobscot Tribe of Maine).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Sandra L. Olsen, Carnegie Museum of Natural History, 5800 Baum Blvd., Pittsburgh, PA 15206, telephone (412) 665–2606, email *SandraLOlsen@gmail.com,* by May 15, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Aroostook Band of Micmac (previously listed as the Aroostook Band of Micmac Indians); Houlton Band of Maliseet Indians; Passamaquoddy Tribe; and the Penobscot Nation (previously listed as the Penobscot Tribe of Maine) may proceed.

The Carnegie Museum of Natural History is responsible for notifying the Aroostook Band of Micmac (previously listed as the Aroostook Band of Micmac Indians); Houlton Band of Maliseet Indians; Passamaquoddy Tribe; and the Penobscot Nation (previously listed as the Penobscot Tribe of Maine) that this notice has been published.

Dated: March 26, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–08770 Filed 4–12–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12591; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Washington, Department of Anthropology, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Washington, Department of Anthropology, has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Burke Museum acting on behalf of the University of Washington, Department of Anthropology. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the University of Washington at the address in this notice by May 15, 2013.

ADDRESSES: Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the University of Washington, Department of Anthropology, and in the possession of the Burke Museum. The human remains were removed from an unknown location, possibly from Washington State.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Washington, Department of Anthropology, and the Burke Museum professional staff in consultation with representatives of tribes with aboriginal territory in Washington, Michigan, and South Carolina. The consultant tribes with aboriginal territory in Washington include: the Coeur D'Alene Tribe (previously listed as the Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho); Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Chehalis Reservation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Cowlitz Indian Tribe; Jamestown S'Klallam Tribe; Kalispel Indian Community of the Kalispel Reservation; Lower Elwha Tribal Community (previously listed as the Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington); Lummi Tribe of the Lummi Reservation; Makah Indian Tribe of the Makah Indian Reservation; Muckleshoot Indian Tribe (previously listed as the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington); Nez Perce Tribe (previously listed as Nez Perce Tribe of Idaho); Nooksack Indian Tribe; Port

Gamble Band of S'Klallam Indians (previously listed as the Port Gamble Indian Community of the Port Gamble Reservation, Washington); Puyallup Tribe of the Puyallup Reservation; Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington); Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington); Snoqualmie Indian Tribe (previously listed as the Snoqualmie Tribe, Washington); Spokane Tribe of the Spokane Reservation; Squaxin Island Tribe of the Squaxin Island Reservation; Stillaguamish Tribe of Indians of Washington (previously listed as the Stillaguamish Tribe of Washington); Suquamish Indian Tribe of the Port Madison Reservation; Swinomish Indians of the Swinomish Reservation of Washington; Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington); Upper Skagit Indian Tribe; and the Wanapum Band of Priest Rapids, a non-Federally recognized Indian group. The following tribes with aboriginal territory in Washington State were also invited to participate but were not involved in consultations: Hoh Indian Tribe (previously listed as the Hoh Indian Tribe of the Hoh Indian Reservation, Washington); Nisqually Indian Tribe (previously listed as the Nisqually Indian Tribe of the Nisqually Reservation, Washington); Quileute Tribe of the Quileute Reservation; Quinault Indian Nation (previously listed as the Quinault Tribe of the Quinault Reservation, Washington); Sauk-Suiattle Indian Tribe; and the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington).

The consultant tribes with aboriginal territory in Michigan include: the Bay Mills Indian Community, Michigan; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians of Michigan.

The consultant tribes with aboriginal territory in South Carolina include: the Catawba Indian Nation (aka Catawba Tribe of South Carolina); Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Hereafter, all tribes listed in this section are referred to as ''The Consulted and Notified Tribes.''

History and Description of the Remains

At unknown dates, human remains representing, at minimum, 13 individuals were removed from various unknown sites, possibly in Washington State or South Carolina. Subsequently, the human remains became part of a teaching collection housed at the University of Washington, Department of Anthropology. There is no provenience information for the 13 individuals in this notice. Remains in the teaching collection have been collected through various means and by many individuals over time, including from archaeological sites, coroners, and donations from the public.

Some of the items in the teaching collection were collected by Daris Swindler, Physical Anthropologist. Swindler came to teach at the University of Washington in the 1960s, and brought with him human remains from various sources and other states, including remains representing seven Native American individuals from South Carolina (addressed in a separate Notice of Inventory Completion), as well as forensic, non-Native American remains from Michigan. The 13 individuals described in this notice do not exhibit severe cranial modification, a common historic practice in western Washington. Swindler continued to collect human remains throughout the 1960s, 1970s, and 1980s, while at the University of Washington. As Swindler's work primarily was conducted in South Carolina and Washington State, these remains are believed possibly to have been unearthed in either South Carolina or Washington State. No known individuals were identified. No associated funerary objects are present.

Pursuant to 43 CFR 10.16, the Secretary of the Interior may make a recommendation for a transfer of control of culturally unidentifiable human remains. In September 2012, the University of Washington, Department of Anthropology, requested that the Secretary, through the Native American Graves Protection and Repatriation Review Committee, recommend the proposed transfer of control of the culturally unidentifiable Native American human remains in this notice to the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Chehalis Reservation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Puyallup Tribe of the Puyallup Reservation; Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington); Stillaguamish Tribe of Indians of Washington (previously listed as the Stillaguamish Tribe of Washington); Suquamish Indian Tribe of the Port Madison Reservation; Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington); Upper Skagit Indian Tribe; and the Wanapum Band of Priest Rapids, a non-Federally recognized Indian group (which together, comprise the Washington State Inter-Tribal Consortium). The Review Committee, acting pursuant to its responsibility under 25 U.S.C. 3006(c)(5), considered the request at its November 2012 meeting and recommended to the Secretary that the proposed transfer of control proceed. A March 1, 2013 letter on behalf of the Secretary of Interior from the Designated Federal Official transmitted the Secretary's independent review and concurrence with the Review Committee that:

- The University of Washington, Department of Anthropology, consulted with every appropriate Indian tribe or Native Hawaiian organization,
- None of The Consulted and Notified Tribes objected to the proposed transfer of control, and
- The University of Washington, Department of Anthropology, may proceed with the agreed-upon transfer of control of the culturally unidentifiable human remains to the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Chehalis Reservation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Puyallup Tribe of the Puyallup Reservation; Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington); Stillaguamish Tribe of Indians of Washington (previously listed as the Stillaguamish Tribe of Washington);

Suquamish Indian Tribe of the Port Madison Reservation; Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington); Upper Skagit Indian Tribe; and the Wanapum Band of Priest Rapids, a non-Federally recognized Indian group (which together comprise and hereafter are referred to as the Washington State Inter-Tribal Consortium).

Transfer of control is contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Determinations Made by the University of Washington, Department of Anthropology

Officials of the University of Washington, Department of Anthropology, have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American, based on cranial morphology and dental traits.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 13 individuals of Native American ancestry.
- Pursuant to 43 CFR 10.16, the disposition of the human remains may be to the Washington State Inter-Tribal Consortium.

The Washington State Inter-Tribal Consortium has claimed the human remains jointly. The Bay Mills Indian Community, Michigan; The Jamestown S'Klallam Tribe; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan Little Traverse Bay Bands of Odawa Indians, Michigan; Lummi Tribe of the Lummi Reservation; Saginaw Chippewa Indian Tribe of Michigan; Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington); and the Snoqualmie Indian Tribe (previously listed as the Snoqualmie Tribe, Washington) have stated their support for disposition to the claimant tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98115, telephone (206) 685–3849, before May 15, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Washington State Inter-Tribal Consortium may proceed.

The Burke Museum is responsible for notifying The Consulted and Notified Tribes that this notice has been published.

Dated: March 18, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–08782 Filed 4–12–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12666; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The Florida Department of State, Division of Historical Resources, Tallahassee, FL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Florida Department of State, Division of Historical Resources, has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to The Florida Department of State, Division of Historical Resources. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to The Florida Department of State, Division of Historical Resources, at the address in this notice by May 15, 2013.

ADDRESSES: Daniel M. Seinfeld, Florida Department of State, Division of Historical Resources, 1001 de Soto Park Drive, Tallahassee, FL 32301, telephone (850) 245–6301, email *daniel.seinfeld@dos.myflorida.com.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Florida Department of State, Division of Historical Resources. The human remains were removed from Duval County, FL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Florida Department of State, Division of Historical Resources, professional staff in consultation with representatives of the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)). The Seminole Nation of Oklahoma was contacted and invited to consult, but did not participate.

History and Description of the remains

In the 1960s, human remains representing, at minimum, one individual were removed from the Mayport Mounds, site 8DU96, in Duval County, FL. In January of 2012, the individual who collected the remains transferred them to an archaeologist working for the Florida Public Archaeology Network (FPAN). Based on the description, the human remains were likely collected from the Mayport Mounds, site 8DU96. The Florida Department of State, Division of Historical Resources, assumed jurisdiction over the remains, based on responsibilities outlined in Florida Statute 872.05. No known individuals were identified. No associated funerary objects are present. The human remains were determined to be those of at least one prehistoric Native American individual, based on osteological analysis, dental wear, and archeological context.

A treaty signed with ''Florida Tribes'' on September 18, 1823, at Moultrie Creek, FL, included land cessions in present-day Duval County, FL. These

''Florida Tribes'' are represented by two present-day tribes: the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)).

Determinations Made by the Florida Department of State, Division of Historical Resources

Officials at the Florida Department of State, Division of Historical Resources, have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on osteological analysis and archaeological context.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- Treaties, Acts of Congress, or Executive Orders indicate that the land from which the Native American human remains were removed is the aboriginal land of the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)).
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)).

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Daniel M. Seinfeld, Florida Department of State, Division of Historical Resources, 1001 de Soto Park Drive, Tallahassee, FL 32301, telephone (850) 245–6301, email *daniel.seinfeld@dos.myflorida.com,* by May 15, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)) may proceed.

The Florida Department of State, Division of Historical Resources, is responsible for notifying the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)).

Dated: March 26, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–08777 Filed 4–12–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12665; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The Florida Department of State, Division of Historical Resources, Tallahassee, FL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Florida Department of State, Division of Historical Resources, has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to The Florida Department of State, Division of Historical Resources. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to The Florida Department of State, Division of Historical Resources, at the address in this notice by May 15, 2013.

ADDRESSES: Daniel M. Seinfeld, Florida Department of State, Division of Historical Resources, 1001 de Soto Park Drive, Tallahassee, FL 32301, telephone (850) 245–6301, email *daniel.seinfeld@dos.myflorida.com.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Florida Department of State, Division of Historical Resources. The human remains were removed from sites in Martin, Collier, Pinellas, St. Lucie, and Volusia Counties, FL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Florida Department of State, Division of Historical Resources, professional staff in consultation with representatives of the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)). The Seminole Nation of Oklahoma was contacted and invited to consult, but did not participate.

History and Description of the Remains

In October 2012, human remains representing, at minimum, two individuals were removed from the Hutchinson Island Burial Mound, site 8MT37, on Chastain Beach, in Martin County, FL. Beachgoers reported to local police the discovery of the human remains exposed following a storm. Crime scene detectives with the Martin County Sheriff's Office responded and collected all exposed human remains. The human remains were transferred to the District 19 Medical Examiner's Office. The Florida Department of State, Division of Historical Resources, assumed jurisdiction over the human remains in March 2013, based on responsibilities outlined in Florida Statute 872.05. No known individuals were identified. No associated funerary objects are present. The human remains were determined to be those of two prehistoric adult males of Native American ancestry, based on non-metric analyses of the morphology. Site 8MT37 is a known prehistoric Native American archeological site.

In September 2012, human remains representing, at minimum, one individual were removed from the southern shoreline of Keewaydin Island in Collier County, FL. A tourist found the remains on the surface while

looking for shells and took them home to Illinois. Initially believing the remains to be from a mastodon, she brought them to a paleontologist at the Illinois State Museum. A physical anthropologist with the Illinois State Museum analyzed the remains and determined them to be human. The remains were then transferred to the District 20 Medical Examiner in Florida. The Florida Department of State, Division of Historical Resources, assumed jurisdiction over the human remains in March 2013, based on responsibilities outlined in Florida Statute 872.05. No known individuals were identified. No associated funerary objects are present. The human remains were determined to be those of a prehistoric Native American individual, based on dental wear. There is no known archeological site in the area, but the discovery of the human remains near shell suggests that the site may be an unrecorded prehistoric shell midden.

In 1959, a Florida resident removed human remains representing, at minimum, one individual from an archaeological site in what would later become the Weedon Island Preserve Cultural and Natural History Center in Pinellas County, FL. The resident gave the remains to her neighbor. After the neighbor died in 2012, the human remains were brought to Phyllis Kolianos, an archaeologist with the Weedon Island Preserve Cultural and Natural History Center. The Florida Department of State, Division of Historical Resources, assumed jurisdiction over the human remains in May 2012, based on responsibilities outlined in Florida Statute 872.05. No known individuals were identified. No associated funerary objects are present. The remains were determined to be those of a prehistoric Native American individual, based on their dental wear and cranial morphology. There are numerous archeological sites on the Weedon Island, but the exact site location is unknown.

In 1998 and 1999, human remains representing, at minimum, one individual were removed from the Fort Pierce Inlet State Park in St. Lucie County, FL. An individual illegally collected the human remains from the park. After this individual died, his widow brought the remains to a member of a Florida Anthropological Society (FAS). In October 2012, the FAS member contacted the office of the Florida State Archaeologist and was instructed to alert local law enforcement. The St. Lucie County sheriff sent the remains to the District 19 Medical Examiner. The Florida Department of State, Division of Historical Resources, assumed jurisdiction over the human remains in December 2012, based on responsibilities outlined in Florida Statute 872.05. No known individuals were identified. No associated funerary objects are present. The human remains were determined to be those of a prehistoric Native American individual, based on their condition. Handwritten notes accompanying the human remains indicate that they were collected from ''Indian Burial Grounds'' in Fort Pierce Inlet State Park. There are numerous archeological sites in the park, but the exact site location is unknown.

In the 1960s and 1970s, human remains representing, at minimum, one individual were removed from the Blue Springs Midden, site 8VO43, in Volusia County, FL. A visitor to Florida collected numerous items, including these human remains, while diving in springs and rivers. In January 2013, while passing through Tallahassee, the visitor decided to donate his collection to the Florida Department of State, Division of Historical Resources. Upon examining his collection, the Division of Historical Resources found one human bone. No known individuals were identified. No associated funerary objects are present. Based on the visitor's description, the human remains are likely from the Blue Springs Midden, site 8VO43. Previous discoveries at the archeological site suggest that these human remains are likely Native American.

Determinations Made by the Florida Department of State, Division of Historical Resources

Officials of the Florida Department of State, Division of Historical Resources, have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on archeological context and osteological analysis.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of six individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission, the land from which the Native American human remains were removed is the aboriginal land of the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)) and The Seminole Nation of Oklahoma.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)) and The Seminole Nation of Oklahoma.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Daniel M. Seinfeld, Florida Department of State, Division of Historical Resources, 1001 de Soto Park Drive, Tallahassee, FL 32301, telephone (850) 245–6301, email *daniel.seinfeld@dos.myflorida.com,* by May 15, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)) and The Seminole Nation of Oklahoma may proceed.

The Florida Department of State, Division of Historical Resources, is responsible for notifying the Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)) and The Seminole Nation of Oklahoma that this notice has been published.

Dated: March 25, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–08779 Filed 4–12–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–GATE–12725; PPNEGATEB0, PPMVSCS1Z.Y00000]

Notice of 2013 Meeting Schedule for Fort Hancock 21st Century Advisory Committee

AGENCY: National Park Service, Interior.

ACTION: Meeting Notice.

SUMMARY: This notice sets forth the dates of meetings of the Fort Hancock 21st Century Advisory Committee occurring in 2013.

DATES: The schedule for future public meetings of the Fort Hancock 21st Century Advisory Committee is as follows:

1. May 16, 2013 at 9:00 a.m. (EASTERN)
2. June 28, 2013 at 9:00 a.m. (EASTERN)
3. August 2, 2013 at 9:00 a.m. (EASTERN)
4. September 20, 2013 at 9:00 a.m. (EASTERN)
5. November 1, 2013 at 9:00 a.m. (EASTERN)
6. December 9, 2013 at 9:00 a.m. (EASTERN)

ADDRESSES: For the April 23, 2013 and May 16, 2013 meetings the committee members will meet at Ocean Place Resort and Spa, 1 Ocean Boulevard, Long Branch, NJ 07740. For all following meetings including and after the June 28, 2013 meeting, the committee members will meet at The Chapel at Sandy Hook, Hartshorne Drive, Middletown, NJ 07732. Please check *www.forthancock21stcentury.org* for additional information.

Agenda: Committee meeting will consist of the following:

1. Welcome and Introductory Remarks
2. Update on Progress from Working Groups and Subcommittees
3. Review Work Product and Potential Recommendations, as needed
4. Review and Discuss Key Issues Related to Potential Reuse of Historic Buildings
5. Review and Discuss Proposals and Adopt Recommendations, as needed
6. Identify and Discuss Outreach and Education Efforts and Activities
7. Schedule, Agenda Topics for Future Meetings, Future Committee Activities
8. Public Comment
9. Adjournment

The final agenda will be posted on *www.forthancock21stcentury.org* prior to each meeting.

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from John Warren, Gateway National Recreation Area, 210 New York Avenue, Staten Island, NY 10305, at (718) 354–4608 or email: *forthancock21stcentury@yahoo.com*, or visit the Advisory Committee Web site at *www.forthancock21stcentury.org*.

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.). The purpose of the committee is to provide advice to the Secretary of the Interior, through the Director of the National Park Service, on the development of a reuse plan and on matters relating to future uses of certain buildings at Fort Hancock within Gateway National Recreation Area.

The meeting is open to the public. Interested members of the public may present, either orally or through written comments, information for the committee to consider during the public meeting. Attendees and those wishing to provide comment are strongly encouraged to preregister through the contact information provided. The public will be able to comment at each meeting, from 4:00 p.m. to 4:45 p.m. Written comments will be accepted prior to, during or after the meeting. Due to time constraints during the meeting, the committee is not able to read written public comments submitted into the record. Individuals or groups requesting to make oral comments at the public committee meeting will be limited to no more than 5 minutes per speaker.

Before including your address, telephone number, email address, or other personal identifying information in your written comments, you should be aware that your entire comment including your personal identifying information may be made publicly available. 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. All comments will be made part of the public record and will be electronically distributed to all committee members.

Dated: April 2, 2013.

Linda Canzanelli,

Superintendent, Gateway National Recreation Area.

[FR Doc. 2013–08678 Filed 4–12–13; 8:45 am]

BILLING CODE 4310–WV–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–12703; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before March 23, 2013. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by April 30, 2013. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 28, 2013.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

GEORGIA

Fulton County

696 Peachtree Street Apartments, 826 Peachtree St., Atlanta, 13000240

McDuffie County

Lazenby, John Moore, House, 1353 Cedar Rock Rd., Thomason, 13000241

IOWA

Linn County

Oak Hill Cemetery Historic District, Roughly bounded by Mt. Vernon Rd., SE., 15th St., SE., S. & E. lot lines, Cedar Rapids, 13000243

Sumner School, 877 W. Mount Vernon Rd., Mount Vernon, 13000242

NEW YORK

Ulster County

Schoonmaker, Joachim, Farm, (Rochester MPS), 41 Garden Ln., Accord, 13000244

NORTH CAROLINA

Buncombe County

Barrett, Dr. John G. & Nannie H., Farm, 75 Ox Creek Rd., Weaverville, 13000245

Caldwell County

Lenoir Downtown Historic District (Boundary Increase), 915–1011 West Ave. & 122 Boundary St., Lenoir, 13000246

Macon County

Salem Methodist Church, (Macon County MPS), 1201 River Rd., Franklin, 13000247

PENNSYLVANIA

Allegheny County

Firstside Historic District (Boundary Increase), Roughly bounded by the Boulevard of the Allies, Ft. Pitt Blvd., Grant & Stanwix Sts., Pittsburgh, 13000248

Fourth Avenue Historic District (Boundary Increase), Roughly bounded by Smithfield St., Market Square Pl., 3rd & 5th Aves., Pittsburgh, 13000249

Penn–Liberty Historic District (Boundary Increase), Roughly bounded by Liberty Ave., Fort Duquesne Blvd., Stanwix, 9th, French & 10th Sts., Pittsburgh, 13000250

Pittsburgh Central Downtown Historic District (Boundary Increase), Roughly bounded by 4th, 6th, 7th & Liberty Aves., former PRR tracks, Grant & Wood Sts., Pittsburgh, 13000251

Pittsburgh Renaissance Historic District, Roughly bounded by Stanwix St., Allegheny, Monongahela & Ohio Rivers., Pittsburgh, 13000252

Pittsburgh Terminal Warehouse and Transfer Company, 333–400 E. Carson St., Pittsburgh, 13000253

Wilson, August, House, 1727 Bedford Ave., Pittsburgh, 13000254

Delaware County

Idlewild, 110 Idlewild Ln. (Upper Providence Township), Media, 13000255

Lancaster County

Mascot Roller Mills (Boundary Increase), Jct. of Newport & Stumptown Rds. (Upper Leacock Township), Mascot, 13000256

Philadelphia County

Frazier's, Joe, Gym, 2917 N. Broad St., Philadelphia, 13000257

Wilde, John and Brother, Inc., 3737 Main St., Philadelphia, 13000258

VIRGINIA

Richmond (Independent City)

Cannon, Henry Mansfield, Memorial Chapel, (University of Richmond MPS), 36 Westhampton Way, Richmond (Independent City), 13000259

North Court, (University of Richmond MPS), 40 Westhampton Way, Richmond (Independent City), 13000260

Ryland Hall, (University of Richmond MPS), 2 Ryland Cir., Richmond (Independent City), 13000261

WEST VIRGINIA

Cabell County

Morris Memorial Hospital for Crippled Children, Morris Memorial Rd. between James River Tpk. & US 60, Milton, 13000262

Marion County

Miller, Thomas C., Public School, 2 Pennsylvania Ave., Fairmont, 13000263

Preston County

Brookside Historic District, George Washington Hwy. near Cathedral State Park, Aurora, 13000264

WYOMING

Albany County

Snow Train Rolling Stock, S. 1st & E. Sheridan Sts., Laramie, 13000265

Sheridan County

St. Peter's Episcopal Church, 1 S. Tschirgi, Sheridan, 13000266

[FR Doc. 2013–08720 Filed 4–12–13; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12616; PPWOCRADN0–PCU00RP15.R50000]

Native American Graves Protection and Repatriation Review Committee: Notice of Nomination Solicitation

AGENCY: National Park Service, Interior.

ACTION: Notice of Nomination Solicitation.

SUMMARY: The National Park Service is soliciting nominations for one member of the Native American Graves Protection and Repatriation Review Committee. The Secretary of the Interior will appoint the member from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders. The nominee need not be a traditional Indian religious leader. Nominations must include the following information:

1. Nominations by traditional religious leaders: Nominations must be submitted with the nominator's original signature and daytime telephone number. The nominator must explain that he or she is a traditional religious leader.

2. Nominations by Indian tribes or Native Hawaiian organizations: Nominations must be submitted on official tribal or organization letterhead with the nominator's original signature and daytime telephone number. The nominator must be the official authorized by the tribe or organization to submit nominations in response to this solicitation. The nomination must include a statement that the nominator is so authorized.

3. A nomination must include the following information:

a. The nominee's name, postal address, daytime telephone number, and email address; and

b. The nominee's resume or brief biography emphasizing the nominee's NAGPRA experience and ability to work effectively as a member of an advisory board.

DATES: Nominations must be received by July 15, 2013.

ADDRESSES: Sherry Hutt, Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee, National NAGPRA Program, National Park Service, 1201 Eye Street NW., 8th Floor (2253), Washington, DC 20005.

SUPPLEMENTARY INFORMATION:

1. The Review Committee was established by the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), at 25 U.S.C. 3006.

2. The Review Committee is responsible for:

a. Monitoring the NAGPRA inventory and identification process;

b. Reviewing and making findings related to the identity or cultural affiliation of cultural items, or the return of such items;

c. Facilitating the resolution of disputes;

d. Compiling an inventory of culturally unidentifiable human remains and developing a process for disposition of such remains;

e. Consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the Review Committee affecting such tribes or organizations;

f. Consulting with the Secretary of the Interior in the development of regulations to carry out NAGPRA; and

g. Making recommendations regarding future care of repatriated cultural items.

3. Seven members compose the Review Committee. All members are appointed by the Secretary of the Interior. The Secretary may not appoint Federal officers or employees to the Review Committee.

a. Three members are appointed from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders. At least two of these members must be traditional Indian religious leaders.

b. Three members are appointed from nominations submitted by national museum or scientific organizations.

c. One member is appointed from a list of persons developed and consented to by all of the other members.

4. Members serve as Special Governmental Employees, which requires submission of annual financial disclosure reports and completion of annual ethics training.

5. Appointment terms: Members are appointed for 4-year terms and incumbent members may be reappointed for 2-year terms.

6. The Review Committee's work is completed during public meetings. The Review Committee normally meets face-to-face two times per year, and each meeting is normally two or three days. The Review Committee may also hold one or more public teleconferences of several hours duration.

7. Compensation: Review Committee members are compensated for their participation in Review Committee meetings.

8. Reimbursement: Review Committee members are reimbursed for travel expenses incurred in association with Review Committee meetings.

9. Additional information regarding the Review Committee, including the Review Committee's charter, meeting protocol, and dispute resolution procedures, is available on the National NAGPRA Program Web site, at *www.nps.gov/NAGPRA/REVIEW/*.

10. The terms ''Indian tribe,'' and ''Native Hawaiian organization,'' are defined in statute at 25 U.S.C. 3001(7) and (11). Indian tribe means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Village, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Native Hawaiian organization means any organization which serves and represents the interests of Native Hawaiians; has as a primary stated purpose the provision of services to Native Hawaiians; and has expertise in Native Hawaiian affairs. Native Hawaiian organization includes the Office of Hawaiian Affairs and Hui Malama I Na Kupuna O Hawai'i Nei. ''Traditional religious leader'' of a tribe is not defined in statute, but is defined in regulation at 43 CFR 10.2(d)(3).

11. ''National museum organizations'' and ''national scientific organizations'' are not defined in the statute or regulations.

FOR FURTHER INFORMATION CONTACT: Sherry Hutt, Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee, National NAGPRA Program, National Park Service, 1201 Eye Street NW., 8th Floor (2253), Washington, DC 20005, telephone (202) 354–1479, email *Sherry_Hutt@nps.gov*.

Dated: April 4, 2013.

Sherry Hutt,

Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee.

[FR Doc. 2013–08784 Filed 4–12–13; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–876]

Certain Microelectromechanical Systems (''MEMS Devices'') and Products Containing Same; Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 11, 2013, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of STMicroelectronics, Inc. of Coppell, Texas. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain microelectromechanical systems (''MEMS Devices'') and products containing same by reason of infringement of U.S. Patent No. 7,450,332 (''the '332 patent''); U.S. Patent No. 7,409,291 (''the '291 patent''); U.S. Patent No. 6,928,872 (''the '872 patent''); U.S. Patent No. 6,370,954 (''the '954 patent''); and U.S. Patent No. 6,034,419 (''the '419 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2012).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 9, 2013, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain microelectromechanical systems (''MEMS Devices'') and products containing same by reason of infringement of one or more of claims 1, 4, 5, and 7–13 of the '332 patent; claims 1–3, 7, 19, 20, 25, and 26 of the '291 patent; claims 1, 3–5, 14, 16, 17, and 24–26 of the '872 patent; claims 1–3, 5, and 7–10 of the '954 patent; and claims 1–13 of the '419 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:
STMicroelectronics, Inc., 750 Canyon Drive, Coppell, TX 75019.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

InvenSense, Inc., 1197 Borregas Avenue, Sunnyvale, CA 94089.
Roku, Inc., 12980 Saratoga Avenue, Suite D, Saratoga, CA 95070.
Black & Decker (U.S.), Inc., 701 East Joppa Drive, New Britain, CT 06053.

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the

right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: April 10, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–08747 Filed 4–12–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–NEW]

Agency Information Collection Activities; Proposed Collection; Comments Requested: USMS Medical Forms

ACTION: 60-Day Notice.

The Department of Justice (DOJ), U.S. Marshals Service, 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 of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until June 14, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Nicole Feuerstein, U.S. Marshals Service, CS–3/10th Fl., 2604 Jefferson Davis Hwy, Alexandria, VA 22301.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* USMS Medical Forms.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:*

Form Numbers:

—USM–522 Physical Examination Report for USMS Operational Employees.

—USM–522A Physician Evaluation Report for USMS Operational Employees.

—USM–522E Medical Update.

—USM–522K Applicant Review of Immunizations.

—USM–522P Physician Evaluation Report for USMS Operational Employees Pregnancy Only.

—USM–600 Physical Requirements of USMS District Security Officers.

—CSO–012 Request to Reevaluate Court Security Officer's Medical Qualification.

—CSO–229 Certificate of Medical Examination for Court Security Officers Component for all above-listed forms: U.S. Marshals Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

—USM–522 Physical Examination Report for USMS Operational Employees

○ Affected public: Individuals or households (Applicants to USMS)

○ Brief abstract: It is the policy of the USMS to ensure a law enforcement work force that is medically able to safely perform the required job functions. Operational employees are required to meet medical standards and physical requirements and are classified as either qualified or unqualified based on review of periodic medical examination results. All applicants for law enforcement positions must have pre-employment physical examinations. The USMS provides and pays for applicant medical examinations at the district contract medical facility.

—USM–522A Physician Evaluation Report for USMS Operational Employees

○ Affected public: Private sector (Physicians)

○ Brief abstract: This form is completed by an USMS operational employee's treating physician to report any illness/injury (other than pregnancy) that requires restriction from full performance of duties for longer than 80 consecutive hours.

USM–522E USMS Medical Update

○ Affected public: Individuals or households (Applicants to USMS)

○ Brief abstract: USMS applicants must complete this form to update their medical status in order to remain active in the hiring process. Current USMS employees may use this form to update their medical status in the off-cycle years of the Periodic Medical Exam (PME) schedule.

—USM–522K Applicant Review of Immunizations

○ Affected public: Individuals or households (Applicants to USMS)

○ Brief abstract: USMS applicants must complete this record of immunizations if an Immunization Record Card cannot be provided with the medical examination package.

—USM–522P Physician Evaluation Report for USMS Operational Employees (Pregnancy Only)

○ Affected public: Private sector (Physicians)

○ Brief abstract: Form USM–522P must be completed by the OB/GYN physician of pregnant USMS operational employees to specify any restrictions from full performance of duties.

—USM–600 Physical Requirements of USMS District Security Officers

○ Affected public: Private sector (Physicians)

○ Brief abstract: It is the policy of the USMS to ensure a law enforcement work force that is medically able to safely perform the required job functions. All applicants for law enforcement positions must have pre-employment physical examinations. District Security Officers (DSO) are individual contractors, not employees of USMS; Form USM–522 does not apply to DSOs.

—CSO–012 Request to Reevaluate Court Security Officer's Medical Qualification

○ Affected public: Private sector (Physicians)

○ Brief abstract: This form is completed by the Court Security Officer (CSO)'s attending physician to determine whether a CSO is physically able to return to work after an injury, serious illness, or surgery. The physician returns the evaluation to the contracting company, and if the determination is that the CSO may return to work, the CSO–012 is then signed off on by the contracting company and forwarded to the USMS for final review by USMS' designated medical reviewing official. Court Security Officers are contractors, not employees of USMS; Form USM–522A does not apply to CSOs.

—CSO–229 Certificate of Medical Examination for Court Security Officers

○ Affected public: Private sector (Physicians), Individuals or households (Applicants to and current employees of the CSO contracting companies)

○ Brief abstract: It is the policy of the USMS to ensure a law enforcement work force that is medically able to safely perform the required job functions. All applicants for law enforcement positions must have pre-employment physical examinations. Court Security Officers (CSO) are contractors, not employees of USMS; Form USM–522 does not apply to CSOs.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

—USM–522 USMS Physical Examination Report for Operational Employees

It is estimated that 800 respondents will complete a 45 minute form.

—USM–522A Physician Evaluation Report for USMS Operational Employees

It is estimated that 100 respondents will complete a 20 minute form.

—USM–522E USMS Medical Update

It is estimated that 100 respondents will complete a 20 minute form.

—USM–522K Applicant Review of Immunizations

It is estimated that 350 respondents will completed a 10 minute form.

—USM–522P Physician Evaluation Report for USMS Operational Employees (Pregnancy Only)

It is estimated that 12 respondents will complete a 15 minute form.

—USM–600 Physical Requirements of USMS District Security Officers

It is estimated that 800 respondents will complete a 20 minute form.

—CSO–012 Request to Reevaluate Court Security Officer's Medical Qualification

It is estimated that 300 respondents will complete a 30 minute form.

—CSO–229 Certificate of Medical Examination for Court Security Officers

It is estimated that 4300 respondents will complete a 30 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:*

—USM–522 USMS Physical Examination Report for Operational Employees

There are an estimated 600 annual total burden hours associated with this collection.

—USM–522A Physician Evaluation Report for USMS Operational Employees

There are an estimated 33 annual total burden hours associated with this collection.

—USM–522E USMS Medical Update

There are an estimated 33 annual total burden hours associated with this collection.

—USM–522 K Applicant Review of Immunizations

There are an estimated 58 annual total burden hours associated with this collection.

—USM–522P Physician Evaluation Report for USMS Operational Employees (Pregnancy Only)

There are an estimated 3 annual total burden hours associated with this collection.

—USM–600 Physical Requirements of USMS District Security Officers

There are an estimated 267 annual total burden hours associated with this collection.

—CSO–012 Request to Reevaluate Court Security Officer's Medical Qualification

There are an estimated 150 annual total burden hours associated with this collection.

—CSO–229 Certificate of Medical Examination for Court Security Officers

There are an estimated 2,150 annual total burden hours associated with this collection.

Total Annual Time Burden (Hours): 3,269.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Room 1407B, Washington, DC 20530.

Dated: April 9, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–08689 Filed 4–12–13; 8:45 am]

BILLING CODE 4410–04–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On April 8, 2013, the Department of Justice lodged a proposed consent decree with the United States Bankruptcy Court for the Southern District of New York in the case entitled *In re Motors Liquidation Corp., et al.,* Civil Action No. 90–50026 (REG).

The parties to the consent decree are the General Unsecured Creditors (''GUC'') Trust (established under a March 30, 2011 Plan of Liquidation, and authorized to settle the remaining claims against the dissolved debtors, Motors Liquidation Corporation, formerly known as General Motors Corporation, Remediation and Liability Management Company, Inc., and Environmental Corporate Remediation Company, Inc. (collectively, ''Old GM'')); the United States of America; and the State of New York. The consent decree resolves claims for natural resource damages and assessment costs (''NRD'') of the United States Department of Interior (''DOI'') and the State of New York's Department of Environmental Conservation (''DEC''), under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601–9675, with respect to the Onondaga Lake NPL Site, located in Onondaga County, New York.

Under the consent decree, the United States on behalf of DOI and New York on behalf of DEC (collectively, ''the Joint Onondaga Trustees'') shall have a total Allowed General Unsecured Claim in the total amount of $5,500,000.00, classified in Class 3 under the Plan of Liquidation (the ''Onondaga NRD Allowed Claim''), which shall be divided by the Joint Onondaga Trustees as follows: (i) $85,000 for DOI's claims for past NRD assessment costs, (ii) $10,000 for DEC's claims for past NRD assessment costs, and (iii) $5,405,000 for restoration funds at the Onondaga Lake NPL Site sought by the Joint Onondaga Trustees.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In re Motors Liquidation Corp., et al.,* D.J. Ref. No. 90–11–3–09754. All comments must be submitted no later than thirty (30) days after the publication date of this notice.

Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email ..	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–08719 Filed 4–12–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0065]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Requisition for Forms or Publications and Requisition for Firearms/Explosives Forms

ACTION: 60-Day Notice.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until June 14, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact John Sickler, OST/ITSMD—Visual Information Services Branch at *John.Sickler@atf.gov,* 202–648–7539.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

— Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Requisition for Forms or Publications and Requisition for Firearms/Explosives Forms.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 1370.3 and ATF F 1370.2. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Individual or households.

Need for Collection

The forms are used by the general public to request or order forms and publications from the ATF Distribution Center. The forms also notify ATF of the quantity required by the respondent and provide a guide as to annual usage of ATF forms and publications by the general public.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that 1,646 respondents will complete each 3 minute form.

(6) An estimate of the total public burden (in hours) associated with the collection: There are an estimated 82 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: April 9, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–08687 Filed 4–12–13; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Heterogeneous System Architecture Foundation

Notice is hereby given that, on March 25, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Heterogeneous System Architecture Foundation (''HSA Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Analog Devices Inc., Norwood, MA; University of Bologna, Bologna, ITALY; Sandia Corporation, Albuquerque, NM; Marvell International LTD, Hamilton, HM, BERMUDA; Swarm64 GmbH, Berlin, GERMANY; Sony Mobile Communications AB, Lund, SWEDEN, and Fabric Engine, Cowansville, Quebec, CANADA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HSA Foundation intends to file additional written notifications disclosing all changes in membership.

On August 31, 2012, HSA Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section

6(b) of the Act on October 11, 2012 (77 FR 61786).

The last notification was filed with the Department on December 28, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 1, 2013 (78 FR 7455).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–08717 Filed 4–12–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on March 19, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. (''IMS Global'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Harvard Business Publishing, Watertown, MA; and VSCHOOLZ Inc., Coral Springs, FL, have been added as parties to this venture.

Also, The Open University, Milton Keyes, England, UNITED KINGDOM; Moodlerooms, Baltimore, MD; Microsoft, Redmond, WA; and University of Maryland University College, Adelphi, MD, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on December 28, 2012. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 1, 2013 (78 FR 7456).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–08682 Filed 4–12–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Media Workflow Association, Inc.

Notice is hereby given that, on March 20, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, National Archives and Records Administration, Washington, DC; Lawrence Kaplan (individual member), Menlo Park, CA; Jone Lee (individual member), Suwon, REPUBLIC OF KOREA; Joseph Spillman (individual member), Temecula, CA; and Ian Wimsett (individual member), London, UNITED KINGDOM, have been added as parties to this venture.

Also, Chyron Corp., Melville, NY; Cineflix Productions, Toronto, CANADA; Cube-Tec International, Bremen, GERMANY; Portability 4 Media, Aultbeau, Achnasheen, UNITED KINGDOM; Quantum, Englewood, CO; and Patrick Cusack (individual member), Los Angeles, CA, have withdrawn as parties to this venture. In addition, the following members have changed their names: DVS Digital Video to Rohde & Schwarz DVS, Hannover, GERMANY; and OpenCube Technologies to EVS Broadcast Equipment, Ramonville Saint-Agne, FRANCE.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on December 26, 2012. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 1, 2013 (78 FR 7455).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–08684 Filed 4–12–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Vehicle Infrastructure Integration Consortium

Notice is hereby given that, on March 21, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Vehicle Infrastructure Integration Consortium (''VIIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Hyundai America Technical Center, Inc., Superior Township, MI, has joined VIIC as a member.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and VIIC intends to file additional written notifications disclosing all changes in membership.

On May 1, 2006, VIIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 2, 2006 (71 FR 32128).

The last notification was filed with the Department on November 18, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the

Act on December 22, 2010 (75 FR 80536).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–08715 Filed 4–12–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Apple, Inc., et al.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the United States' Response to Public Comments on the proposed Final Judgment as to Defendants The Penguin Group, a division of Pearson PLC, and Penguin Group (USA), Inc. in *United States* v. *Apple, Inc., et al.,* Civil Action No. 12–CV–2826 (DLC), which was filed in the United States District Court for the Southern District of New York on April 5, 2013, along with copies of the three comments received by the United States.

Copies of the comments and the response are available for inspection at the Department of Justice Antitrust Division, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.justice.gov/atr/cases/apple/index-1.html*, and at the Office of the Clerk of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007–1312. Copies of any of these materials may also be obtained upon request and payment of a copying fee.

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the Southern District of New York

United States of America, Plaintiff, v. Apple, Inc., et al., Defendants.

Civil Action No. 12–CV–2826 (DLC)
ECF Case

Response by Plaintiff United States to Public Comments on the Proposed Final Judgment as to the Penguin Defendants

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (''APPA'' or ''Tunney Act''), the United States hereby responds to the three public comments received regarding the proposed Final Judgment as to Defendants The Penguin Group, a division of Pearson PLC, and Penguin Group (USA), Inc. (collectively, ''Penguin''). After careful consideration of the comments submitted, the United States continues to believe that the proposed Final Judgment as to Penguin (''proposed Penguin Final Judgment'') will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint.

The three comments submitted to the United States, along with a copy of this Response to Comments, are posted publicly at *http://www.justice.gov/atr/cases/apple/index-1.html*, in accordance with 15 U.S.C. 16(d) and the Court's April 1, 2013 Order (Docket No. 200). The United States will publish this Internet location and this Response to Comments in the **Federal Register**, *see* 15 U.S.C. 16(d), and will then, pursuant to the Court's January 7, 2013 Order (Docket No. 169), move for entry of the proposed Penguin Final Judgment by no later than April 19, 2013.

I. Procedural History

On April 11, 2012, the United States filed a civil antitrust Complaint alleging that Apple, Inc. (''Apple'') and five of the six largest publishers in the United States (''Publisher Defendants'') conspired to raise prices of electronic books (''e-books'') in the United States in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. On the same day, the United States filed a proposed Final Judgment (''Original Final Judgment'') as to three of the Publisher Defendants: Hachette Book Group, Inc., HarperCollins Publishers L.L.C., and Simon & Schuster, Inc. (collectively, ''Original Settling Defendants''). After publication of the Original Final Judgment, the United States received 868 public comments. The United States filed its response to these comments on July 23, 2012 (Docket No. 81) (''Original Response to Comments''), and filed a motion for entry of the Original Final Judgment on August 3, 2012 (Docket No. 88). On September 5, 2012, this Court issued an Opinion and Order finding that the Original Final Judgment satisfied the requirements of the Tunney Act, *see United States* v. *Apple, Inc.,* 2012 WL 3865135, at *6–7 (Slip Op. (Docket No. 113) at 16–19) (S.D.N.Y. Sept. 5, 2012), and then entered the Original Final Judgment on September 6, 2012 (Docket No. 119).

On December 18, 2012, the United States reached a settlement with Penguin on substantially the same terms as those contained in the Original Final Judgment, and filed a proposed Final Judgment and a Stipulation signed by the United States and Penguin consenting to the entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act, 15 U.S.C. 16 (Docket No. 162). Pursuant to those requirements, the United States filed its Competitive Impact Statement (''CIS'') with the Court on December 18, 2012 (Docket No. 163); the proposed Final Judgment and CIS were published in the **Federal Register** on December 31, 2012, *see United States* v. *Apple, Inc., et al.,* 77 FR 77094; and summaries of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, were published in *The Washington Post* for seven days beginning on December 23, 2012 and ending on December 29, 2012 and in the *New York Post* for seven days beginning on December 27, 2012 and ending on January 4, 2013. The sixty-day period for public comment ended on March 5, 2013. The United States received three comments, which are described below and attached hereto.[1]

II. The Complaint & the Proposed Final Judgment as to Penguin

A. The Publisher Defendants' Conspiracy With Apple

The United States has described the conspiracy among Apple and the Publisher Defendants in detail in a number of previous submissions to the Court, including the Complaint (Docket No. 1), the Original Response to Comments (Docket No. 81), and the CIS (Docket No. 163), and therefore offers only a relatively brief summary here.

Publisher Defendants were unhappy with Amazon.com, Inc.'s (''Amazon's'') $9.99 pricing of newly released and bestselling e-books and sought to increase those prices. Compl. ¶¶ 3, 32–34. Because each Publisher Defendant expected that Amazon would resist any unilateral attempt to force it to increase its prices and feared that it would lose sales if its e-books were priced higher than its competitors' e-books, *id.* ¶¶ 35–36, 46, they ultimately agreed to act collectively to raise retail e-book prices. *Id.* ¶¶ 47–50.

Apple's anticipated entry into the e-book business provided a perfect opportunity to coordinate the Publisher

[1] On February 8, 2013, the United States reached a settlement with Defendants Verlagsgruppe Georg von Holtzbrinck GmbH and Holtzbrinck Publishers, LLC d/b/a Macmillan (collectively, ''Macmillan''), and filed a proposed Final Judgment as to Macmillan (''proposed Macmillan Final Judgment'') and a Stipulation signed by the United States and Macmillan consenting to entry of the proposed Final Judgment after compliance with the Tunney Act (Docket No. 174). The public comment period on the proposed Macmillan Final Judgment will expire on April 28, 2013.

Defendants' collective action to raise e-book prices. *Id.* ¶ 51. After two publishers suggested that Apple enter e-book sales under the ''agency model,'' *id.* ¶¶ 52–54, 63, Apple recognized that use of that model by all publishers would give the publishers control over retail e-book prices, allowing them to address their concerns with Amazon's $9.99 pricing, while allowing Apple to shield itself from retail price competition and secure a 30 percent margin on each e-book sale. *Id.* ¶ 56. Apple realized this scheme would be at the cost of ''the customer pay[ing] a little more.'' *Id.*

To achieve this goal, Apple proposed an unusual most favored nation (''MFN'') pricing provision that effectively committed the Publisher Defendants' to impose the agency pricing model on all other retailers, *id.* ¶¶ 65–66, and ensured that Apple faced no price competition from other retailers. *Id.* ¶ 65. In January 2010, Apple sent to each Publisher Defendant substantively identical term sheets that Apple told them were devised after ''talking to all the other publishers.'' *Id.* ¶¶ 62–64. Apple kept each Publisher Defendant informed about the status of its negotiations with other Publisher Defendants, which culminated in Apple and all Publisher Defendants executing nearly identical agency agreements (the ''Apple Agency Agreements'') within a three-day span in January 2010. *Id.* ¶¶ 61, 74.

The purpose of the Apple Agency Agreements was to raise and stabilize e-book prices while insulating Apple from competition. *Id.* ¶ 66. The Apple Agency Agreements included identical pricing tiers, with $12.99 and $14.99 price points for bestsellers. *Id.* ¶ 75. Apple CEO Steve Jobs urged one Publisher Defendant to ''[t]hrow in with Apple and see if we can all make a go of this to create a real mainstream e-books market at $12.99 and $14.99.'' *Id.* ¶ 71. As a result of the Publisher Defendants' illegal agreement with Apple, consumers have paid higher prices for e-books than they would have paid in a market free of collusion. *Id.* ¶¶ 90–93.

B. The Proposed Penguin Final Judgment

The language and relief contained in the proposed Penguin Final Judgment is largely identical to the terms included in the Original Final Judgment. Based on reported reductions in the prices of e-book titles offered by HarperCollins, Hachette, and Simon & Schuster,[2] the proposed Penguin Final Judgment likely will lead to lower e-book prices for many Penguin titles. As explained in more detail in the CIS, the requirements and prohibitions included in the proposed Penguin Final Judgment will eliminate Penguin's illegal conduct, prevent recurrence of the same or similar conduct, and establish a robust antitrust compliance program.

The proposed Penguin Final Judgment requires that Penguin terminate its Apple Agency Agreement within seven days of this Court's entry. *See* proposed Penguin Final Judgment § IV.A. It also requires Penguin to terminate any other contracts with e-book retailers that restrict retailer discounting or that contain a price MFN, *see id.* § IV.B, and forbids Penguin, for two years, from entering new contracts that restrict retailers from discounting Penguin's e-books. *See id.* §§ V.A & V.B. These provisions will help ensure that new contracts will not be set under the same collusive conditions that produced the Apple Agency Agreements. The proposed Penguin Final Judgment permits Penguin, however, in new agreements with e-book retailers, to agree to terms that prevent the retailer from selling Penguin's entire catalog of e-books at a sustained loss. *See id.* § VI.B.

To prevent a recurrence of the alleged conspiracy, the proposed Penguin Final Judgment prohibits Penguin from entering into new agreements with other publishers under which prices are fixed or coordinated, *see id.* § V.E, and also forbids communications between Penguin and other publishers about competitively sensitive subjects. *See id.* § V.F. Banning such communications is critical here, where communications among publishing competitors were a common practice and led directly to the collusive agreement alleged in the Complaint.

As outlined in Section VII, Penguin also must designate an Antitrust Compliance Officer, who is required to distribute copies of the Penguin Final Judgment; ensure training related to the Penguin Final Judgment and the antitrust laws; certify compliance with the Penguin Final Judgment; maintain a log of all communications between Penguin and employees of other Publisher Defendants; and conduct an annual antitrust compliance audit. This compliance program is necessary considering the extensive communication among competitors' CEOs that led to the Publisher Defendants' conspiracy with Apple.

III. Standard of Judicial Review

In its Opinion and Order finding that the Original Final Judgment satisfied the requirements of the Tunney Act, this Court articulated the standard of review under the APPA. *See United States* v. *Apple, Inc.,* 2012 WL 3865135, at *5–6 (Slip Op. (Docket No. 113) at 12–16) (S.D.N.Y. Sept. 5, 2012). The United States briefly reiterates that standard here.

Under the Tunney Act, proposed consent judgments in antitrust cases brought by the United States are subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed final judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1).

When parties come before the court in a Tunney Act proceeding, they have resolved their dispute with respect to a government antitrust complaint. Accordingly, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *accord United States* v. *KeySpan Corp.,* 763 F. Supp. 2d 633, 637 (S.D.N.Y. 2011).

To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1, 17 (D.D.C. 2007); *accord KeySpan Corp.,* 763 F. Supp. 2d at 637–38. The United States ''need not prove its underlying allegations in a Tunney Act proceeding,'' as such a requirement ''would fatally undermine the practice of settling cases and would violate the intent of the Tunney Act.'' *SBC Commc'ns,* 489 F. Supp. 2d at 20

The Tunney Act requires the court to consider specific factors in determining whether the proposed Final Judgment is

[2] *See, e.g.,* Scott Nichols, *HarperCollins Offering Discounted eBooks After Price Fixing Settlement,* TechRadar (Sept. 12, 2012), *http://www.techradar.com/news/portable-devices/portable-media/harpercollins-offering-discounted-ebooks-after-price-fixing-settlement-1096467* (''Bestselling ebooks from the publisher such as 'The Fallen Angel' and 'Solo' can now be found for $9.99 on Amazon, Barnes and Noble, and other online retailers.''); Nate Hoffelder, *Hachette Has Dropped Agency Pricing on eBooks,* The Digital Reader (Dec. 4, 2012), *http://www.the-digital-reader.com/2012/12/04/hachette-has-dropped-agency-pricing-on-ebooks/* (''Amazon is discounting the ebooks by $1 to $4 from the list price, and both Barnes & Noble and Apple are making similar discounts''); Jeremy Greenfield, *Simon & Schuster Has a New Deal With Amazon, Other Retailers,* Digital Book World (Dec. 9, 2012), *http://www.digitalbookworld.com/2012/looks-like-simon-schuster-has-a-new-deal-with-amazon-other-retailers/* (''Ebook prices were lowered for Simon & Schuster titles over the weekend on sites like Amazon and Nook.com to levels several dollars below what they had been earlier in the week.'').

in the ''public interest.'' 15 U.S.C. 16(e)(1). Courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15. Under the statute, the court should consider the following factors:

(a) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(b) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A)–(B). In other words, under the Tunney Act, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alex. Brown & Sons, Inc.,* 963 F. Supp. 235, 238 (S.D.N.Y. 1997). Instead, the court should grant due respect to the United States' ''prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.'' *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003).

IV. Summary of Public Comments and the Responses of the United States

During the sixty-day comment period, the United States received comments from three individuals or groups, each of which previously submitted comments in response to the Final Judgment as to the Original Settling Defendants: (1) Bob Kohn; (2) the National Association of College Stores; and (3) Steerads Inc. The comments, which are similar in substance to each commenter's prior submission, are attached to this response. As explained in detail below, after consideration of the three comments, the United States continues to believe that the proposed Penguin Final Judgment is in the public interest.

A. Bob Kohn

Commenter Bob Kohn has already made a number of submissions in connection with this case.[3] Mr. Kohn's latest submission focuses largely on his claim that the Complaint is misguided and the defendants' conduct was legal. In the final pages he addresses whether the settlement is within the reaches of the public interest. His submission provides no grounds on which the Court should find that entry of the proposed Penguin Final Judgment would not be in the public interest.

Mr. Kohn first asserts that, if Amazon priced e-books below their marginal costs, a conspiracy among Apple and the Publisher Defendants to raise retail prices of e-books could not, as a matter of law, be unlawful. This is particularly the case, Mr. Kohn asserts, because the method by which Apple and the Publisher Defendants succeeded in increasing e-book prices and eliminating retail price competition was the imposition of lawful agency terms. Kohn Comment at 12–18.

Mr. Kohn is not correct that firms may, as a matter of law, conspire to undo what they regard to be anticompetitive conduct. As the United States stated its Original Response to Comments, even if there were evidence to substantiate claims of monopolization or predatory pricing by Amazon, it would not have been acceptable for the Publisher Defendants to conspire with Apple to engage in self help. As this Court observed in finding that entry of the Original Final Judgment satisfied the requirements of the Tunney Act, ''even if Amazon *was* engaged in predatory pricing, this is no excuse for unlawful price-fixing. Congress 'has not permitted the ago-old cry of ruinous competition and competitive evils to be a defense to price-fixing conspiracies.' * * * The familiar mantra regarding 'two wrongs' would seem to offer guidance in these circumstances.'' *United States* v. *Apple, Inc.,* 2012 WL 3865135, at *16 (Slip Op. (Docket No. 113) at 40) (S.D.N.Y. Sept. 5, 2012) (quoting *United States* v. *Socony-Vacuum Oil Co.,* 310 U.S. 150, 221 (1940)). *See also FTC* v. *Ind. Fed'n of Dentists,* 476 U.S. 447, 465 (1986) (''That a particular practice may be unlawful is not, in itself, a sufficient justification for collusion among competitors to prevent it.'').[4]

Mr. Kohn next argues, citing *Columbia Broadcasting System, Inc.* v. *ASCAP,* 620 F.2d 930 (2d Cir. 1980), that the Publisher Defendants' conduct was legal as long as (1) they had to act together to impose agency on Amazon and other e-book retailers and (2) the collusive conduct did not impinge on the Publisher Defendants' right to sell e-books ''separately to any buyer at any price.'' Kohn Comment at 20. Using his test, Mr. Kohn argues that both conditions are met and the Defendants should not have been sued.

Mr. Kohn misreads *CBS* v. *ASCAP.* That case was a remand of the Supreme Court's decision in *Broadcast Music, Inc.* v. *Columbia Broadcasting System, Inc.,* 441 U.S. 1 (1979), and concerned joint action by license holders of songs to create a new licensing product—a blanket license that allowed unlimited access to all of their songs. On remand, the Second Circuit found blanket performing rights licenses not to restrain trade because music users had a ''fully available'' opportunity to bypass the new blanket license and obtain rights to individual songs directly from individual composers, just as they had before the creation of the blanket license. 620 F.2d at 935–36 (''If the opportunity to purchase performing rights to individual songs is fully available, then it is customer preference

[3] *See* Comment concerning the proposed Final Judgment as to the Original Settling Defendants (May 30, 2012), *available at http://www.justice.gov/atr/cases/apple/comments/atc-0143.pdf;* Mem. in Supp. of Mot. of Bob Kohn for Leave to Participate as *Amicus Curiae* (Aug. 13, 2012) (Docket No. 97); Br. of Bob Kohn as *Amicus Curiae* (Sept. 4, 2012) (Docket No. 110); Mem. in Supp. of Bob Kohn's Mot. to Stay Final J. Pending Appeal (Sept. 7, 2012) (Docket No. 117); Mem. * * * In Supp. of Mot. by Bob Kohn for Leave to Intervene for the Sole Purpose of Appeal (Sept. 7, 2012) (Docket No. 115); Mem. of Law in Reply to Opp'n of the United States to Mot. by Bob Kohn for Leave to Intervene for the Sole Purpose of Appeal (September 20, 2012) (Docket No. 130). Most recently, the Second Circuit affirmed this Court's denial of Mr. Kohn's motion to intervene for purposes of appealing the Court's entry of the Original Final Judgment. *See Bob Kohn* v. *United States,* No. 12–4017 (2d Cir. Mar. 26, 2013).

[4] The permissibility of agency relationships in other contexts does not alter this conclusion. As the United States stated in its Original Response to Comments, ''[t]he United States * * * does not object to the agency method of distribution in the e-book industry, only to the collusive use of agency to eliminate competition and thrust higher prices onto consumers.'' Original Response to Comments at vi; *see also id.* at 17 (''Of course, publishers that were not parties to the conspiracy face no government challenge whatsoever as to agency agreements independently arrived at with e-book retailers.'') & 37–38 (''While agency agreements are not inherently illegal, collusive agreements that prevent price competition are, and the settlement is designed to unwind the effects of agency contracts stemming from a collusive agreement.'').

for the blanket license, and not the license itself, that causes the lack of price competition among songs.''). Here, the Complaint alleges that the Publisher Defendants did not act together to create a new, supplemental product, but to raise price. And, in agreeing to raise price, they agreed not to make individual e-books available on the same terms that had existed before they acted jointly. *See* Compl. ¶¶ 3, 66 (alleging that the retail-price MFNs in the agreements created disincentives to reducing prices or permitting discounting); *United States* v. *Apple, Inc.,* 2012 WL 3865135, at *13 (Slip Op. (Docket No. 113) at 33) (S.D.N.Y. Sept. 5, 2012) (''After defendants' coordinated switch to agency pricing, a consumer could not find Publisher Defendants' newly-released and bestselling e-books for $9.99 at *any* retailer.'').[5]

When Mr. Kohn finally turns away from his underlying concerns that the Defendants' conduct was legal and considers the remedy at issue, he argues that the proposed Penguin Final Judgment ''reverses'' the ''pro-competitive impacts'' of ''reducing Amazon's monopoly power and monopsony power.'' Kohn Comment at 23. In making that claim, Mr. Kohn assumes that the consent decree bars agency contracts and he intimates that the decree will not lead to ''efficient pricing'' (what he calls marginal cost pricing) of e-books, but rather will ''allow[] a predatory-induced market failure to resume for another two years,'' with harmful consequences. Kohn Comment at 28–29. However, the proposed Penguin Final Judgment permits Penguin to enter contracts that ensure the ''efficient pricing'' he desires. *See* proposed Penguin Final Judgment § VI.B. Mr. Kohn likely is not aware that after the Court approved the Original Final Judgment, which contained an identical term, at least one of the first three settling publishers entered into an agency contract with an e-book retailer that allowed that retailer to discount e-books only up to the level of its aggregate commission. This type of arrangement allows a retailer to try to grow its share by competing away much of its commission by reducing prices to consumers. Moreover, a retailer that embraces this practice will be selling e-books closer to their marginal cost (a goal Mr. Kohn applauds) than they were permitted to under the collusively imposed agency agreements—which granted no pricing discretion to the retailer.[6]

Finally, Mr. Kohn faults the United States for not disclosing as ''determinative'' materials or documents, pursuant to 15 U.S.C. 16(b), investigative materials revealing Amazon's pricing practices. Kohn Comment at 30. The ''determinative'' documents requirement requires submission of a ''fairly narrow'' set of materials, *United States* v. *Bleznak,* 153 F.3d 16, 20 (2d Cir. 1998), and does not require provision of the materials sought by Mr. Kohn. The United States' obligation is to provide ''factual foundation for [its] decisions such that its conclusions regarding the proposed settlement are reasonable.'' *United States* v. *Keyspan Corp.,* 763 F. Supp. 2d 633, 637–38 (S.D.N.Y. 2011) (citation omitted). This Court determined previously that the materials supplied by the United States provided ''ample factual foundation for [its] decisions regarding the proposed Final Judgment.'' *United States* v. *Apple, Inc.,* 2012 WL 3865135, at *12–13 (Slip Op. (Docket No. 113) at 32–33) (S.D.N.Y. Sept. 5, 2012).

B. National Association of College Stores

The National Association of College Stores (''NACS'') describes itself as a trade association whose members include 3,000 stores serving colleges, universities, or K–12 schools and more than 1,000 companies supplying goods and services to campus stores. The NACS expresses concern about the potential applicability of the proposed Penguin Final Judgment to the sale of e-textbooks. NACS specifically fears that the requirements and prohibitions in the proposed Penguin Final Judgment will apply to Pearson Education or other educational publishing companies owned by Penguin's parent, Pearson Plc.[7]

The NACS is correct that the conspiracy among the Publisher Defendants and Apple challenged in the Complaint concerned the sale of trade e-books, not e-book versions of academic textbooks. Compl. ¶¶ 27 n.1, 99. However, none of the Penguin entities subject to the proposed Penguin Final Judgment publish e-textbooks. It is not necessary to clarify the proposed Penguin Final Judgment, as the NACS suggests, to specifically exclude e-textbooks.[8]

C. Steerads Inc.

Steerads is a Canadian corporation that develops solutions to ''improve online advertisers' return on investment by optimizing user-specific advertisements bids.'' Steerads Comment at 2–3. It states that ''the terms and conditions imposed on [Penguin] in [the proposed Final Judgment] are clear, thus enforceable.'' *Id.* at 2. It asserts, however, that the proposed Penguin Final Judgment ''provides inadequate relief'' in that it fails to include a provision under which the consent decree would have prima facie effect in private litigation. *Id.* at 3.[9]

Steerads does not suggest that the injunctive relief contained in the proposed Penguin Final Judgment fails to adequately end the harm to competition alleged by the United States in the Complaint. It instead seeks additional relief to enhance the likelihood of the recovery of damages in

[5] Mr. Kohn is correct that the United States alleged in the Complaint that it was not in any individual Publisher Defendant's unilateral self interest to impose agency terms on Amazon or other e-book retailers—and that the Publisher Defendants could not have accomplished their goal of raising retail prices of e-books without conspiring with each other and Apple. *See, e.g.,* Compl. ¶¶ 5, 35–36, 38, 60, 69. These allegations support a finding of an agreement under Section 1 of the Sherman Act, 15 U.S.C. § 1. *See Toys ''R'' Us, Inc.* v. *FTC,* 221 F.3d 928, 935–36 (7th Cir. 2000) (''inferring'' horizontal agreement from facts showing ''that the only condition on which each toy manufacturer would agree to TRU's demands was if it could be sure its competitors were doing the same thing'').

[6] Mr. Kohn is incorrect when he states pricing below marginal costs is ''*presumptively* illegal.'' Kohn Comment at 29 (emphasis in original). The Second Circuit, in *Northeastern Telephone Company v. American Telephone & Telegraph Company,* found only that prices below marginal costs will be ''presumed predatory.'' 651 F.2d 76, 88 (2d Cir. 1981). To succeed on a predatory pricing claim, an antitrust plaintiff must also establish that there is a ''dangerous probability'' that the defendant will later ''recoup[ ] its investment in below-cost prices.'' *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.,* 509 U.S. 209, 224 (1993).

[7] In a comment filed in response to the proposed Final Judgment as to the Original Settling Defendants, the NACS expressed similar concern about the applicability of that consent decree to the e-textbooks market. *See* National Association of College Stores' Comments Concerning Proposed E-Book Final Judgment, *available at http://www.justice.gov/atr/cases/apple/comments/atc-0845.pdf*; *see also United States* v. *Apple, Inc.,* 2012 WL 3865135, at *11 n.12 (Slip Op. (Docket No. 113) at 29 n.12) (S.D.N.Y. Sept. 5, 2012) (discussing concerns raised by the NACS).

[8] Because Defendant Holtzbrinck Publishers, LLC d/b/a Macmillan publishes e-textbooks, the proposed Macmillan Final Judgment expressly excludes ''the electronically formatted version of a book marketed solely for use in connection with academic coursework'' from the consent decree's definition of ''e-book.'' *See* Proposed Macmillan Final Judgment (Docket No. 174–1), ¶ II.D. No such modification is required with respect to the proposed Penguin Final Judgment because the proposed Penguin Final Judgment expressly excludes the Pearson entities that publish e-textbooks.

[9] Steerads notes that it ''proposed identical relief as to the Original Judgment.'' Steerads Comment at 3. *See* Public Comments Submitted to the United States by Steerads Inc. Concerning a Proposed Final Judgment and Supporting Stipulation and Competitive Impact Statement filed with the Court in the Above-Captioned Matter, *available at http://www.justice.gov/atr/cases/apple/comments/atc-0374.pdf.*

subsequent litigation. The United States, however, deemed it appropriate to avoid the costs and delays associated with litigation by acceding to a consent decree with Penguin that had the same substantive provisions as the consent decree the Court previously approved, including a provision making it clear that the settlement did not constitute a finding of liability that would harm the settling defendant in follow-on private litigation. The Supreme Court has approved such settlements before. *See, e.g., Swift & Co.* v. *United States,* 276 U.S. 311, 327 (1928) (refusing to vacate injunctive relief in consent judgment that contained recitals in which defendants asserted their innocence); *see also United States* v. *Morgan Stanley,* 881 F. Supp. 2d 563, 568–69 (S.D.N.Y. 2012) (observing that defendants are encouraged ''to settle promptly'' by the Tunney Act provision that makes consent decrees entered before testimony is taken not usable ''against a defendant in private litigation'' (citation omitted)). Indeed, the legislative history of the Tunney Act shows that Congress generally assumed that consent decrees will not include admissions of liability, with Senator Tunney noting in his floor statement that ''[e]ssentially the [consent] decree is a device by which the defendant, while refusing to admit guilt, agrees to modify its conduct and in some cases to accept certain remedies designed to correct the violation asserted by the Government.'' 119 Cong. Rec. 3451. *See also* S. Rep. 93–298, 93 Cong., 1st Sess. 6 (1973) at 5–7; H. Rep. No. 1463, 93 Cong., 2nd Sess. (1974) at 6 (''Ordinarily, defendants do not admit to having violated the antitrust or other laws alleged as violated in complaints that are settled.'').

V. Conclusion

The United States continues to believe that the proposed Penguin Final Judgment, as drafted, provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint and that it is therefore in the public interest.

Pursuant to the Court's January 7, 2013 Order (Docket No. 169), the United States will move for entry of the proposed Penguin Final Judgment after this Response to Comments is published in the **Federal Register** (along with the Internet location where the three comments are posted) and by no later than April 19, 2013.

Dated: April 5, 2013.

Respectfully submitted,

s/Mark W. Ryan,
Mark W. Ryan,
Lawrence E. Buterman,
Stephen T. Fairchild.
Attorneys for the United States,
United States Department of Justice,
Antitrust Division,
450 Fifth Street NW., Suite 4000,
Washington, DC 20530,
(202) 532–4753,
Mark.W.Ryan@usdoj.gov.

Certificate of Service

I, Stephen T. Fairchild, hereby certify that on April 5, 2013, I caused a copy of the Response of Plaintiff United States to Public Comments on the Proposed Final Judgment as to the Penguin Defendants to be served by the Electronic Case Filing System, which included the individuals listed below.

For Apple:

Daniel S. Floyd,

Gibson, Dunn & Crutcher LLP, 333 S. Grand Avenue, Suite 4600, Los Angeles, CA 90070, (213) 229–7148, dfloyd@gibsondunn.com.

For Macmillan and Verlagsgruppe Georg Von Holtzbrinck GMBH:

Joel M. Mitnick,

Sidley Austin LLP, 787 Seventh Avenue, New York, NY 10019, (212) 839–5300, jmitnick@sidley.com.

For Penguin U.S.A. and the Penguin Group:
Daniel F. McInnis,

Akin Gump Strauss Hauer & Feld, LLP, 1333 New Hampshire Avenue NW., Washington, DC 20036, (202) 887–4000, dmcinnis@akingump.com.

For Hachette:

Walter B. Stuart IV,

Freshfields Bruckhaus Deringer LLP, 601 Lexington Avenue, New York, NY 10022, (212) 277–4000, walter.stuart@freshfields.com.

For HarperCollins:

Paul Madison Eckles,

Skadden, Arps, Slate, Meagher & Flom, Four Times Square, 42nd Floor, New York, NY 10036, (212) 735–2578, pmeckles@skadden.com.

For Simon & Schuster:

Yehudah Lev Buchweitz,

Weil, Gotshal & Manges LLP (NYC), 767 Fifth Avenue, 25th Fl., New York, NY 10153, (212) 310–8000 x8256, yehudah.buchweitz@weil.com.

Additionally, courtesy copies of this Competitive Impact Statement have been provided to the following:

For the State of Connecticut:

W. Joseph Nielsen,
Assistant Attorney General, Antitrust Division, Office of the Attorney General, 55 Elm Street, Hartford, CT 06106, (860) 808–5040, Joseph.Nielsen@ct.gov.

For the Private Plaintiffs:

Jeff D. Friedman,

Hagens Berman, 715 Hearst Ave., Suite 202, Berkeley, CA 94710, (510) 725–3000, jefff@hbsslaw.com.

For the State of Texas:

Gabriel R. Gervey,

Assistant Attorney General, Antitrust Division, Office of the Attorney General of Texas, 300 W. 15th Street, Austin, Texas 78701, (512) 463–1262, gabriel.gervey@oag.state.tx.us.

s/Stephen T. Fairchild

Stephen T. Fairchild

Attorney for the United States, United States Department of Justice, Antitrust Division, 450 Fifth Street, NW., Suite 4000, Washington, DC 20530, (202) 532–4925, stephen.fairchild@usdoj.gov.

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DEPARTMENT OF JUSTICE

Antitrust Division

United States v. United Technologies Corporation and Goodrich Corporation; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the Response of Plaintiff United States to Public Comments on the proposed Final Judgment in *United States* v. *United Technologies Corporation and Goodrich Corporation,* Civil Action No. 1:12-cv-01230–RC, which was filed in the United States District Court for the District of Columbia on February 12, 2013. Copies of the two comments received by the United States from the public were also filed with the court.

Copies of the comments, as redacted to preserve confidential business information, and the response are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street, NW., Suite 1010, Washington, DC 20530 (telephone: (202) 514–2481), on the Department of Justice's Web site at *http://www.justice.gov/atr/cases/f295000/295087.pdf*, and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of any of these materials may also be obtained upon request and payment of a copying fee.

Patricia A. Brink,

Director of Civil Enforcement.

Response of Plaintiff United States to Public Comments on the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (''APPA'' or ''Tunney Act''), the United States hereby responds to the public comments

received regarding the Proposed Final Judgment in this case. After careful consideration of the comments submitted, the United States continues to believe that the Proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint. The United States will move the Court for entry of the Final Judgment after the public comments and this response have been published in the **Federal Register**, pursuant to 15 U.S.C. 16(d).

I. Procedural History

The United States filed a civil antitrust Complaint on July 26, 2012, seeking to enjoin United Technologies Corporation's (''UTC'') proposed acquisition of Goodrich Corporation (''Goodrich''). The Complaint alleged that the proposed acquisition likely would substantially lessen competition in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, in the worldwide markets for the development, manufacture, and sale of large main engine generators, aircraft turbine engines, and engine control systems for large aircraft turbine engines. That loss of competition likely would result in increased prices, less favorable contractual terms, and decreased innovation in the markets for these products.

Simultaneously with the filing of the Complaint, the United States filed a Proposed Final Judgment, which is designed to remedy the expected anticompetitive effects of the acquisition, and a Hold Separate Stipulation and Order signed by the plaintiffs and the defendants, consenting to the entry of the Proposed Final Judgment after compliance with the requirements of the Tunney Act, 15 U.S.C. 16. Pursuant to those requirements, the United States filed its Competitive Impact Statement (''CIS'') with the Court on July 26, 2012; the Proposed Final Judgment and CIS were published in the **Federal Register** on August 2, 2012, *see United States* v. *United Technologies Corp., et al.,* 77 FR 46186; and summaries of the terms of the Proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the Proposed Final Judgment, were published in *The Washington Post* for seven days beginning on July 31, 2012 and ending on August 6, 2012. The sixty-day period for public comment ended on October 5, 2012; two comments were received, as described below and attached hereto.

II. The Investigation and the Proposed Resolution

On September 21, 2011, UTC and Goodrich entered into a purchase agreement pursuant to which UTC would purchase all of the shares of Goodrich, a transaction that was valued at approximately $18.4 billion. Immediately following the announcement of the merger, the United States Department of Justice (the ''Department'') opened an investigation into the likely competitive effects of the transaction that spanned about ten months. As part of this detailed investigation, the Department issued Second Requests to the merging parties and twenty-four Civil Investigative Demands (''CIDs'') to third parties. The Department considered more than half a million documents submitted by the merging parties in response the Second Requests and by third parties in response to CIDs. The Department also took oral testimony from nine executives of the merging parties, and conducted approximately one hundred interviews with customers, competitors, and other market participants. The investigative staff carefully analyzed the information provided and thoroughly considered all of the issues presented.

As part of its investigation, the Department considered the potential competitive effects of the merger on the markets for numerous products and services and on a variety of customer groups. The Department concluded, as explained more fully in the Complaint and CIS, that the acquisition of Goodrich by UTC likely would have substantially lessened competition in the worldwide markets for the development, manufacture and sale of large main engine generators, aircraft turbine engines, and engine control systems for large aircraft turbine engines.

A. Large Main Engine Generators

As explained more fully in the Complaint and CIS, the acquisition of Goodrich by UTC likely would have lessened competition substantially in the market for the development, manufacture, and sale of large main engine generators, because UTC and Goodrich were the only significant competitors for those generators. As a result of the acquisition, customers likely would face higher prices, less favorable contractual terms, and less innovation, in violation of Section 7 of the Clayton Act.

The Proposed Final Judgment will preserve competition by requiring UTC to divest the Electrical Power Divestiture Assets, i.e., all the Goodrich assets used to design, develop, manufacture, market, service, distribute, repair and/or sell aircraft electrical generation and electrical distribution systems. The tangible assets to be divested include Goodrich's facilities in Pitstone, United Kingdom, and Twinsburg, Ohio, as well as other tangible and intangible assets such as manufacturing equipment, fixed and personal property, contracts, and patents, licenses, know-how, trade secrets, designs, and other intellectual property. In addition, the Proposed Final Judgment provides for transition services agreements and supply agreements that will make the divestiture as seamless as possible and enhance the ability of the acquirer of the divestiture assets to operate those assets as a successful and competitive business.

The Proposed Final Judgment also requires that UTC divest all of the Goodrich shares in the Aerolec joint venture between Goodrich and Thales Avionics Electrical Systems SA. The Proposed Final Judgment requires that the Electrical Power Divestiture Assets and Goodrich's Aerolec shares be divested to the same acquirer. This provision ensures that the interests of the acquirer of the Aerolec shares are aligned with the interests of the acquirer of the Electrical Power Divestiture Assets, which is necessary because the acquirer of the Electrical Power Divestiture Assets will perform the majority of the work within the Aerolec joint venture. In the view of the United States, the divestiture of the Electrical Power Divestiture Assets and the sale of the Goodrich shares in the Aerolec joint venture is sufficient to remedy the anticompetitive effects in the market for large main engine generators that were alleged in the Complaint.

B. Aircraft Turbine Engines

As described more fully in the Complaint and CIS, the acquisition of Goodrich by UTC likely would have lessened competition substantially in both the large aircraft turbine engine market and the small aircraft turbine engine market.

1. Large Aircraft Turbine Engines

UTC, through its Pratt & Whitney subsidiary, and Rolls-Royce are two of only three primary competitors for the development, manufacture, and sale of large aircraft turbine engines. Goodrich was a partner with Rolls-Royce in a joint venture called Aero Engine Controls (''AEC''), from which Rolls-Royce is required to purchase the engine control systems (''ECSs'') for most of its engines. Thus, after the acquisition of Goodrich,

UTC would have been both a producer of large aircraft turbine engines and the sole-source supplier of ECSs to one of its leading engine competitors. In this position, UTC would have had the ability to adversely affect the delivery and cost of the ECSs for Rolls-Royce, and thus the competitiveness of Rolls-Royce's engines. Moreover, UTC would have had the incentive to do so, as the potential resulting additional engine sales for Pratt & Whitney would have produced much higher revenues and profits for UTC than UTC would have lost from the lower sales of ECSs to Rolls-Royce. In addition, UTC would have had access to Rolls-Royce's competitively sensitive information, which could have been used to advantage UTC when competing against Rolls-Royce. If UTC were to reduce the competitiveness of Rolls-Royce as a supplier of large aircraft turbine engines, customers would have had significantly fewer choices, and competition thus would have been lessened substantially.

The Proposed Final Judgment preserves competition by requiring UTC to divest Goodrich's shares of AEC to Rolls-Royce, thus giving Rolls-Royce complete ownership of AEC and preventing UTC from disadvantaging Rolls-Royce in future competitions for large aircraft turbine engines. The United States believes that the divestiture of Goodrich's AEC shares, along with the other requirements in the Proposed Final Judgment, is sufficient to remedy the anticompetitive effects in the market for large aircraft turbine engines, as alleged in the Complaint.

2. Small Aircraft Turbine Engines

UTC, through its Pratt & Whitney subsidiary, is one of only a few significant competitors in the market for the development, manufacture, and sale of small aircraft turbine engines. Several of UTC's competitors purchased from Goodrich the ECSs for certain of their small aircraft turbine engines. Therefore, after the acquisition, UTC would have been both a producer of small aircraft turbine engines and a supplier of ECSs to its competitors. In that position, UTC would have been able to withhold or delay delivery of ECSs to its small aircraft turbine engine competitors, adversely affecting their competitiveness. Moreover, UTC would have had the incentive to do so, as the potential resulting additional engine sales for Pratt & Whitney would have produced much higher revenues and profits for UTC than it would have lost from the lower sales of ECSs to the other small aircraft turbine engine manufacturers. If UTC were to reduce the competitiveness of its competitors in the supply of large aircraft turbine engines, customers would have had significantly fewer choices, and competition thus would have been lessened substantially.

The Proposed Final Judgment will preserve competition by requiring UTC to divest the Engine Control Divestiture Assets, i.e., all the Goodrich assets that are used to design, develop, and manufacture engine control products for small engines. The assets to be divested include Goodrich's manufacturing facility located in West Hartford, Connecticut, and all tangible and intangible assets used by or located at that facility. The divested assets also include certain assets used or located in Goodrich's Montreal facility, as well as assets related to certain maintenance, repair and overhaul services. In addition, the Proposed Final Judgment provides for transition services agreements and supply agreements that will make the divestiture as seamless as possible and enhance the ability of the acquirer of the Engine Control Divestiture Assets to operate them as a successful and competitive business. The United States believes that the divestiture of the Engine Control Divestiture Assets, along with the other requirements in the Proposed Final Judgment, is sufficient to remedy the anticompetitive effects in the market for small aircraft turbine engines, as alleged in the Complaint.

C. Engine Control Systems for Large Aircraft Turbine Engines

In addition to adversely affecting the competitiveness of Rolls-Royce in the supply of large aircraft turbine engines, UTC's purchase of Goodrich's share in AEC also likely would lessen competition substantially in the market for ECSs for large aircraft turbine engines. UTC and AEC are two of the only three producers of such ECSs, and UTC's purchase of Goodrich would give UTC fifty percent ownership of AEC, one of UTC's two main competitors. Competition would be lessened substantially if UTC were to impede AEC's competing to provide replacement ECSs or to form teams to supply ECSs for new engines. Moreover, competition would be lessened substantially, if, as a result of the acquisition, UTC and Rolls-Royce were to use AEC to combine their ECS intellectual property and research and development results, rather than competing independently to develop innovative and cost-effective ECS solutions. The United States believes that the divestiture of the Goodrich AEC shares is sufficient to remedy the anticompetitive effects in the market for ECSs for large aircraft turbine engines, as alleged in the Complaint.

III. Summary of Public Comments and the Responses of the United States

During the 60-day comment period, the United States received comments from (1) Williams International and (2) Joseph C. Jefferis. The comments are attached to this response. As explained in detail below, after consideration of the two comments, the United States continues to believe that the Proposed Final Judgment is in the public interest.

A. Williams International

1. Summary of the Comment

Williams International (''Williams'') competes with UTC's Pratt & Whitney in the development, manufacture and sale of small aircraft turbine engines, and purchases the ECSs for some of its engines from Goodrich. In its Comment, Williams notes that it had serious concerns regarding the likely impact of the acquisition on both the pricing and continued availability of the full authority digital engine control (''FADEC'') systems of the Engine Control Divestiture Assets. Williams states that the Proposed Final Judgment ''does appear to be a thoughtful, good faith attempt to deal with those concerns,'' but that ''there are still a number of discrete issues that Williams International believes the [Proposed Final Judgment] does not fully and adequately address.'' Williams then describes ''three remaining primary areas of concern.''

First, Williams is concerned that the Proposed Final Judgment does not adequately protect from disclosure to either UTC or potential acquirers the confidential information of customers of the Engine Control Divestiture Assets, such as Williams. For example, Williams considers Section V.A of the Hold Separate Stipulation and Order, which requires UTC to keep competitively sensitive information of the Engine Control Divestiture Assets separate from UTC's, to be ambiguous as to whether it applies to customer information in the possession of the Engine Control Divestiture Assets. Williams also notes that this provision does not appear to apply to the sharing of information with potential purchasers of the engine control assets.

Similarly, Williams finds ''woefully inadequate'' Section IV.B of the Proposed Final Judgment, which requires UTC to provide to prospective purchasers of the Engine Control Divestiture Assets, ''subject to customary confidentiality assurance, all

information and documents relating to [the Engine Control Divestiture Assets] customarily provided in due diligence.'' Williams argues that standard due diligence protections are not sufficient in this matter, because the Proposed Final Judgment could be considered to supersede private nondisclosure agreements.

Second, Williams takes issue with the United States having ''sole discretion'' to accept or reject an acquirer of the Engine Control Divestiture Assets. Williams assumes that this means that the United States's evaluation of potential purchasers will be performed without any input from engine manufacturers. Williams also takes issue with the requirement that the purchaser of the assets have ''the intent and capability * * * of competing effectively'' in engine controls, asserting that an acquirer also should demonstrate that it is likely to become a ''suitable long-term business partner'' to the engine manufacturers.

Finally, Williams has concerns about the provisions in the Proposed Final Judgment and Hold Separate Stipulation and Order designed to protect the viability of the divested assets prior to their sale. Williams asserts that the Proposed Final Judgment provides ''virtually nothing'' relating to UTC's obligations to maintain the Engine Control Divestiture Assets prior to their sale, ''particularly with respect to personnel.'' It also argues that the provisions of the Hold Separate Stipulation and Order are inadequate to prevent the movement of personnel away from the divested business. Williams cites as an example of its concerns the appointment of Curtis Reusser, former president of Goodrich's Electronic Systems segment, to the position of president of the Aircraft Systems business within UTC Aerospace Systems, in which capacity he oversees portions of the acquired Goodrich business that are not subject to divestiture. Williams claims that, during his tenure with Goodrich, Mr. Reusser was directly involved in dealings with Williams regarding Goodrich's performance under its contract, and with all details of the parties' business relationship.

3. Response of the United States

Regarding Williams's concerns about the confidentiality of its information in the possession of the Engine Control Divestiture Assets, the United States believes that the protections of the Hold Separate Stipulation and Order and the Proposed Final Judgment are sufficient. Paragraph V.A of the Hold Separate Stipulation and Order requires UTC to operate the Engine Control Divestiture Assets so that the ''management, sales, and operations * * * are held entirely separate, distinct, and apart from those of UTC's other operations.'' This paragraph also specifically requires that sensitive information relating to these products be ''kept separate and apart from other UTC operations.'' To assert that customer information will be accessible by UTC despite these provisions would require a strained interpretation contrary to the plain language of the Hold Separate Stipulation and Order.[1]

As for Williams's assertion that its confidential information might not be properly protected against discovery by potential acquirers of the divestiture assets, the United States sees no reason to provide additional protection for this type of information. In most acquisitions, the purchaser undertakes a ''due diligence'' investigation to confirm the value of the business that is being purchased. This investigation necessarily involves information that is confidential, possibly including information relating to the acquired company's customers.[2] Potential acquirers who wish to review such information generally are required to hold such information confidential, often signing nondisclosure agreements that bar dissemination or use of the information. Williams provides no reason to believe that such information is at greater risk of disclosure or improper use here than in any other asset sale. The additional degree of protection apparently sought by Williams would make the divestiture process unnecessarily burdensome, possibly deterring potential acquirers and thus thwarting the central goal of the Proposed Final Judgment, which is expeditious divestiture to a suitable purchaser.[3] Williams also provides no support for its concern that the ''scrutiny of the DOJ'' will somehow lead to reduced confidentiality protections, or for its view that the Proposed Final Judgment might be held to ''take precedence over private non-disclosure agreements.'' Nothing in either the Proposed Final Judgment or the Hold Separate Stipulation and Order suggests any such counterintuitive outcome. If anything, fear of the ''scrutiny of the DOJ''—and surely that of this court—will lead to more protection of confidential information rather than less.

Williams need have no concern about the scope of the review undertaken by the United States. While the United States has sole discretion to decide whether a divestiture to a particular proposed acquirer meets the objectives of the Proposed Final Judgment, the United States's evaluation includes consideration of information from numerous sources, including affected customers. Information gathered by the United States during its investigation of UTC's proposed acquisition of Goodrich, including conversations with dozens of customers, is taken into account in this evaluation, and new interviews with customers also are undertaken. The United States also considers the financial resources and business plans of the proposed acquirer, to ensure that the divested assets will be maintained as a long-term competitive force in the market. This is no mere cursory review. Indeed, after a thorough evaluation of documentary information, responses to questions, and information provided by potentially affected customers, the United States rejected the first acquirer proposed by the defendants for the Engine Control Divestiture Assets.

Finally, the United States disagrees with Williams's assertion that the Proposed Final Judgment and Hold Separate Stipulation and Order do not adequately protect the viability of the assets pending their sale. As Williams notes, the Hold Separate Stipulation and Order contains provisions requiring the defendants to maintain the viability of the assets. Paragraph V.D requires defendants to use ''all reasonable efforts to maintain and increase the sales and revenues of all products produced by or sold by'' the Engine Control Divestiture Assets, as well as maintaining promotional, sales, technical assistance,

[1] In virtually every lawsuit in which it agrees to a divestiture remedy to resolve the competitive harm from a proposed acquisition, the United States enters into a Hold Separate Stipulation and Order with the merging parties. The language of Paragraph V.A of the Hold Separate Stipulation and Order is routinely included in such documents. The United States is unaware of other instances in which customers of a divested business have expressed similar concerns.

[2] In fact, Paragraph IV.B of the Proposed Final Judgment *requires* the defendants to disclose such information as is ''customarily provided in a due diligence process,'' in part to help ensure that the assets are sold to an acquirer that will maintain them as a competitive force in the market. However, the information so provided is ''subject to customary confidentiality assurances.''

[3] In its Comment, Williams notes that ''[t]he DOJ may respond that requiring customary confidentiality assurances pursuant to the due diligence process is no different than what would generally apply in the case of any private contractor of Williams International being sold to a prospective buyer, and that this level of protection in the [Proposed Final Judgment] should be sufficient.'' Williams Comment, p.6. That is precisely the case. Williams provides no justification for burdening the divestiture process by giving this information additional protection not typically provided in due diligence investigations.

and other forms of support for the business. Paragraph V.E requires UTC to provide sufficient working capital and lines and sources of credit to maintain the Engine Control Divestiture Assets as an economically viable and competitive, ongoing business. Paragraph V.F requires UTC to take ''all steps necessary to ensure that the [Engine Control Divestiture Assets] are fully maintained in operable condition at no less than current capacity and sales.'' The requirements of the Hold Separate Stipulation and Order are sufficient to mandate a level of support from UTC for the Engine Control Divestiture Assets, without being so detailed that the operation of the assets is encumbered rather than maintained at its former level of independence.

As for the concern about the retention of employees of the Engine Control Divestiture Assets, the provisions of the Hold Separate Stipulation and Order are designed to prevent UTC from stripping valuable employees from the Engine Control Divestiture Assets by transferring them, or soliciting or encouraging them to move, within UTC. Section V.J of the Hold Separate Stipulation and Order bars the defendants from transferring or reassigning individuals who have ''primary responsibility'' for the products produced by the assets to be divested. The interests and desires of individual employees must be respected, however, and they cannot be forced to remain with the Engine Control Divestiture Assets against their will.

In the specific case of Mr. Reusser, the United States was aware of the plan for his transfer during the negotiation of the Proposed Final Judgment. Although Mr. Reusser supervised the Goodrich organization responsible for products produced by the Engine Control Divestiture Assets, he was also responsible for other Goodrich divisions producing a wide range of products not at issue in this case, such as sensors, integrated systems, and intelligence, surveillance and reconnaissance systems.[4] Therefore, the products of the divestiture assets were not Mr. Reusser's ''primary responsibility'' as that term is used in Section V.J of the Hold Separate Stipulation and Order, and his transfer thus is not prohibited.

[4] Williams also complains that Alan Oak, the Vice President and General Manager of GPECS, has left the company. Mr. Oak has retired, and the United States does not believe it would be reasonable to require UTC to persuade Mr. Oak not to do so.

B. Joseph C. Jefferis

1. Summary of the Comment

Mr. Joseph C. Jefferis identifies himself as a ''former Goodrich Corporation Risk and Control Specialist with Sarbanes-Oxley responsibilities,'' who served in that capacity from September 2003 to June 2007, when he was ''terminated.'' He states that he filed for whistleblower status with the U.S. Department of Labor in August 2006.

In his comment, Mr. Jefferis recounts several incidents that he says he raised with the Department of Labor relating to Goodrich's conduct, including allegations relating to the Foreign Corrupt Practices Act, insider trading, price-fixing and collusion, and accounting irregularities. One allegation that appears to be of particular interest to Mr. Jefferis relates to a ''Community Action Alert'' and ''a series of dormant alternative fuel cell patents.'' Mr. Jefferis expresses concern that ''dormant patent information I obtained during the secretive 'Community Action Alert' scheme that [a Goodrich representative] engaged me in was given to United Technologies unbeknownst to Goodrich Corporation shareholders and the positive outcome of the scientific studies of the patent information I provided resulted in the favorable terms of the merger agreement.'' He further alleges that various financial institutions might have been misled about certain licenses in approving financing for the acquisition, and appears to state that the acquisition of Goodrich by UTC will create a monopoly ''around this technology.'' Mr. Jefferis summarizes his allegations as follows:

> It is my worry and concern that a combined Goodrich Corporation and United Technologies poses significant risks to national security given their history of export compliance violations, the unresolved export compliance issues I raised, the corporate espionage I may have engaged in, the bizarre handling of my reporting accounting concerns to the external audit firm, the perjury of [the Goodrich representative], the secrecy surrounding the Community Action Alert patents, and now the 'reinvention' using the prior art information.

2. Response of the United States

The Proposed Final Judgment is designed to remedy the competitive concerns raised by the acquisition of Goodrich by UTC, as alleged in the Complaint. Most of Mr. Jefferis's complaints do not relate to the likely competitive effect of the acquisition. Mr. Jefferis may be concerned, in part, about a possible monopoly in a certain fuel cell technology. Even so, the United States found no evidence that the acquisition of Goodrich by UTC would have an anticompetitive effect in fuel cells; therefore, the Complaint contains no such allegation. Mr. Jefferis's complaint is thus beyond the purview of this proceeding.

IV. Standard of Judicial Review

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the Proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination in accordance with the statute, the court is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A)–(B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.,* 2009–2 Trade Cas. (CCH) ¶76,736, No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the Final Judgment are clear and manageable'').

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint,

whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[5] In determining whether a proposed settlement is in the public interest, the court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.''' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). Therefore, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

In its 2004 amendments to the Tunney Act,[6] Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, stating ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public-interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[7]

IV. Conclusion

The United States continues to believe that the Proposed Final Judgment, as drafted, provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint and that the Proposed Final Judgment therefore is in the public interest.

The United States will move this Court to enter the Proposed Final Judgment after the comments and this response are published in the **Federal Register**.

Dated: February 12, 2013.
Respectfully submitted.
Kevin C. Quin, Esquire,
United States Department of Justice, Antitrust Division, Litigation II Section, 450 5th Street NW., Suite 8700, Washington, DC 20530, Phone: (202) 307–0922, Fax: (202) 514–9033, *kevin.quin@usdoj.gov.*

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[5] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

[6] The 2004 amendments substituted the word ''shall'' for ''may'' when directing the courts to consider the enumerated factors and amended the list of factors to focus on competitive considerations and address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[7] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	
Plaintiff,	
	Case No. 1:12-cv-01230-RC
v.	
	Hon. Rudolph Contreras
UNITED TECHNOLOGIES CORPORATION	
and	
GOODRICH CORPORATION,	
Defendants.	

COMMENTS TO PROPOSED FINAL JUDGMENT
BY INTERESTED THIRD PARTY
WILLIAMS INTERNATIONAL CO., LLC

2309726.1

Pursuant to 15 U.S.C. § 16(b), Williams International Co., LLC ("Williams International" or "Williams")), by and through its undersigned counsel, submits its Comments to the Proposed Final Judgment (PFJ), filed in the above-captioned case on July 26, 2012.

INTRODUCTION

Williams International has been an interested third party throughout the investigative process conducted by the Department of Justice (DOJ) and the European Commission (EC) regarding the proposed acquisition of Goodrich Corporation (Goodrich) by United Technologies Corporation (UTC). Indeed, Williams International was in close contact with both DOJ and the EC and submitted substantial information at the request of those bodies.

Williams International is a manufacturer of small aircraft turbine engines. In 2001, it entered into a Long Term Agreement (LTA) with Goodrich Pump & Engine Control Systems, Inc. (GPECS), a wholly owned subsidiary of Goodrich. The LTA called for Goodrich to design and produce a line of engine control systems, to perform to specifications required by Williams International, for use in various of its small aircraft engines. The specific engine control systems required by Williams International are in the nature of Full Authority Digital Engine Controls (FADEC), comprised of a Fuel Delivery Unit and Electronic Control Unit.

As discussed in DOJ's Complaint and Competitive Impact Statement filed in this case, there are an extremely limited number of companies capable of producing custom FADEC systems of the type required by Williams International. At this point, GPECS may, in fact, be the sole viable source of FADEC systems available to Williams International, at least for the next 3-5 years, which is the amount of time needed to gear up and gain necessary approvals for a new producer. Due to the fact that UTC is a direct competitor to Williams International in the manufacture of small aircraft engines, its proposed acquisition of Goodrich and its GPECS

subsidiary raised serious concerns for Williams International regarding the likely impact of the acquisition on both the pricing and continued availability to Williams International of GPECS FADEC systems.

Initially, Williams International indicated to DOJ and the EC that it was opposed to the proposed merger, based on its concerns that a viable solution to the antitrust concerns raised by the merger could not be adequately addressed and remedied were the merger to be approved. While the PFJ does not completely eliminate Williams International's concerns, it does appear to be a thoughtful, good faith attempt to deal with those concerns. Nonetheless, there are still a number of discrete issues that Williams International believes the PFJ does not fully and adequately address, and as to which Williams International feels the need to comment and submit proposed revisions of the PFJ for DOJ's and the Court's consideration.

Discussed below are the three remaining primary areas of concern. First, is the concern that the PFJ does not appear to fully protect the confidential and proprietary information of some Goodrich customers, such as Williams International, through the process of divestiture of the Engine Control Divestiture Assets (ECDA), which include GPECS.

Second, Williams International is concerned that the process for vetting and approving potential acquirers of the ECDA does not contemplate the input of any of the customers of the Goodrich ECDA, and is left to the sole discretion of DOJ. Clearly, the customers, including engine manufacturers, who rely on GPECS, have the direct experience with the marketplace and the greatest knowledge of the technical aspects of the products involved. Thus, their input is critical to finding an acquirer of the ECDA which is both able and willing to continue the operations at an adequate long-term level.

Finally, Williams International is concerned that GPECS may not be maintained during the divestiture process at a satisfactory level of operations pending its divestiture, as key personnel leave the company – some to transfer to the UTC side of operations – and that UTC has no substantial incentive to invest in maintaining GPECS's performance levels, other than to meet the bare minimums required by the PFJ. These points are discussed in more detail, as follows.

1. ***Protection of Customer Confidential Information and Trade Secrets***

The DOJ expressly acknowledges in its Competitive Impact Statement (CIS) at 12:

> An ECS, including the FADEC, is designed and developed to meet the specific performance requirements of the particular engine on which it will be installed. As a result, the ECS supplier has insight into the design and cost of not only its ECS, but also the customer's engine. ECS suppliers that provide the application software also have access to competitively sensitive confidential business information about the fuel efficiency and performance principle around which the customer's engine is designed.

Recognizing the highly sensitive and confidential nature of customer information possessed by the ECS supplier, one would have expected that the PFJ would include substantial provisions to protect such information from being divulged in any manner by Goodrich to either (1) UTC or (2) a potential Acquirer of the divestiture assets to whom a given customer of Goodrich may not want its proprietary information divulged. The reason for the first safeguard is obvious, at least in the case of Williams International. UTC is a direct competitor of Williams and must be prevented from obtaining any confidential Williams information. The second safeguard is justified by the fact that an ECS customer, such as Williams, has no way of knowing which companies may be seeking to acquire the divestiture assets, nor, of course, which company will ultimately acquire them.

It cannot be left to the discretion of the DOJ, Goodrich, or anyone else, to determine to whom Williams International's confidential information is to be given. The potential and/or actual acquirers may include companies that Williams perceives as actual or potential competitors in some respect, or simply as companies that could ever be capable of meeting Williams International's needs. Further, the actual Acquirer may be a company with which Williams International (or another ECS customer) may decide, for whatever reason, that it does not wish to do business. Therefore, there needs to be an unbreachable firewall around customer confidential information that will prevent it from reaching UTC or any potential acquirer, absent the express written authorization of Williams International (or other similarly situated ECS customers).

The documents promulgated by DOJ do not appear to provide for that level of protection. The Hold Separate Stipulation and Order, as it relates to the Engine Control Divestiture Assets, states only, as relevant to protection of confidential information:

> UTC shall take all steps necessary to ensure that . . . (3) the books, records, competitively sensitive sales, marketing, and pricing information, and decision-making concerning design, development, manufacture, servicing, distribution, repair and sales of Engine Control Products will be kept separate and apart from UTC's other operations.

Hold Separate Stipulation and Order at 11. This provision does not make clear that it relates to information other than Goodrich's own information. Neither does it specifically include information relating to the customer's specifications, designs, plans, etc. relating to their engines other than, possibly, relating to Goodrich's "**decision-making** concerning, design, development, [etc.] of Engine Control Products." Documents relating to Goodrich's decision making may not comprise the same set of documents as those subsuming a customer's confidential information. This section provides little comfort that Williams International's confidential information would

not reach the hands of UTC. Moreover, it in no way specifically limits the divulging of information to any third parties other than UTC, such as potential acquirers of the divestiture assets.

The PFJ fares little better in protecting sensitive customer information. First, the PFJ makes clear that the Engine Control Divestiture Assets to be provided to the Acquirer include intangible assets such as all "contractual rights"; "technical information"; "blueprints'; "designs"; "design protocols"; "specifications for materials . . parts and devices"; "research data concerning historic and current research and development efforts"; etc. This would appear to subsume confidential customer information falling within these and other relevant categories. *See* PFJ, Definition M, at 4.

The PFJ further provides that:

> Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the [ECDA] customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine.

See PJF IV.B. at 11.

First, it is unclear that this section refers to information other than Goodrich confidential information. Moreover, even if it were interpreted to apply to customer confidential information, the generic reference to "customary confidentiality assurances" is woefully inadequate. There appears to be no other reference to confidentiality concerns in the PFJ.

The DOJ may respond that requiring customary confidentiality assurances pursuant to the due diligence process is no different than what would generally apply in the case of any private contractor of Williams International being sold to a prospective buyer, and that this level of protection in the PFJ should be sufficient. The divestiture in this case, however, is not a simple,

private, free market transaction. The divestiture will be governed by the PFJ, and subject to the direct scrutiny of the DOJ, as the body with power to approve or object to any proposed divestiture. Due to the authority of the Final Judgment, which may take precedence over private non-disclosure agreements, as well as the power of the DOJ with regard to all proposed acquisitions, the PFJ should contain a belt and suspenders provision that clearly, in its own right, provides substantial safeguards against the divulging of customer confidential information.

Given the critical sensitivity of the type of information that would comprise customer confidential information in the context of aircraft turbine engines and components thereof, including ECS, and recognizing that once that horse is let out of the barn it is too late to close the gate, utmost care must be taken to ensure that each customer has the absolute ability to determine the extent to which any of its confidential information is divulged, and to whom.

Proposed Revision: The PFJ should clearly state that no customer confidential information is to be provided to (1) UTC or (2) any potential or actual acquirer of the ECDA, without the express written consent of the customer (to be obtained, in the case of (2), after the customer is informed of the identity of the potential or actual acquirer to whom the confidential information is proposed to be divulged).

2. ***Selection of an Appropriate Acquirer***

The PFJ provides for Defendants to seek out potential acquirers of the ECDA that are "acceptable to the United States, in its sole discretion." *See, e.g.*, PFJ sec. IV.A. at 10. The PFJ also provides the protocol for approval of an Acquirer, by which UTC will provide notice to DOJ, along with material information, and DOJ will then either approve or object to the divestiture. Only DOJ, or UTC (under limited circumstances where a Divestiture Trustee has

designated an Acquirer), has the right to object to consummation of the divestiture. *See* PFJ sec. VIII at 33-34.

The DOJ has recognized, however, that the market for the production of Engine Control Systems is an extremely limited one. As observed in the CIS, there are only three producers of ECS for large aircraft turbine engines. *See* CIS at 20. Although not explicitly stated in the CIS, the number of producers of ECS for small aircraft turbine engines is also extremely small, approximately four in number, including Goodrich (and one of which is owned by UTC and is therefore a non-viable source for Williams International).

It is also well established that ECS are an essential component of all aircraft turbine engines. It is therefore critical to select an Acquirer of the ECDA that will remain a committed manufacturer of ECS and will maintain GPECS as a fully viable producer of ECS, at the very least over the years that would be required for Williams to gear up an alternate source of ECS.

Under these circumstances, to place the decision as to the identity of the Acquirer of the ECDA solely in the hands of DOJ, with no input from the engine manufacturers who will critically rely upon the products and services of the Acquirer, seems to be taking unwarranted risks as to the ongoing stability and viability of the market for production of ECS.

The PFJ states that the DOJ will seek an Acquirer that "in the United States's sole judgment, has the intent and capability . . . of competing effectively . . ." in the Engine Control Products market. PFJ at 17. Mere intent and capability, however, do not necessarily translate into an actual long-term commitment to the market. There appears to be nothing in the PFJ that establishes any parameters for the DOJ to ascertain the actual likelihood of the proposed Acquirer becoming a suitable long-term business partner of the few engine manufacturers who will be directly affected by the acquisition.

Given the depth of knowledge of the aircraft engine manufacturers – both as to their own needs and the science of aircraft engine design and production in general – it seems imprudent to exclude them entirely from the process of vetting a prospective acquirer of the ECDA, who will in all likelihood become their *de facto* future supplier of ECS, given the lack of elasticity in the market.

Proposed Revision: **The PFJ should be modified to provide for input from the aircraft engine manufacturers into the process for approving an Acquirer of the ECDA, to help ensure the selection of an Acquirer that will be an acceptable long-term supplier and business partner of the aircraft engine manufacturers.**

3. ***Maintaining the Quality and Viability of the ECDA (GPECS) Pending Divestiture***

As discussed in the previous section, and as noted repeatedly by the DOJ, it is essential to maintain the ongoing viability of the ECDA, and its ability to operate at least at the same level as it did pre-merger, so as not to deprive the aircraft turbine engine manufacturers of the ability to obtain ECS in the coming years, at least until alternate sources can be established. The PFJ, while, including many provisions related to UTC providing assistance and transition services to the ultimate Acquirer, contains virtually nothing relating to the level at which UTC must maintain the ECDA prior to the divestiture, particularly with respect to personnel.

The Hold Separate Stipulation and Order provides some very general requirements for UTC to maintain the quality of the ECDA. These include Sections V.(D) and V.(F), which require respectively that UTC "use all reasonable efforts to maintain and increase the sales and revenues of all products produced by or sold by the [ECDA]" . . . including the maintenance of current support levels in various areas (Sec. V.(D)) and that "UTC shall take all steps necessary

to ensure that the [ECDA] are fully maintained in operable condition at no less that current capacity and sales . . . ." (Sec. V. (F))

Whereas these provisions are extremely general and susceptible of subjective interpretation, with regard to employees and personnel of the ECDA the Hold Separate Order is more detailed, providing in Section V.(J):

> Defendants' employees with primary responsibility for the design, development, manufacture, marketing, servicing, distribution, repair and/or sale of any of the products produced with the [ECDA] . . . shall not be transferred or reassigned to other areas within Goodrich or UTC, except for transfer bids initiated by employees pursuant to Defendants' regular, established job-posting policy. Defendants shall provide the United States with ten calendar days' notice of such transfer. . . .

Despite the seeming protections this section affords against the transfer of key GPECS personnel within UTC, Williams International recently learned that Curtis Reusser, the President of GPECS (*see* **Exhibit A**, printout from Connecticut Secretary of State database) has been transferred within UTC to become President of UTC's Aircraft Systems Group. (*See* **Exhibit B**, article showing organizational hierarchy of UTC.)

This being the case, it clearly suggests that both UTC and DOJ (if it was given the 10 days' notice provided for in Section V.(J)) do not consider the transfer of the individual who is the President of both GPECS and of the Goodrich Segment subsuming GPECS to fall within the purview of the restrictions of Section V.(J). This is a highly problematic interpretation of Section V.(J), particularly considering that Curtis Reusser was directly involved in communications and discussions with Williams International regarding alleged failures of GPECS to perform satisfactorily under the parties' Contract, as well as with all details of the parties' business relationship, including commercial and technical issues. This is precisely the type of individual that the Hold Separate Order and the PFJ should be concerned about moving

into a leadership position in UTC's Aircraft Systems Group. It raises the obvious concern that UTC's porting over personnel – including the highest level personnel – from the Goodrich side to the UTC side of operations will increase the likelihood of customer confidential information and trade secrets being divulged to UTC. Apparently, however, the DOJ does not read that concern into those documents.

The illusory nature of the protections of Section V.(J) are further amplified by the carve-out to the proscription regarding transfer of key personnel; specifically, the exemption for "transfer bids initiated by employees pursuant to Defendants' regular, established job-posting policy." This clause is an invitation to UTC to evade provisions of Section V.(J) simply by posting jobs on the UTC side of operations internally, and then having Goodrich personnel put in transfer bids for those jobs. It is a gaping loophole that completely eviscerates the presumed protections of Section V.(J), and which would permit UTC to raid the GPECS employee roster and deplete it of its critical personnel. This would not only render GPECS non-viable, but would also port over to UTC employees with intimate knowledge of the Williams International projects and products being worked on by GPECS. This cannot be the intended consequences under the PFJ and Hold Separate Order, but it clearly appears to be the unintended consequences.

Finally, neither the PFJ nor the Hold Separate Order impose any obligations whatsoever upon UTC or GPECS to attempt to retain personnel who might be inclined to leave the company during the period pending divestiture. For example, Williams International has learned that Alan Oak, the Vice President and General Manager of GPECS, is leaving his position with the company. No information is known to Williams International as to whether the Defendants made any attempt, including the use of economic incentives, to retain Mr. Oak. The depopulating of the Goodrich organizational chart at the highest levels may be in UTC's interest,

but it is clearly not in the interest of maintaining GPECS as a viable producer of engine control systems going forward. A sale of the physical assets of the ECDA without the necessary personnel to effectively run the company will not protect the market, other than in the most illusory sense.

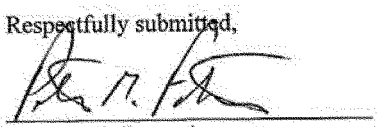
Proposed Revision: First, the PFJ and Hold Separate Order should be modified to strictly prohibit UTC from transferring Goodrich personnel to the UTC side of operations prior to the divestiture of the ECDA. Second, UTC should be required to use all commercially reasonable efforts, including economic incentives, to retain the Goodrich ECDA staff, particularly in the critical administrative and technical areas, pending divestiture.

CONCLUSION

While the Proposed Final Judgment has the potential to effectively address most of the issues with which the DOJ was concerned, as regards the UTC/Goodrich merger, the PFJ (and documents ancillary thereto) leave a number of issues inadequately addressed and remedied. For all the reasons stated above, the Court should require the Proposed Final Judgment to be amended in accordance with the three Proposed Revisions recommended herein by Williams International.

Date: September 12, 2012

Respectfully submitted,

By: 

Peter M. Falkenstein
Scott R. Torpey
JAFFE RAITT HEUER & WEISS, P.C.
201 S. Main St., Suite 300
Ann Arbor, Michigan 48104
(734) 222-4776
pfalkenstein@jaffelaw.com
storpey@jaffelaw.com

I CERTIFY that on September 12, 2012, I served a copy of the foregoing document on the following, by depositing a copy with Federal Express for overnight delivery to:

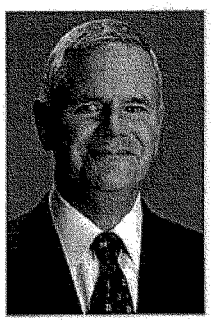
Maribeth Petrizzi
Chief, Litigation II Section, Antitrust Division
U.S. Department of Justice
Suite 8700
450 Fifth St., N.W.
Washington, D.C. 20530

Date: September 12, 2012 By: Jacqueline DeLevie

Exhibit A

About UTC > Executive Leadership

Curtis Reusser, President, UTC Aerospace Systems – Aircraft Systems



Curtis Reusser became president of the Aircraft Systems business segment of UTC Aerospace Systems on July 26, 2012, reporting to Alain Bellemare, President & CEO of UTC Propulsion and Aerospace Systems. The Aircraft Systems business segment has seven business segments: Actuation Systems, Aerostructures, Air Management Systems, Interiors, Landing Gear, Propeller Systems and Wheels & Brakes.

Prior to this role, he was president of the Electronic Systems strategic business unit at the Goodrich Corporation. Reusser joined Goodrich in 1988 when it acquired TRAMCO, where he was manager of Engineering. He held roles of increasing responsibility in Goodrich's Maintenance, Repair and Overhaul (MRO) operations before being appointed general manager of Goodrich MRO Europe based in the UK. He returned to the U.S. as vice president and general manager, Product and Process Definition at the company's Aerostructures division in 1999.

He was appointed president of the Aerostructures division in 2002, and was named president, Electronic Systems in December 2007. Prior to joining Goodrich, Reusser worked in engineering roles at General Dynamics and Heath Tecna.

Reusser holds a bachelor's degree in industrial engineering degree from the University of Washington and a certificate in business management from the University of San Diego, California.

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BACK

Welcome to UTC Aerospace Systems! Page 1 of 2

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Dear valued customer

I am pleased to announce that United Technologies Corp. has completed its acquisition of Goodrich Corp. and combined it with Hamilton Sundstrand to create UTC Aerospace Systems. We will provide innovative solutions, the highest-quality systems and services, and ensure everything we deliver is backed by global, world-class customer support. At the heart of our new organization is a deep commitment to putting customers first. Here is a high level view of our new organization.

UTC Propulsion & Aerospace Systems
Alain Bellemare
President & COO

Power, Controls & Sensing Systems
Mike Dumais
President

Electric Systems
Engine Components
Engine & Control Systems
Fire Protection Systems
ISR Systems
Sensors & Integrated Systems
Space Systems

Aircraft Systems
Curtis Reusser
President

Aerostructures
Actuation Systems
Air Management Systems
Interiors
Landing Gear
Propellers
Wheels & Brakes

UTC Aerospace Systems Customer Service
Cindy Egnotovich
President

UTC Aerospace Systems OE Aerospace Customers & Business Development
Jack Carmola
President

UTC Aerospace Systems operates through two business segments: Aircraft Systems and Power, Controls & Sensing Systems. The Aircraft Systems segment is led by Curtis Reusser and the Power, Controls & Sensing Systems segment is led by Mike Dumais. Customers in both segments are supported by a global, 24/7 Customer Service organization, led by Cindy Egnotovich. Each segment will have a Customer Service leader with responsibility for overall performance and execution - Paul Snyder for Aircraft Systems and Jim Patrick for Power, Controls & Sensing Systems. Relationships with OE customers will be handled by an Aerospace Customers & Business Development team led by Jack Carmola.

As we transition to a combined organization, our goal is to provide world-class support and also ensure that our customers experience no disruption. With this in mind, you will not see any immediate change to your existing points of contact.

What does this mean to you?

Presently, the Customer Response Center will remain the focal point for all AOG and technical support inquiries for Hamilton Sundstrand products and services,

while the Goodrich 24-7 service will remain the focal point for AOG exchange and critical spares requirements for Goodrich products and services.

Customers should continue to use the myHS and Goodrich Customer Portal systems to search for parts and check order status.

Your current Goodrich and Hamilton Sundstrand customer support teams will be working with you throughout the transition to answer your questions.

We look forward to building upon our partnership with you and hope you share our enthusiasm about the company's exciting future. For more information we invite you to visit www.utcaerospacesystems.com

Thank you for your business and we look forward to continuing to offer you the best quality products and the highest level of service in our industry.

Sincerely,

Cindy Egnotovich

Cindy Egnotovich
President
Customer Service
UTC Aerospace Systems

Please rate this communication.

This email, including attachments, is private and confidential. If you have received this email in error please notify the sender and delete it from your system. Emails are not secure and may contain viruses. No liability can be accepted for viruses that might be transferred by this email or any attachment.

UTC Aerospace Systems
4 Coliseum Centre
2730 W. Tyvola Rd.
Charlotte, NC 28217

If you do not wish to receive any further information unsubscribe here.

Exhibit B

Business Inquiry

HOME HELP

Business Inquiry Details

Business Name:	**GOODRICH PUMP & ENGINE CONTROL SYSTEMS, INC.**	Business Id:	**0782174**
Business Address:	**CHARTER OAK BOULEVARD, WEST HARTFORD, CT, 06110**	Mailing Address:	**C/O GOODRICH CORPORATION, 2730 WEST TYVOLA ROAD, CHARLOTTE, NC, 28217**
Citizenship/State Inc:	**Foreign/DE**	Last Report Year:	**2011**
Business Type:	**Stock**	Business Status:	**Active**
Date Inc/Register:	**Apr 22, 2004**	Name in State of INC:	GOODRICH PUMP & ENGINE CONTROL SYSTEMS, INC.
Commence Business Date:	**Apr 22, 2004**		

Principals

Name/Title:	Business Address:	Residence Address:
KIM R. DELLINGER ASSISTANT SECRETARY	2730 W. TYVOLA ROAD, CHARLOTTE, NC, 28217	2730 W. TYVOLA RD., CHARLOTTE, NC, 28217
MICHAEL G. MCAULEY VICE PRESIDENT AND TREASURER	2730 W. TYVOLA RD., CHARLOTTE, NC, 28217	2730 W. TYVOLA RD., CHARLOTTE, NC, 28217
CURTIS C. REUSSER PRESIDENT	2730 W. TYVOLA RD., NONE, NONE, CHARLOTTE, NC, 28217	2730 W. TYVOLA RD., NONE, NONE, CHARLOTTE, NC, 28217

Business Summary

Agent Name:	**C T CORPORATION SYSTEM**
Agent Business Address:	**ONE CORPORATE CENTER, HARTFORD, CT, 06103-3220**
Agent Residence Address:	**NONE**

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[redacted]

Joseph C. Jefferis (CPA- Inactive & CTP – Inactive)

648 Woods Road

Dayton, Ohio 45419

September 18, 2012

Maribeth Petrizzi

Chief, Litigation II Section

Anti Trust Division

US Department of Justice

450 East Fifth Street N.W., Suite 8700

Washington, D.C. 20530

RE: Public Interest: Case No. 1:12-CV-01230-RC United Technologies & Goodrich Corporation Merger

Submission with appendices sent certified mail 9/18/12.
#7011 1570 0000 6445 7426

Please consider the facts and inside information presented in this comment letter as you evaluate the appropriateness of the merger between Goodrich Corporation and United Technologies Corporation. You and your colleagues have performed extensive work and must be congratulated for the efforts you have put into protecting the public thus far in the process. Hopefully, the information in this letter and the submissions of others will provide you with the information you need to protect the interests of USA citizens.

You may not have had access to all the current activities, inside information, immediate concerns, and risks which this newly combined global military industrial complex company creates. I have a unique "Insider" perspective as a former Goodrich Corporation Risk and Control Specialist with Sarbanes-Oxley compliance responsibilities and as a citizen concerned who is active in the community and willing to take action when alerted. From my perspective this merger creates an issue of national security and presents potential troubles safeguarding the assets and intellectual property of the United States government. This letter will detail my actions over the past several years as I attempt to bring some disturbing facts into the disinfectant of USA daylight for evaluation. The information in this letter and its appendices may give you new information regarding the existence of certain disruptive technologies which may create additional new, immediate, and pressing anti-competitive circumstances.

Background and Details

Goodrich Corporation entered into a consent agreement with the US Department of State Bureau of Political-Military Affairs in March 2006 for violating International Traffic in Arms Regulations (ITAR). In June 2012 United Technologies pleaded guilty to crimes related to the export of software U.S. Department of State Bureau of Political-Military Affairs says was used by China to develop China's first modern military attack helicopter. These two lapses in judgment related to national security issues should be weighed in addition to the new information related to my experiences during my employment at Goodrich Corporation and the present circumstance. (Appendix Eleven and Twelve)

The two lapses in security and poor executive decision making events demonstrate risk and clear violations of public trust. What this letter will communicate and the purpose of this letter is to convey to you my grave concerns regarding national security which I believe this combined corporation creates. I will offer what may be new information to the Anti-Trust Division relevant to Large Engine Generator section of the DOJ complaint and share insight into new technology announced by the United States Department of Energy in April 2011. These two known and well documented lapses in judgment related to national security issues should be weighed in addition to the new information related to my insiders information experiences during my employment at Goodrich Corporation which you may not have been fully informed.

Goodrich Corporation employed me as a Risk and Compliance Specialist with Sarbanes-Oxley compliance responsibilities from September 2003 until June 2007. In August 2006 I filed for whistle blower protection status with the US Department of Labor. In response to the Goodrich Corporation State Department Consent Agreement, Marshall Larsen, CEO of Goodrich Corporation, put out a webcast which was mandatory for all Goodrich employees to watch. In that webcast Mr. Larsen asked employees to raise any concerns they may have regarding potential export compliance issues. Mr. Larsen assured employees that no retaliatory actions would be taken against employees willing to raise potential concerns with the internal export compliance reviewer positions that were being created throughout the company. My work experiences were awful from that point forward.

There was a specific transaction that had appearances of an export compliance issue or a potential violation of the Foreign Corrupt Practices Act. I brought my concerns to the attention of the export compliance manager, Mr. Dave Heffner, for the Troy, Ohio Goodrich facility soon after Mr. Larsen's webcast in March 2006. When I requested an update from Mr. Heffner six weeks later, he claimed to have no recollection of the January 2005 [redacted] wire transfer to [redacted] **(Appendix One)**. The underlying invoice referenced a series of technical specifications which were being exported in addition to the cash wire transfer. I had no way to verify if the technical specifications were for controlled products or not. I resubmitted the paperwork and requested Mr. Heffner complete his review. This transaction may also have criminal Third Party Intermediary Foreign Corrupt Practices Act implications.

Upon the second submission to Mr. Dave Heffner my isolation, harassment, & discrimination started. By August 2006, I had little choice but to seek whistle blower protection from the US Department of Labor. The outcome of my whistle blower case was summarized in the book – *Whistle Blowers and the Law of*

Retaliatory Discharge **(Appendix Two).** Insider trading activities among senior Goodrich employees, the Goodrich investment club, was one of the items which I wanted investigated in addition to the specific export compliance issue/transaction. Based on the Administrative Law Judge's May 2008 dismissal, serious doubts linger as to whether the export compliance issue I raised was ever fully reviewed by the appropriate authorities - U.S.Department of State Bureau of Political-Military Affairs.

Another issue which I hoped that the US Department of Labor would investigate had to do with price-fixing, collusion, potential violations with Federal Acquisition Regulations with regard to a [redacted] dollar government contract in which Goodrich Corporation acted as a sub-contractor to [redacted] **(Appendix Three).**

Another issue I raised with the Department of Labor investigators had to do with a $9.3 million dollar accounting irregularity associated with the same Goodrich location as the [redacted] dollar contract pricing issue. After my employment with Goodrich Corporation was terminated in June 2007, I reported details and specifics related to the $9.3 million dollar accounting irregularity to the external auditors at Ernst & Young in addition to submitting a tip to the E&Y ethicpoint website. The outcome of the E&Y ethicpoint submission was very disappointing as Mr. Ron Hauben, E&Y Compliance Attorney, claimed a bogus "accountant-client privilege" **(Appendix Four).**

One final concern which you should be made aware is the claim I make against the Goodrich VP of Finance, Mr. Michael DeBolt. When my attorney was questioning Mr. Michael DeBolt during the discovery phase of my OSHA Sarbanes-Oxley Complain in April 2008 I allege that Mr. DeBolt clearly committed perjury by lying about my informing him about a series of dormant alternative fuel cell patents in response to what Mr. Michael DeBolt referred to as a "Community Action Alert". When I turned the patent list and information over to Mr. DeBolt, he insisted that I never speak of the exchange and made other suspicious declarations, directives, and instructions **(Appendix Five)** Appendix Five is the complete telephonic deposition of Michael W. DeBolt taking during Case No. 2007-SOX-0075 on April 10, 2008. (Insiders of Goordrich Corporation, CEO Marshall Larsen in particular, carried out a series of unplanned sales of Goodrich Common Staock soon thereafter).

As a concerned citizen, I wrote to Senator George Voinovich about my role in the Community Action Alert patent exchange. Senator Voinovich had the US Department of Energy review the patent list and in September 2006 I received startling information **(Appendix Six).** This information directly contradicted Mr. DeBolt's declarations, directives, and instructions which put me in a very difficult ethical and legal dilemma.

I wrote various scientific organizations around the nation offering the secretive prior art patent information for study and encouraging further study and development of the prior art patented technologies. The owner of the patents was deceased and the attorney or legal custodian working on the estate agreed to stop paying the annual patent renewal fees and let the patents fall into the public domain at my urging and request. Having the patents public domain opened the doors for the scientific community to study without fear of infringing on the intellectual property rights of others.

In April 2011 the US DOE issued a press release which announced a discovery and claims very similar to those contained on the patents I surrendered to Mr. DeBolt (**Appendix Seven**). It is my worry and concern that while employed at Goodrich Corporation I engaged in a form of corporate espionage and may have inadvertently aided enemies to the USA. The credibility of these scientific discoveries (or rediscoveries as the case may be) was recognized by the Journal of American Chemical Society in May 2011 (**Appendix Eight**).

United Technologies touts its leadership in catalysts and hydrogen fuel cells on its www.UTCPOWER.com website. United Technologies also brags about have a close relationship with the US Department of Energy on its website. My worry and concern is that dormant patent information I obtained during the secretive "Community Action Alert" scheme that Goodrich's Mr. Michael DeBolt engaged me in was given to United Technologies unbeknownst to Goodrich Corporation shareholders and the positive outcome of the scientific studies of the patent information I provided resulted in the favorable terms of the merger agreement. The existence of a "Community Action Alert" was subsequently validated by my local police department, City of Oakwood, Ohio.

JP Morgan Chase Bank, as Administrative Agent and J.P. Morgan Securities LLC, HSBC Securities (USA) Inc. and Merrill Lynch Pierce Fenner & Smith Incorporated as Join Lead Arrangers and Joint Bookrunners along with Bank of America, HSBC Bank USA, Citibank, Deutche Bank Securities Inc., BNP Paribas, Goldman Sachs Bank USA & the Royal Bank of Scotland PLC may have been mislead when they approved the Bridge Credit Agreement on November 8, 2011 which put this merger into motion. These financial institutions may have been lead to believe that the combined corporation would retain the exclusive field of use license currently being negotiated and per Licensing Agent may conclude by the end of September 2012 (**Appendix Nine**)

The technology is disruptive and has been disruptive to my life. Denying my role via perjury should be unacceptable to the United States Department of Justice Anti-Trust Division authorities. I cannot stand by and let a monopoly be created around this technology. A monopoly may become irreversible and may deny the commercialization of this technology in favor of the status quo.

It is my worry and concern that a combined Goodrich Corporation and United Technologies poses significant risks to national security given their history of export compliance violations, the unresolved export compliance issues I raised, the corporate espionage I may have engaged in, the bizarre handling of my reporting accounting concerns to the external audit firm, the perjury of Mr. DeBolt, the secrecy surrounding the Community Action Alert patents, and now the "reinvention" using the prior art information.

Recent correspondence with the US Department of Energy's Technology Transfer Office is attached for your reference (**Appendix Ten**). You will note the timing of public comment period for this anti-trust plan's approval and the expiration of the existing field of use license happen concurrently. While I cannot prove who the existing field of use licensee is, I suspect it to be either Goodrich Corporation or United Technologies or an affiliate of one or the other or the financial institutions which support them.

Conclusion

My experiences as a whistle blower attempting to expose corrupt practices at Goodrich should give you and the Anti-Trust Department reason to postpone approval of the terms of this merger agreement until such time that a thorough and complete review of all the allegations of criminal behaviors is completed (~~Appendix Eleven, Appendix Twelve, &~~ Appendix Thirteen)

I am in current communication with the US Department of Energy regarding the status of the innovative approach to hydrogen fuel manufacture and hydrogen fuel cells. Perhaps your office should contact the USDOE officials with whom I have been communicating to ascertain whether in fact, Goodrich Corporation or United Technologies are currently negotiating for control of the technology –to create a monopoly. Monopoly control of this new technology is not in the best interest of the United States. My fear is that the exclusivity may allow the technology to be shelved and never commercialized for the benefit of the USA citizens.

Marshall Larsen seems to be the center of all these issues. Marshall Larsen has gained financially as he coordinated a diabolical scheme for which the citizens of the USA are collective victims. Both companies have a well documented history of non-compliance with exporting technology to enemies of the USA.

It is not too late for the truth about all this to be made public. It is not too late for the Anti-Trust Division to perform a thorough examination of the facts and prosecute the wrong doers. It is not too late to protect the intelligence, assets, and intellectual property of many.

Sincerely,

Joseph C. Jefferis
CPA (Inactive)
CTP (Inactive)

[FR Doc. 2013–08700 Filed 4–12–13; 8:45 am]
BILLING CODE 4410–11–C

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–NEW]

Agency Information Collection Activities: Proposed Collection, Comments Requested; Notice of Collection of Information Relative to Customer Service Satisfaction

ACTION: 60-day Notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation (FBI), National Center for the Analysis of Violent Crime (NCAVC), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. The purpose of this Notice is to allow 60 days for public comment. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Yvonne Muirhead, Federal Bureau of Investigation, NCAVC, Critical Incident Response Group, FBI Academy, 1 Range Road, Quantico, Virginia 22135.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of information collection:* Customer satisfaction ratings regarding the Quality and value of the FBI's NCAVC services.

(2) *The title of the form/collection:* FBI–NCAVC Satisfaction Survey

(3) There is no agency form number applicable to this survey.

(4) The survey will be distributed to state, local and tribal law enforcement agencies to which the NCAVC has provided investigative assistance. The survey is being proposed as a means to assess the effectiveness and efficiency with which the NCAVC serves these agencies in the execution of their missions. The survey will query respondents as to the agencies' satisfaction with NCAVC services, and concrete achievements which were furthered via NCAVC services.

(5) *Time burden anticipated with this collection:* It is estimated that 100 respondents per calendar year will be contacted to complete a survey consisting of 11 questions. An approximate non-response rate of 50% is anticipated. It is estimated that a burden of approximately three to five minutes, or .05 to .08 hours, will be cast upon each respondent to complete the survey, with a total estimate of five to 8.3 hours in a calendar year for all respondents combined, if all respondents complete a survey. If the expected non-response rate of 50% holds true, then the combined burden estimate drops to approximately 2.5 to 4.2 hours per calendar year. The NCAVC estimates little to no variability within this time estimate based upon on individualized data retrieval systems, availability of requested data, and other variables, because this survey is intended to assess customer satisfaction rather than generate empirical data. A survey will generally be distributed one time per investigation assisted. Response is voluntary.

(6) *Methodology:* The survey will be distributed and collected electronically, via electronic mail communication.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE., Room 1407B, Washington, DC 20530

Dated: April 9, 2013.

Jerri Murray,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 2013–08688 Filed 4–12–13; 8:45 am]

BILLING CODE 4410–02–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 13–02]

Notice of Quarterly Report (October 1, 2012–December 31, 2012)

AGENCY: Millennium Challenge Corporation

SUMMARY: The Millennium Challenge Corporation (MCC) is reporting for the quarter October 1, 2012, through December 31, 2012, on assistance provided under section 605 of the Millennium Challenge Act of 2003 (22 U.S.C. 7701 *et seq.*), as amended (the Act), and on transfers or allocations of funds to other federal agencies under section 619(b) of the Act. The following report will be made available to the public by publication in the **Federal Register** and on the Internet Web site of the MCC (*www.mcc.gov*) in accordance with section 612(b) of the Act.

Dated: April 8, 2013.

Paul C. Weinberger,

Vice President, Congressional and Public Affairs, Millennium Challenge Corporation.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Burkina Faso *Year:* 2013 *Quarter 1* *Total Obligation:* $478,549,649 *Entity to which the assistance is provided:* MCA Burkina Faso *Total Quarterly Disbursements* [1]*:* $30,291,633				
Roads Project	$194,020,302	*Enhance access to markets through investments in the road network.*	$31,781,662	International Roughness Index: Sabou-Koudougou-Perkoa-Didyr. International Roughness Index: Dedougou-Nouna-Bomborukuy-Nouna.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
				International Roughness Index: Banfora-Sindou. Kilometers of road under works contract (Primary roads). Access time to the closest market via paved roads in the Sourou and Comoe (minutes). Kilometers of road under works contract (Rural roads). Personnel trained in procurement, contract management and financial systems. Periodic road maintenance coverage rate (for all funds) (percent).
Rural Land Governance Project.	$59,898,386	*Increase investment in land and rural productivity through improved land tenure security and land management.*	$19,369,691	Trend in incidence of conflict over land rights reported in the 17 pilot communes (annual percent rate of change in the occurrence of conflicts over land rights). Legal and regulatory reforms adopted. Stakeholders reached by public outreach efforts. Personnel trained. Rural land service offices installed and functioning (Services Fonciers Ruraux). Rural hectares formalized. Extent of confidence in land tenure security.
Agriculture Development Project.	$141,910,059	*Expand the productive use of land in order to increase the volume and value of agricultural production in project zones.*	$54,456,782	New irrigated perimeters developed in Di (hectares). Value of signed contracts for irrigation systems works. Water Users' Associations leaders trained in the Sourou. Farmers trained. Households that have applied improved techniques. Agro-sylvo-pastoral groups that receive technical assistance. Loans provided by the rural finance facility. Volume of loans made to end borrowers by participating financial institutions using Rural Finance Facility funds ($ million).
Bright II Schools Project ..	$26,840,570	*Increase primary school completion rates.*	$26,840,570	Girls and boys graduating from BRIGHT II primary schools. Percent of girls regularly attending (90 percent attendance) BRIGHT II schools. Girls enrolled in the MCC/USAID-supported BRIGHT II schools. Boys enrolled in the MCC/USAID-supported BRIGHT II schools. Educational facilities constructed or rehabilitated. Teachers trained through 10 provincial workshops.
Program Administration [3] and Control, Monitoring and Evaluation.	$56,138,545	.....	$34,820,809	
Pending Subsequent Report [4].	$ − 258,211			
Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: El Salvador *Year:* 2013 *Quarter 1* *Total Obligation:* $460,940,000 *Entity to which the assistance is provided:* MCA El Salvador *Total Quarterly Disbursements* [1]*:* $16,963,352				
Human Development Project.	$89,146,523	*Increase human and physical capital of residents of the Northern Zone to take advantage of employment and business opportunities.*	$84,763,901	Non-formal trained students that complete the training. Students participating in MCC-supported education activities. Additional school female students enrolled in MCC-supported activities. Instructors trained or certified through MCC-supported activities.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
				Educational facilities constructed/rehabilitated and/or equipped through MCC-supported activities. Households with access to improved water supply. Households with access to improved sanitation. Persons trained in hygiene and sanitary best practices. Households benefiting with a connection to the electricity network. Household benefiting with the installation of isolated solar systems. Kilometers of new electrical lines with construction contracts signed. Population benefiting from strategic infrastructure.
Connectivity Project	$269,212,588	*Reduce travel cost and time within the Northern Zone, with the rest of the country, and within the region.*	$267,916,157	Average annual daily traffic on the Northern Transnational Highway. Travel time from Guatemala to Honduras through the Northern Zone (hours and minutes). Kilometers of roads completed.
Productive Development Project.	$68,215,522	*Increase production and employment in the Northern Zone.*	$66,571,834	Employment created. Investment in productive chains by selected beneficiaries. Hectares under production with MCC support. Beneficiaries of technical assistance and training. Amount of Investment Support Fund (FIDENORTE) approved. Value of agricultural loans to farmers/agribusiness. Value of loans guaranteed. Guarantees granted.
Program Administration [3] and Control, Monitoring and Evaluation.	$34,365,368	.....	$29,982,435	
Pending Subsequent Report [4]				

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Ghana *Year:* 2013 *Quarter 1* *Total Obligation:* $547,009,000 *Entity to which the assistance is provided:* MCA Ghana *Total Quarterly Disbursements* [1]*:* $ – 533,452				
Agriculture Project	$195,650,409	*Enhance profitability of cultivation, services to agriculture and product handling in support of the expansion of commercial agriculture among groups of smallholder farms.*	$195,423,308	Farmers trained in commercial agriculture. Additional hectares irrigated. Hectares under production. Kilometers of feeder road completed. Percent of contracted feeder road works disbursed. Value of loans disbursed to clients from agriculture loan fund. Portfolio-at-risk of Agriculture Loan Fund (percent). Cooling facilities installed. Percent of contracted irrigation works disbursed. Total parcels registered in the Pilot Land Registration Areas. Volume of products passing through post-harvest treatment.
Rural Development Project.	$76,030,565	*Strengthen the rural institutions that provide services complementary to, and supportive of, agricultural and agriculture business development.*	$75,903,274	Students enrolled in schools affected by Education Facilities Sub-Activity. Additional female students enrolled in schools affected by Education Facilities Sub-Activity. Individuals completing internships at Ministries, Departments and Agencies and Metropolitan, Municipal and District Assemblies. Schools rehabilitated. School blocks constructed.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Transportation Project	$227,748,133	*Reduce the transportation costs affecting agriculture commerce at sub-regional levels.*	$224,364,904	Distance to collect water. Households with access to improved water supply. Water points constructed. Kilometers of electricity lines identified and diligence. Inter-bank transactions. Rural banks automated under the Automation/Computerization and Interconnectivity of Rural Banks activity. Rural banks connected to the wide area network. Agricultural processing plants in target districts with electricity due to Rural Electrification Sub-Activity. N1 Highway: Annualized average daily traffic. N1 Highway: Kilometers of road upgraded. Trunk roads kilometers of roads completed. Percent of contracted trunk road works disbursed. Ferry Activity: Annualized average daily traffic vehicles. Ferry Activity: Annual average daily traffic (passengers). Percent of contracted road works disbursed: N1 Highway, Lot 2. Percent of contracted road works disbursed: N1 Highway, Lot 2. Percent of contracted work disbursed: Ferry and floating dock. Percent of contracted work disbursed: Landings and terminals.
Program Administration [3], Due Diligence, Monitoring and Evaluation.	$47,579,894	.....	$43,816,360	
Pending subsequent reports [4]				

The negative disbursement relates to a return of funds to MCC upon MCA Ghana's closing.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Jordan *Year:* 2013 *Quarter 1* *Total Obligation:* $275,100,000 *Entity to which the assistance is provided:* MCA Jordan *Total Quarterly Disbursements* [1]*:* $11,558,028				
Water Network Project	$102,570,034	*Improve the overall drinking water system efficiency in Jordan's Zarqa Governorate.*	$1,495,920	Network water consumption per capita (residential and non-residential); liters/capita/day. Operating cost coverage—Water Authority Jordan Zarqa. Non-revenue water. Continuity of supply time; hours per week. Restructure and rehabilitate primary and secondary pipelines (kilometers). Restructure and rehabilitate tertiary pipelines (kilometers). Value disbursed of water construction contracts—Infrastructure Activity and Water Smart Homes Activity. Number of National Aid Fund households with improved water and wastewater network.
Wastewater Network Project.	$54,274,261	*Improve the overall waste water system efficiency in Jordan's Zarqa Governorate.*	$5,013,881	Sewer blockage events (annual). Volume of wastewater collected; cubic meters/year/million. Residential population connected to the sewer system. Expand Network (kilometers). Value disbursed of sanitation construction contracts.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
As Samra Wastewater Treatment Plant Expansion Project.	$98,703,598	*Increase the volume of treated waste water available as a substitute for fresh water in agriculture use.*	$19,819,887	Treated wastewater used in agriculture (as a percent of all water used for irrigation in Northern and Middle Jordan Valley). Value disbursed of construction contracts. Total engineering, procurement and construction cost of As-Samra Expansion.
Program Administration [3] and Control, Monitoring and Evaluation.	$19,552,107	.....	$457,034	
Pending subsequent reports [4].	.....	.....	$183,514	

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Lesotho *Year:* 2013 *Quarter 1* *Total Obligation:* $362,551,000 *Entity to which the assistance is provided:* MCA Lesotho *Total Quarterly Disbursements* [1]*:* $24,105,005				
Water Project	$167,886,999	*Improve the water supply for industrial and domestic needs, and enhance rural livelihoods through improved watershed management.*	$90,036,334	Physical completion of Metolong water treatment works contract. Physical completion of Urban Water supply works contracts (percent). People with access to rural water supply. Ventilated improved pit latrines built. Households with provisions to connect to water networks. Non-revenue water (percent). Knowledge of good hygiene practices. Water points constructed.
Health Project	$121,377,822	*Increase access to life-extending antiretroviral therapy and essential health services by providing a sustainable delivery platform.*	$81,044,781	People with HIV still alive 12 months after initiation of treatment. Health centers with required staff complement (full-time employees). Tuberculosis notification (per 100,000 people). Health centers equipped. Deliveries conducted in the health facilities. Physical completion of health center facilities (percent). Physical completion of outpatient departments (percent). Physical completion of the Botsabelo facilities (percent).
Private Sector Development Project.	$27,386,469	*Stimulate investment by improving access to credit, reducing transaction costs and increasing the participation of women in the economy.*	$17,273,437	Time required to resolve commercial disputes. Cases filed at the commercial court. Debit/smart cards issued. Bonds registered. Urban land parcels regularized and registered. People trained on gender equality and economic rights. Stakeholders trained. Change in time for property transactions. Women holding titles to land.
Program Administration [3] and Control, Monitoring and Evaluation.	$45,899,709	.....	$31,472,146	
Pending Subsequent Report [4]				

Projects	Obligated	Objective	Cumulative disbursements	Measures [2]
Country: Mali *Year:* 2013 *Quarter 1* *Total Obligation:* $460,811,163 *Entity to which the assistance is provided:* MCA Mali *Total Quarterly Disbursements [1]:* $6,882,420				
Bamako-Senou Airport Improvement Project.	$161,544,326	.....	$143,337,157	Annual foreign visitors, non-residents. Percent of work completed on the airside infrastructure. Percent of work completed on the landside infrastructure. Security and safety deficiencies corrected at the airport.
Alatona Irrigation Project	$254,592,466	*Increase the agricultural production and productivity in the Alatona zone of the Office du Niger.*	$252,898,171	Cultivation intensity during the dry season (percent). Value of agricultural products sold by farmers (millions of francs CFA). Percent of works completed on Niono-Goma Coura road. Hectares under new irrigation. Percent of contracted irrigation construction works disbursed. Market gardens allocated in Alatona zones to populations affected by the project or New Settler women. Five-hectare farms distributed to new settlers. Rural hectares formalized. Net primary school enrollment rate (in Alatona zone). Functional producer organization. Hectares under production (rainy season). Hectares under production (dry season). *Organisation d'exploitation des reseaux secondaires* or water user associations established. Active microfinance institution clients.
Industrial Park Project	$2,637,472	*Terminated*	$2,637,472	
Program Administration [3] and Control, Monitoring and Evaluation.	$42,036,899	.....	$36,456,232	
Pending Subsequent Report [4].	.....	.....	$299,190	

On May 4, 2012, the MCC Board of Directors concurred with the recommendation of MCC to terminate the Mali Compact following the undemocratic change of government in the country.

Projects	Obligated	Objective	Cumulative disbursements	Measures [2]
Country: Moldova *Year:* 2013 *Quarter 1* *Total Obligation:* $262,000,000 *Entity to which the assistance is provided:* MCA Moldova *Total Quarterly Disbursements [1]:* $8,126,632				
Road Rehabilitation Project.	$132,950,000	*Enhance transportation conditions.*	$12,597,458	Reduced cost for road users. Average annual daily traffic. Road maintenance expenditure. Kilometers of roads completed. Percent of contracted roads works disbursed. Children participants in the road safety trainings. Resettlement action plans implemented. Final design. Trafficking in persons training participants.
Transition to High Value Agriculture Project.	$101,773,402	*Increase incomes in the agricultural sector; create models for transition to high value agriculture in centralized irrigation system areas and an enabling environment (legal, financial and market) for replication.*	$13,261,921	Hectares under improved or new irrigation. Centralized irrigation systems rehabilitated. Percent of contracted irrigation feasibility and/or design studies disbursed. Value of irrigation feasibility and/or detailed design contracts signed.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
				Water user associations achieving financial sustainability. Management transfer agreements signed. Revised water management policy framework—with long-term water rights defined—established. Contracts of association signed. Operational cold-storage capacity of high value agriculture post-harvest structures (metric tons). Loans past due. Value of agricultural and rural loans. Loan borrowers. Loan borrowers (female). Value of sales facilitated. HVA Post-Harvest Credit Facility policies and procedures manual finalized. Farmers that have applied improved techniques (Growing High Value Agriculture Sales [GHS]). Farmers that have applied improved techniques (GHS) (female). Farmers trained. Farmers trained (female). Enterprises assisted. Enterprises assisted (female).
Program Administration [3] and Monitoring and Evaluation.	$27,276,598	.....	$5,681,449	
Pending Subsequent Report [4].	.....	.....	$1,308,615	

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Mongolia *Year:* 2013 *Quarter 1* *Total Obligation:* $284,911,363 *Entity to which the assistance is provided:* MCA Mongolia *Total Quarterly Disbursements* [1]*:* $30,504,165				
Property Rights Project	$27,802,619	*Increase security and capitalization of land assets held by lower-income Mongolians, and increased peri-urban herder productivity and incomes.*	$20,771,622	Wells completed. Legal and regulatory reforms adopted. Stakeholders trained (Peri-Urban and Land Plots). Herder groups limiting their livestock population to the carrying capacity of their leases on semi-intensive farms. Cost for property transactions (first time). Urban parcels formalized. Stakeholders trained (Ger Area Land Plots). Leaseholds Awarded.
Vocational Education Project.	$47,255,638	*Increase employment and income among unemployed and underemployed Mongolians.*	$40,412,539	Students participating in MCC-supported educational facilities. Nongovernmental funding of vocational education (percent). Instructors trained or certified through MCC-supported activities. Educational facilities constructed/rehabilitated or equipped through MCC-supported activities.
Health Project	$38,973,259	*Increase the adoption of behaviors that reduce noncommunicable diseases and injuries (NCDIs) among target populations and improved medical treatment and control of NCDIs.*	$28,403,496	Funding for grants awarded for noncommunicable disease and injuries (NCDI) activities (U.S. dollars). Health staff that have received training in NCDI. Health education teachers participating in trainings on NCDI prevention. Screening for hypertension (percent). PHC facilities offering high quality NCDI services (percent).

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
				Early detections of cervical cancer—early diagnosis.
Roads Project	$88,440,123	*More efficient transport for trade and access to services.*	$39,826,228	Kilometers of roads completed.
				Kilometers of roads under design.
				Percent of contracted roads works disbursed.
Energy and Environmental Project.	$45,266,205	*Increased wealth and productivity through greater fuel use efficiency and decreasing health costs from air.*	$37,626,540	Households purchasing subsidized products.
				Stoves distributed by MCA Mongolia.
				Wind power dispatched from substation (million kilowatt hours).
				Heat Only Boilers (HOBs) sites upgraded.
Rail Project	$369,560	*Terminated*	$369,560	*Terminated.*
Program Administration [3] and Control, Monitoring and Evaluation.	$36,803,960		$24,754,264	
Pending subsequent reports [4].			$1,580,793	

In late 2009, the MCC Board of Directors approved the allocation of a portion of the funds originally designated for the rail project to the expansion of the health, vocational education and property right projects, and the remaining portion to the addition of a road project.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Morocco *Year:* 2013 *Quarter 1* *Total Obligation:* $697,500,000 *Entity to which the assistance is provided:* MCA Morocco *Total Quarterly Disbursements* [1]*:* $30,811,780				
Fruit Tree Productivity Project.	$335,611,395	*Reduce volatility of agricultural production and increase volume of fruit agricultural production.*	$206,014,560	Farmers trained.
				Olive and date producers assisted.
				Percent of virgin and extra virgin olive oil of total olive oil production in targeted areas.
				Number of Catalyst Fund proposals approved.
				Disbursements under the Catalyst Fund.
				Average agricultural revenue per farm in rehabilitation rain-fed areas (U.S. dollars).
				Area planted and delivered to farmers (hectares).
				Area in expansion perimeters for which water and soil conservation measures have been implemented (hectares).
				Yield of rehabilitated olive trees in rain-fed areas (metric tons per hectare) (''mt/ha'').
				Average agricultural revenue per farm in irrigated areas.
				Cumulative area of irrigated perimeters rehabilitated (hectares).
				Yield of rehabilitated olive trees in irrigated areas (mt/ha).
				Average Agricultural revenue per farm in oasis areas.
				Hectares under improved irrigation.
				Yield of rehabilitated date palms in oasis areas (mt/ha).
				Number of in-vitro seedlings successfully planted.
Small Scale Fisheries Project.	$124,916,716	*Improve quality of fish moving through domestic channels and assure the sustainable use of fishing resources.*	$44,956,600	Boats benefitting from landing sites and ports.
				Number of artisan fishers who received a training certificate.
				Number of jobs created in wholesale fish markets.
				Per capita fish consumption in areas of new market construction (kg/year).
				Active mobile fish vendors trained and equipped by the project.
				Average price of fish at auction markets.
				Net annual income of mobile fish vendors.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Artisan and Fez Medina Project.	$95,511,144	*Increase value added to tourism and artisan sectors.*	$42,154,918	Total receiving literacy training. Graduates of MCC-supported functional literacy program (female). Graduates of MCC-supported functional literacy program (male). Total receiving professional training. Females receiving professional training. Graduates vocational training program (residential, apprenticeship and continuing education). Drop-out rates of participants of residential and apprenticeship programs. Potters trained. MCC-subsidized gas kilns bought by artisans. Adoption rate of improved production practices promoted by the project (percent). Tourist circuits improved or created. Number of small and medium enterprises (SMEs) participating in promotion events. Number of SMEs participating in promotion events. Sites constructed or rehabilitated (4 Fondouks, Place Lalla Ydouna, Ain Nokbi). Beneficiaries of Ain Nokbi construction and artisan resettlement program.
Enterprise Support Project	$18,016,820	*Improved survival rate of new small and medium enterprises (SMEs) and National Initiative for Human Development (INDH)-funded income generating activities; increased revenue for new SMEs and INDH-funded income generating activities.*	$14,490,303	Survival rate after two years. Days of individual coaching. Beneficiaries trained.
Financial Services Project	$42,633,565	*To be determined*	$28,832,087	Portfolio at risk at 30 days. Value of loans granted through mobile branches (U.S. dollars). Clients of microcredit associations reached through mobile branches. Value of loan agreements between Micro credit associations and Jaida (millions of dirhams). Value of loan disbursements to Jaida.
Program Administration [3] and Control, Monitoring and Evaluation.	$80,810,360	.....	$54,411,301	
Pending Subsequent Report [4]				
Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Mozambique *Year:* 2013 *Quarter 1* *Total Obligation:* $506,924,053 *Entity to which the assistance is provided:* MCA Mozambique *Total Quarterly Disbursements* [1]*:* $43,228,840				
Water Supply and Sanitation Project.	$207,385,393	*Increase access to reliable and quality water and sanitation facilities.*	$99,101,795	Value of municipal sanitation and drainage systems construction contracts signed. Amount disbursed for municipal sanitation and drainage construction contracts. Volume of water produced. Value of contracts signed for construction of water systems. Percent of construction contract disbursed for water systems. Rural water points constructed. Percent of rural population with access to improved water sources. Amount disbursed for rural water points construction contracts. Persons trained in hygiene and sanitary best practices.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Road Rehabilitation Project.	$176,307,480	*Increase access to productive resources and markets.*	$67,258,388	Percent of roads works contracts disbursed. Kilometers of roads issued ''Take-over Certificates''.
Land Tenure Project	$40,068,307	*Establish efficient, secure land access for households and investors.*	$25,699,612	People trained (paralegal courses at Centre for Juridical and Judicial Training, general training at National Directorate of Land and Forest, *etc.*). Land administration offices established or upgraded. Rural hectares mapped. Urban parcels mapped. Rural hectares formalized. Urban parcels formalized. Communities delimited.
Farmer Income Support Project.	$19,250,117	*Improve coconut productivity and diversification into cash crop.*	$14,173,664	Coconut seedlings planted. Survival rate of coconut seedlings (percent). Hectares of alternate crops under production. Farmers trained in surveillance and pest and disease control for coconuts. Farmers trained in alternative crop production and productivity enhancing strategies. Farmers trained in planting and post-planting management of coconuts. Farmers using alternative crop production and productivity enhancing strategies. Businesses receiving Business Development Fund grants.
Program Administration [3] and Control, Monitoring and Evaluation.	$63,912,756	.....	$37,266,903	
Pending Subsequent Report [4].	.....	.....	$1,714,499	

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Namibia *Year:* 2013 *Quarter 1* *Total Obligation:* $304,477,814 *Entity to which the assistance is provided:* MCA Namibia *Total Quarterly Disbursements* [1]*:* $18,870,749				
Education Project	$141,602,809	*Improve the quality of the workforce in Namibia by enhancing the equity and effectiveness of basic.*	$59,623,641	Learners (any level) participating in the 47 schools sub-activity. Educational facilities constructed, rehabilitated, equipped in the 47 schools sub-activity. Percent of contracted construction works disbursed for 47 schools. Textbooks delivered. Educators trained to be textbook management trainers. Educators trained to be textbook utilization trainers. Percent disbursed against works contracts for Regional Study Resource Centers Activity. Visits to MCA Namibia assisted Regional Study and Resource Centres. Compliance rate for National Training Fund (NTF) levy. Vocational Training Grant Fund-supported individuals who have completed training. Percent disbursed against construction, rehabilitation, and equipment contracts for Community Skills and Development Centres. Namibia Student Financial Assistance Fund Policy in place.
Tourism Project	$67,631,170	*Grow the Namibian tourism industry with a focus on increasing income to households in communal.*	$17,647,770	Tourists to Etosha National Park (ENP). Galton Gate Plan implemented.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
				Percent disbursed against construction, rehabilitation and equipment contracts for ENP housing units/management structures. Game translocated with MCA Namibia support. Unique visits on Namibia Tourism Board website. Leisure tourist arrivals. North American tourism businesses (travel agencies and tour operators) that offer Namibian tours or tour packages. Value of grants issued by the conservancy grant fund (Namibian dollars). Amount of private sector investment secured by MCA Namibia assisted conservancies (Namibian dollars). Annual gross revenue to conservancies receiving MCA Namibia assistance.
Agriculture Project	$51,286,343	*Enhance the health and marketing efficiency of livestock in the NCAs of Namibia and to increase income.*	$21,395,500	Participating households registered in the Community-Based Rangeland and Livestock Management sub-activity. Grazing areas with documented combined management plans. Parcels corrected or incorporated in land system. Stakeholders trained. Cattle tagged with radio frequency identification tags. Percent disbursed against works contracts for State Veterinary Offices. Value of grant agreements signed under Livestock Market Efficiency Fund. Indigenous natural product producers mobilized and trained. Value of grant agreements signed under Indigenous Natural Product Innovation Fund.
Program Administration [3] and Control, Monitoring and Evaluation.	$43,957,491	.....	$22,731,665	
Pending Subsequent Report [4].	.....	.....	$2,327,604	

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Philippines *Year:* 2013 *Quarter 1* *Total Obligation:* $432,829,526 *Entity to which the assistance is provided:* MCA Philippines *Total Quarterly Disbursements* [1]*:* $8,846,373				
Kalahi-CIDSS Project	$120,000,000	*Improve the responsiveness of local governments to community needs, encourage communities to engage in development activities.*	$20,625,305	Percent of Municipal Local Government Units that provide funding support for Kalahi-CIDSS (KC) subproject operations and maintenance. Completed KC subprojects implemented in compliance with technical plans and within schedule and budget. Barangays that have completed specific training on subproject management and implementation.
Secondary National Roads Development Project.	$213,412,526	*Reduce transportation costs and improve access to markets and social services.*	$18,445,092	Kilometers of road sections completed. Bridges replaced. Bridges rehabilitated. Value of road construction contracts signed. Value of road construction contracts disbursed.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Revenue Administration Reform Project.	$54,300,000	*Increase tax revenues over time and support the Department of Finance's initiatives to detect and deter corruption within its revenue agencies.*	$4,257,252	Number of Audits. Revenue District Offices using the electronic tax information system. Percent of audit completed in compliance with prescribed period of 120 days. Percent of audit cases performed using automated audit tool. Successful case resolutions. Personnel charged with graft, corruption, lifestyle and/or criminal cases. Time taken to complete investigation (average).
Program Administration [3] and Control, Monitoring and Evaluation.	$45,117,000	.....	$5,963,556	
Pending Subsequent Reports [4].	.....	.....	$4,550,234	

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Senegal *Year:* 2013 *Quarter 1* *Total Obligation:* $540,000,000 *Entity to which the assistance is provided:* MCA Senegal *Total Quarterly Disbursements* [1]*:* $3,222,061				
Road Rehabilitation Project.	$324,712,499	*Expand access to markets and services.*	$3,114,674	Value of contracts signed for the feasibility, design, supervision and program management of the RN2 and RN6 National Roads. Percent of disbursements for the contract signed for the constructions of the RN 2 and RN6. Kilometers of roads rehabilitated on the RN2 National Road. Annual average daily traffic Richard-Toll-Ndioum. Percent change in travel time on the RN2. International roughness index on the RN2 (lower number = smoother road). Kilometers of roads covered by the contract for the studies, the supervision and management of the RN2 National Road. Kilometers of roads rehabilitated on the RN6 National Road. Annual average daily traffic Ziguinchor-Tanaff. Annual average daily traffic Tanaff-Kolda. Annual average daily traffic Kolda-Kounkané. Percent change in travel time on the RN6 National Road. International roughness index on the RN6 National Road (lower number = smoother road). Kilometers of roads covered by the contract for the studies, the supervision and management of the RN6 National Road.
Irrigation and Water Resources Management Project.	$170,008,860	*Improve productivity of the agricultural sector.*	$1,377,991	Tons of irrigated rice production. Potentially irrigable lands area (Delta and Ngallenka). Hectares under production. Percent of the disbursements on the contracts signed for the studies in the Delta and the Ngallenka. Value of the construction contracts signed for the irrigation infrastructure in the Delta and the Ngallenka. Cropping intensity (hectares under production per year/cultivable hectares) (Delta and Ngallenka). Hectares mapped. Percent of new conflicts resolved. People trained on land security tools. Women trained on land security tools.

Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
				Activity still under development. Feasibility studies are set to conclude by end of quarter 2. First draft of the business Plan expected by end of quarter 1 of fiscal year 2013.
Program Administration [3] and Monitoring and Evaluation.	$45,278,641	.....	$10,494,793	
Pending Subsequent Report [4].	.....	.....	$1,032,386	
Projects	*Obligated*	*Objective*	*Cumulative disbursements*	*Measures* [2]
Country: Tanzania *Year:* 2013 *Quarter 1* *Total Obligation:* $697,780,137 *Entity to which the assistance is provided:* MCA Tanzania *Total Quarterly Disbursements* [1]*:* $60,259,135				
Energy Sector Project	$207,456,542	*Increase value added to businesses.*	$138,636,188	Number of Current power customers. Transmission and distribution substations capacity (megawatt-peak). Technical and non-technical losses (Zanzibar) (percent). Percent disbursed on overhead lines contract. Number of Current power customers. Capacity of systems installed (kilowatt-peak). Current power customers (all six project regions). Kilometers of 132 kilovolt (KV) lines constructed. Kilometers of 33/11KV lines constructed. Transmission and distribution substations capacity (Megavolt Ampere) (all six project regions). Technical and nontechnical losses (Mainland) (percent). Cost recovery ratio.
Transport Sector Project ..	$374,667,790	*Increase cash crop revenue and aggregate visitor spending.*	$202,861,275	Percent disbursed on construction contracts. Surfacing complete: Tunduma-Sumbawanga (percent). Surfacing complete: Tanga-Horohoro (percent). Surfacing complete: Namtumba-Songea (percent). Surfacing complete: Permiho-Mbinga (percent). Kilometers of roads completed (taken over). Pemba: Percent disbursed on construction contract. Surfacing complete: Pemba (percent). Kilometers of roads completed (taken over): Zanzibar. Road maintenance expenditures: Mainland trunk roads (percent). Road maintenance expenditures: Zanzibar rural roads (percent). Runway surfacing complete (percent).
Water Sector Project	$65,671,108	*Increase investment in human and physical capital and to reduce the prevalence of water-related disease.*	$36,588,231	Volume of water produced—Lower Ruvu (millions of liters per day). Operations and maintenance cost recovery-Lower Ruvu. Volume of water produced—Morogoro (millions of liters per day). Operations and maintenance cost recovery—Morogoro.
Program Administration [3] and Control, Monitoring and Evaluation.	$49,975,696	.....	$27,101,519	
Pending Subsequent Report [4]				

[1] Disbursements are cash outlays rather than expenditures.

[2] These measures are the same Key Performance Indicators that MCC reports each quarter. The Key Performance Indicators may change over time to more accurately reflect compact implementation progress. The unit for these measures is ''number of'' unless otherwise specified.

[3] Program administration funds are used to pay items such as salaries, rent, and the cost of office equipment.

[4] These amounts represent disbursements made that will be allocated to individual projects in the subsequent quarter(s) and reported as such in subsequent quarterly report(s).

The following MCC compacts are closed and, therefore, do not have any quarterly disbursements: Armenia, Benin, Cape Verde I, Georgia, Honduras, Madagascar, Nicaragua and Vanuatu.

619(b) Transfer or Allocation of Funds—United States agency to which funds were transferred or allocated	Amount	Description of program or project
None	None	None.

[FR Doc. 2013–08559 Filed 4–12–13; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Electronic Records Archives (ACERA)

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Electronic Records Archives (ACERA). The committee serves as a deliberative body to advise the Archivist of the United States, on technical, mission, and service issues related to the Electronic Records Archives (ERA). This includes, but is not limited to, advising and making recommendations to the Archivist on issues related to the development, implementation and use of the ERA system. This meeting will be open to the public. This meeting will take place via AT&T Connect web conference. Members of the public who would like to join the proceedings should contact Kimberly Scates, Information Services, National Archives and Records Administration, by April 26, 2013 to register and obtain access information. Ms. Scates can be reached via email at *kimberly.scates@nara.gov* or by phone at (301) 837–3176. This meeting will be recorded for transcription purposes.

DATES: The meeting will be held on April 30, 1:00 p.m.–4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Kimberly Scates, Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, Maryland 20740 (301) 837–3176.

SUPPLEMENTARY INFORMATION:

Agenda

- Opening Remarks
- Approval of Minutes
- ERA Program Update
- Discussions:
  - Strategic considerations for the National Archives in planning the future of ERA and our electronic records programs, and
  - soliciting input from outside NARA on electronic records issues and ERA planning
- Adjournment

Dated: April 8, 2013.

Patrice Little Murray,

Acting Committee Management Officer.

[FR Doc. 2013–08773 Filed 4–12–13; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

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ACTION: Notice of Meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that 5 meetings of the Humanities Panel will be held during May, 2013 as follows. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended).

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: The meetings will be held at the Old Post Office Building, 1100 Pennsylvania Ave. NW., Washington, DC 20506. See Supplementary Information section for meeting room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Ave. NW., Room 529, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION:

Meetings

1. *Date:* May 01, 2013
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   This meeting will discuss applications for the Institutes for College and University Teachers grant program, submitted to the Division of Education Programs.
2. *Date:* May 02, 2013
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   This meeting will discuss applications for the Institutes for School Teachers grant program, submitted to the Division of Education Programs.
3. *Date:* May 06, 2013
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   This meeting will discuss applications for the Institutes for College and University Teachers grant program, submitted to the Division of Education Programs.
4. *Date:* May 07, 2013
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   This meeting will discuss applications for the Institutes for College and University Teachers grant program, submitted to the Division of Education Programs.
5. *Date:* May 15, 2013
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 402
   This meeting will discuss applications for the Institutes for Advanced Topics in the Digital Humanities grant program, submitted to the Office of Digital Humanities. Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5 U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: April 10, 2013.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2013–08785 Filed 4–12–13; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities; Meeting of the Arts and Artifacts Indemnity Panel Advisory Committee

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Federal Council on the Arts and the

Humanities will hold a meeting of the Arts and Artifacts International Indemnity Panel. The purpose of the meeting is for panel review, discussion, evaluation, and recommendation of applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning on or after July 1, 2013.

DATES: The meeting will be held on Wednesday, May 8, 2013, from 9:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Old Post Office Building, 1100 Pennsylvania Ave. NW., Washington, DC 20506, in Room 730.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Avenue NW., Room 529, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION: Because the meeting will consider proprietary financial and commercial data provided in confidence by indemnity applicants, and material that is likely to disclose trade secrets or other privileged or confidential information, and because it is important to keep the values of objects to be indemnified and the methods of transportation and security measures confidential, the meeting will be closed to the public pursuant to section 552b(c)(4) of Title 5 U.S.C., as amended. I have made this determination under the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: April 10, 2013

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2013–08783 Filed 4–12–13; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Astronomy and Astrophysics Advisory Committee (#13883).

Date and Time: May 2, 2013, 11:00 a.m.–4:00 p.m. EDT.

Place: Teleconference. National Science Foundation, Room 390, Stafford I Building, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. James Ulvestad, Division Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–7165.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

Agenda: To hear presentations of current programming by representatives from NSF, NASA, DOE and other agencies relevant to astronomy and astrophysics; to discuss current and potential areas of cooperation between the agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: April 9, 2013.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 2013–08701 Filed 4–12–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Request of Recommendations for Membership for Directorate and Office Advisory Committees

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) requests recommendations for membership on its scientific and technical Federal advisory committees. Recommendations should consist of the submitting person's or organization's name and affiliation, the name of the recommended individual, the recommended individual's curriculum vita (2–5 pages), an expression of the individual's interest in serving, and the following recommended individual's contact information: employment address, telephone number, FAX number, and email address. Self recommendations are accepted. If you would like to make a recommendation for membership on any of our committees, please send your recommendation to the committee contact person listed below.

ADDRESSES: The mailing address for the National Science Foundation is 4201 Wilson Boulevard, Arlington, VA 22230.

Web links to individual committee information may be found on NSF Web site: *NSF Advisory Committees.*

SUPPLEMENTARY INFORMATION: Each Directorate and Office has an external advisory committee that typically meets twice a year to review and provide advice on program management; discuss current issues; and review and provide advice on the impact of policies, programs, and activities in the disciplines and fields encompassed by the Directorate or Office. In addition to Directorate and Office advisory committees, NSF has several committees that provide advice and recommendation on specific topics: astronomy and astrophysics; environmental research and education; equal opportunities in science and engineering; direction, development, and enhancements of innovations; advanced cyberinfrastructure; international and integrative activities; and business and operations.

A primary consideration when formulating committee membership is recognized knowledge, expertise, or demonstrated ability [1]. Other factors that may be considered are balance among diverse institutions, regions, and groups underrepresented in science, technology, engineering, and mathematics. Committee members serve for varying term lengths, depending on the nature of the individual committee. Although we welcome the recommendations we receive, we regret that NSF will not be able to acknowledge or respond positively to each person who contacts NSF or has been recommended. NSF intends to publish a similar notice to this on an annual basis. NSF will keep recommendations active for 12 months from the date of receipt.

The chart below is a listing of the committees seeking recommendations for membership. Recommendations should be sent to the contact person identified below. The chart contains web addresses where additional information about individual committees is available.

[1] Federally registered lobbyists are not eligible for appointment to these Federal advisory committees.

Advisory committee	Contact person
Advisory Committee for Biological Sciences *http://www.nsf.gov/bio/advisory.jsp*.	Charles Liarakos, Directorate for Biological Sciences; phone: (703) 292–8400; email: *cliarako@nsf.gov;* fax: (703) 292–9154.
Advisory Committee for Computer and Information Science and Engineering *http://www.nsf.gov/cise/advisory.jsp*.	Carmen Whitson, Directorate for Computer and Information Science and Engineering; phone: (703) 292–8900; email: *cwhitson@nsf.gov;* fax: (703) 292–9074.
Advisory Committee for Cyberinfrastructure *http://www.nsf.gov/od/oci/advisory.jsp*.	Marc Rigas, Division of Advanced Cyberinfrastructure, phone: (703) 292–8970; *mrigas@nsf.gov;* fax: (703) 292–9060.
Advisory Committee for Education and Human Resources *http://www.nsf.gov/ehr/advisory.jsp*.	Amanda Edelman, Directorate for Education and Human Resources; phone: (703) 292–8600; email: *aedelman@nsf.gov;* fax: (703) 292–9179.
Advisory Committee for Engineering *http://www.nsf.gov/eng/advisory.jsp*.	Kesh Narayanan, Directorate for Engineering; phone: (703) 292–8300; email: *knarayan@nsf.gov;* fax: (703) 292–9013.
Advisory Committee for Geosciences *http://www.nsf.gov/geo/advisory.jsp*.	Melissa Lane, Directorate for Geosciences: phone: (703) 292–8500; email: *mlane@nsf.gov;* fax: (703) 292–9042.
Advisory Committee for International Science and Engineering *http://www.nsf.gov/od/oise/advisory.jsp*.	Robert Webber, Office of International and Integrative Activities, phone: (703) 292–7569; email: *rwebber@nsf.gov;* fax: (703) 292–9067.
Advisory Committee for Mathematical and Physical Sciences *http://www.nsf.gov/mps/advisory.jsp*.	Kelsey Cook, Directorate for Mathematical and Physical Sciences; phone: (703) 292–7490; email: *kcook@nsf.gov;* fax: (703) 292–9151.
Advisory Committee for Social, Behavioral & Economic Sciences *http://www.nsf.gov/sbe/advisory.jsp*.	Lisa Jones, Social, Behavioral & Economic Sciences; phone: (703) 292–8700; email: *lmjones@nsf.gov;* fax: (703) 292–9083.
Committee on Equal Opportunities in Science and Engineering *http://www.nsf.gov/od/oia/activities/ceose/http://www.nsf.gov/od/oia/activities/ceose/index.jsp*.	Bernice Anderson, Office of International and Integrative Activities; phone: (703) 292–8040; email: *banderso@nsf.gov;* fax: (703) 292–9040.
Advisory Committee for Business and Operations *http://www.nsf.gov/oirm/bocomm/*.	Jeffrey Rich, Office of Information and Resource Management; phone: (703) 292–8100; email: *jrich@nsf.gov;* (703) 292–9084.
Advisory Committee for Environmental Research and Education *http://www.nsf.gov/geo/ere/ereweb/advisory.cfm*.	Elizabeth Zelenski, Directorate for Geosciences; phone: (703) 292–8500; email: *ezelensk@nsf.gov;* fax: (703) 292–9042.
Advisory Committee for Innovation Corps *http://www.nsf.gov/od/oia/additional_resources/AC-ICorp/index.jsp*.	Dedric Carter, Office of the Director; phone: (703) 292–8002; email: *dacarter@nsf.gov;* fax: (703) 292–9232.
Astronomy and Astrophysics Advisory Committee *http://www.nsf.gov/mps/ast/aaac.jsp*.	Elizabeth Pentecost, Division of Astronomical Sciences; phone: (703) 292–4907; email: *epenteco@nsf.gov;* fax: (703) 292–9034.

Dated: April 9, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–08698 Filed 4–12–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–320; NRC–2013–0065]

GPU Nuclear Inc., Three Mile Island Nuclear Power Station, Unit 2, Exemption From Certain Security Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption.

FOR FURTHER INFORMATION CONTACT: John B. Hickman, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3017; email: *John.Hickman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

1.0 Background

GPU Nuclear, Inc. (GPUN, the licensee) is the licensee and holder of Facility Operating License No. DPR–73 issued for Three Mile Island Nuclear Power Station (TMI), Unit 2, located in Dauphin County, Pennsylvania. TMI Unit 2 is a permanently shutdown nuclear reactor facility. TMI Unit 2 was a pressurized water reactor that was operated from December 1978 until March 28, 1979, when the unit experienced an accident which resulted in severe damage to the reactor core.

As a result of this accident, small quantities of core debris and fission products were transported through the Reactor Coolant System and the reactor building during the accident. In addition, a small quantity of core debris was transported to the auxiliary and fuel handling buildings. Further spread of the debris also occurred as part of the post-accident water processing cleanup activities.

TMI Unit 2 has been placed in a safe, inherently stable condition suitable for long-term management. Fuel and core material was removed in the defueling and has been shipped off site. The removed fuel is currently in storage at Idaho National and Environmental Engineering Laboratory (INEEL), and the U.S. Department of Energy has taken title and possession of the fuel.

Substantial contaminated areas still exist at the facility, as well as trace quantities of spent nuclear fuel (SNF). The quantity of fuel remaining at TMI Unit 2 is a small fraction of the initial fuel load; approximately 99% was successfully removed in the defueling. Additionally, large quantities of radioactive fission products were released into various systems and structures. Most of this radioactivity was removed as part of the waste processing activities during the TMI Unit 2 Clean-up Program. Significant quantities of radioactive fission products were removed from the reactor coolant system. Most of the residual fuel remaining is fixed in the form of fine and granular debris that is inaccessible to defueling, tightly adherent surface deposits not readily removable by available dynamic defueling techniques, and resolidified material that is either tightly adherent to the reactor vessel components or inaccessible to defueling. There is no physical inventory requirement for special nuclear material (SNM) quantities at TMI Unit 2 during post-defueled monitored storage because the remaining materials are of low enrichment, highly radioactive and relatively inaccessible.

Part 73 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Physical Protection of Plants and Materials'' ''prescribes requirements for the establishment and maintenance of a physical protection system which will have capabilities for the protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used.'' Section 73.55(b)(1), entitled ''Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,''

states, ''The licensee shall establish and maintain a physical protection program, to include a security organization, which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.''

The Power Reactor Security Rule, which applies to all 10 CFR part 50 licensees, was revised on March 27, 2009, with compliance required by March 31, 2010 (74 FR 13926). The NRC held a webinar on July 20, 2010, to provide clarification on the applicability of the power reactor security regulations to 10 CFR part 50 licensees undergoing decommissioning or 10 CFR part 50 licensees that have only a general licensed Independent Spent Fuel Storage Installation (ISFSI). By letter dated August 2, 2010, the NRC informed GPUN of the applicability of the revised rule and stated that GPUN should evaluate the applicability of the regulation to its facility and either make appropriate changes or request an exemption (ML102080269).

2.0 Request/Action

By letter dated November 22, 2010 (ML110730375), and supplemented by email dated February 8, 2013 (ML13044A053), GPUN responded to the NRC's letter and requested exemptions from certain security requirements in 10 CFR 73.55.

3.0 Discussion

Pursuant to 10 CFR 73.5, ''Specific Exemptions,'' the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements in 10 CFR Part 73 as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The purpose of the security requirements of 10 CFR Part 73, as applicable to a 10 CFR Part 50 licensed facility, is to prescribe requirements for a facility that possesses and utilizes SNM. The fuel removed from TMI Unit 2 is currently in storage at Idaho National and Environmental Engineering Laboratory, and the U.S. Department of Energy has taken title and possession of the fuel. With the completion of the fuel transfer, there is no longer any SNM located within TMI Unit 2 other than that contained in plant systems as residual contamination.

The remaining radioactive material is in a form that does not pose a risk of removal (i.e., an intact reactor pressure vessel and contaminated structures) and is well dispersed and is not easily aggregated. With the removal of the fuel containing SNM, the potential for radiological sabotage or diversion of SNM at the 10 CFR Part 50 licensed site was eliminated.

For clarity, the staff grouped each GPUN exemption request into one of two categories:

(1) Exemption denied because the regulations are not applicable to the facility; and

(2) Exemption granted.

3.1 Exemption Denied Because the Regulations Are Not Applicable to the Facility

The licensee has requested exemptions from the cyber security and protection of digital assets regulations as delineated in 10 CFR 73.55(a)(1), 73.55(b)(8), 73.55(b)(9)(ii)(C), 73.55(c)(1)(i), 73.55(c)(6), and 73.55(m)(2). Cyber Security under 10 CFR 73.54 is applicable to licensees currently ''licensed to operate a nuclear power plant under Part 50.'' Since TMI Unit 2 is licensed to possess but not operate a nuclear power plant, requirements under 10 CFR 73.54 do not apply. Consequently, requirements under 10 CFR 73.55 that reference cyber security or protection of digital assets are not applicable and the exemptions are denied. The licensee also requested an exemption from 10 CFR 73.55(f)(2). In 10 CFR 73.55(f)(2) also specifies cyber security requirements that are not applicable to TMI Unit 2, therefore that exemption is denied.

3.2 Exemption Granted

The licensee has requested exemptions from the target sets requirements in 10 CFR 73.55(b)(4), 10 CFR 73.55(f)(1), 10 CFR 73.55(f)(3), and 10 CFR 73.55(f)(4). Due to the status of TMI Unit 2, permanently shutdown with virtually all fuel removed from the facility, there is no longer any equipment or facilities that need to be protected. Therefore, there are no designated Target Sets identified for TMI Unit 2. Therefore, regulations which refer to Target Sets are not necessary for TMI Unit 2 and the requested exemptions are granted.

The licensee has requested an exemption from the bullet-resisting-physical barriers requirements in 10 CFR 73.55(e)(5) with respect to the main control room (MCR). Due to the status of TMI Unit 2, permanently shutdown with virtually all fuel removed from the facility, the TMI Unit 2 MCR has no operational or safety function and is no longer continuously manned or classified as a vital area. With the TMI Unit 2 MCR no longer performing the original design safety function, there is no need for it to be protected by bullet resisting barriers. Therefore, the requested exemption is granted.

The licensee has requested exemption from the vital areas requirements in 10 CFR 73.55(e)(9)(v), for the reactor control room, (e)(9)(v)(A), and the spent fuel pool, (e)(9)(v)(B). Due to the permanently defueled and shutdown status of the facility, the TMI Unit 2 MCR is no longer a functional facility for controlling reactivity or safety related systems. Because the MCR no longer performing any vital control or safety function it does not need to be considered a vital area from a security perspective. The TMI Unit 2 spent fuel pool (SFP) has been drained and decontaminated and no longer serves as a spent fuel pool. Therefore, the TMI Unit 2 SFP is not a vital security area with respect to TMI Unit 2. Therefore, the requested exemptions are granted.

The licensee has requested an exemption from the waterways requirements at 10 CFR 73.55(e)(10)(ii)(A). By email dated February 8, 2013, the licensee clarified that their original request for exemption from 10 CFR 73.55(e)(11)(A) was a typographical error and that they intended to request an exemption from 10 CFR 73.55(e)(10)(ii)(A). Due to the status of TMI Unit 2, permanently shutdown with virtually all fuel removed from the facility, there is no longer any equipment or facilities that need to be protected. The Unit 2 River Water Intake Structure is no longer considered a vital area and all equipment previously located within the intake structure has been removed and piping leading to the Protected Area has been filled in with concrete and stone. Based on the reduced need for security at the permanently defueled and shutdown facility, there is no need for waterway security and no need to identify areas from which a waterborne vehicle must be restricted. Therefore, the exemption is granted.

The licensee has requested exemption from the requirements for communication in 10 CFR 73.55(j)(4), (j)(4)(ii), and (n)(5), specifically, for communications with the MCR and testing communications with the MCR and local law enforcement agencies (LLEAs). Due to the permanently defueled and shutdown status of the facility the TMI Unit 2 MCR is no longer continuously manned or functional from a security perspective. Since the MCR no longer performs any vital control or safety function there is no need to maintain communications capability with the MCR. The removal

of the SNM from the site obviates the need for communications between the alarm stations and the MCR or LLEAs and the testing of such communications systems. Therefore, the requested exemptions are granted.

The licensee has requested an exemption from the safeguards contingency plan requirement in 10 CFR 73.55(c)(5). With the SNM removed from the TMI Unit 2 site, the protection of the SNM is no longer required of Unit 2. Because there is no SNM to protect, there is no need for the physical protection requirements of 10 CFR 73.55 (c)(5) which requires a safeguards contingency plan. Therefore the exemption is granted.

Therefore, the continued application of the previously discussed 10 CFR Part 73 requirements to TMI Unit 2, are not necessary to achieve the underlying purpose of the rule. Additionally, with the removal of the spent nuclear fuel from the site, the radioactive materials remaining on the 10 CFR Part 50 licensed site would be comparable to a source and byproduct licensee that uses general industrial security (i.e., locks and barriers) to protect the public health and safety. As stated in the regulations, Part 73, ''* * * prescribes requirements for the establishment and maintenance of a physical protection system which will have capabilities for the protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used.'' The possession and responsibility for the security of the SNM was transferred to INEEL and is no longer the responsibility of the licensee. Therefore, protection of the SNM is no longer a requirement of the licensee's 10 CFR Part 50 license.

With no SNM to protect, there is no need for a cyber security plan, target sets, bullet resisting physical barriers at the MCR, vital area requirements for the MCR or SFP, waterway security, continuous communications with the MCR or LLEA, or a safeguards contingency plan for the TMI Unit 2, 10 CFR Part 50 licensed site.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, an exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest because the security requirements for the spent fuel containing SNM are no longer the responsibility of the licensee. Therefore, the Commission hereby grants GPU Nuclear, Inc., an exemption from the physical protection requirements of 10 CFR 73.55 (b)(4), (f)(1), (f)(3), (f)(4), (e)(5), (e)(9)(v)(A), (e)(9)(v)(B), (e)(10)(ii)(A), (j)(4)(ii), (n)(5), and (c)(5) at TMI Unit 2.

This licensing action meets the categorical exclusion provision in 10 CFR 51.22(c)(25)(vi)(F). This action is an exemption from the requirements of the Commission's regulations. For the reasons detailed above in the staff's analysis of the request, (i) the exemption involves no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents. The requirements from which an exemption is sought involve safeguard plans and is one of the categories of exemptions identified in 10 CFR 51.22(c)(25)(vi)(F) as appropriate for application of this categorical exclusion.

Therefore, this action does not require either an environmental assessment or an environmental impact statement.

These exemptions are effective immediately.

Dated at Rockville, Maryland, this 2nd day of April 2013.

For The Nuclear Regulatory Commission.

Larry W. Camper,

Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2013–08704 Filed 4–12–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0066]

Guidance on the Treatment of Uncertainties Associated With PRA in Risk-Informed Decisionmaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Announcement of issuance for public comment, availability.

SUMMARY: The Nuclear Regulatory Commission has issued for public comment a document entitled: NUREG–1855, Revision 1, ''Guidance on the Treatment of Uncertainties Associated with PRA in Risk-Informed Decisionmaking,'' Draft Report for Comment.

DATES: Please submit comments by May 27, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0066. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0066 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 of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0066.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0066 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 you do not want to be publicly

disclosed in you 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.

Federal Rulemaking Web site: Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2012–0066.

FOR FURTHER INFORMATION CONTACT: Mary Drouin, Division of Risk Analysis, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–251–7574, email: *mary.drouin@nrc.gov.*

SUPPLEMENTARY INFORMATION: NUREG–1855, Revision 1, Guidance on the Treatment of Uncertainties Associated with PRA in Risk-Informed Decisionmaking, Draft Report for Comment provides guidance on how to treat uncertainties associated with probabilistic risk assessment (PRA) in risk-informed decisionmaking. The objectives of this guidance include fostering an understanding of the uncertainties associated with PRA and their impact on the results of PRA and providing a pragmatic approach to addressing these uncertainties in the context of the decisionmaking. This revision incorporates a revised structure for better ease of use and updates the staff position on the treatment of uncertainties.

Dated at Rockville, Maryland, this 4th day of April, 2013.

For the Nuclear Regulatory Commission.

Gary M. DeMoss,

Chief, Performance and Reliability Branch Division of Risk Analysis, Office of Nuclear Regulatory Research.

[FR Doc. 2013–08693 Filed 4–12–13; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69356; File No. SR–ICC–2013–05]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Related to Regulatory Reporting of Swap Data

April 9, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4,[2] notice is hereby given that on March 25, 2013, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, as modified by Amendment No. 1,[3] and as described in Items I and II below, which Items have been substantially prepared by the clearing agency. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICC proposes to add, in Chapter 2 of the ICC Rules, Rule 211 (Regulatory Reporting of Swap Data). ICC proposes to add Rule 211 in order to implement swap data repository (''SDR'') reporting (''SDR Reporting'') consistent with the Commodity Futures Trading Commission (''CFTC'') Regulations relating to the regulatory reporting of swap data, specifically Part 45 of CFTC Regulations (''Part 45'').[4] ICC currently complies with the CFTC's Regulations relating to the regulatory reporting of swap data by reporting to IntercontinentalExchange, Inc.'s SDR, selected by ICC. In order to codify ICC's practice of reporting relevant Part 45 data to the SDR selected by ICC, which is intended to meet ICC's and its Clearing Participants' swap data reporting obligations under Part 45, ICC proposes to add, in Chapter 2 of the ICC Rules, Rule 211 (Regulatory Reporting of Swap Data).

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

[2] 17 CFR 240.19b–4.

[3] ICC filed Amendment No. 1 to ICC–2013–05 on April 8, 2013. In Amendment No. 1, ICC amended Form 19b–4 and Exhibit 1 to include references to Commodity Futures Trading Commission Regulation 45.3.

[4] 17 CFR 45.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[5]

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICC proposes to add, in Chapter 2 of the ICC Rules, Rule 211 in order to implement SDR Reporting consistent with CFTC Regulations 45.3,[6] 45.4(b),[7] and 45.9.[8] Proposed ICC Rule 211 states that for the purposes of complying with applicable CFTC rules governing the regulatory reporting of swaps, ICC will report all creation and continuation data to IntercontinentalExchange, Inc.'s SDR. In addition, proposed ICC Rule 211 provides that, upon the request of an ICC Clearing Participant that is a counterparty to a swap cleared at ICC, ICC shall provide the same creation and continuation data to the SDR selected by the Clearing Participant.

Proposed Rule 211 is consistent with the CFTC's Regulation 45.3 [9] and 45.4(b),[10] which requires that creation and continuation data must be reported by both the derivatives clearing organization and the reporting counterparty. ICC currently complies with the CFTC's Regulation 45.3 [11] and 45.4(b) [12] by reporting swap data to IntercontinentalExchange, Inc.'s SDR selected by ICC. In order to codify ICC's practice of reporting relevant Part 45 data to the SDR selected by ICC, ICC proposes to add, in Chapter 2 of the ICC Rules, Rule 211 (Regulatory Reporting of Swap Data).

The addition of ICC Rule 211 also is in response to swap dealers' mandatory compliance with CFTC Regulation 45.3 [13] and 45.4,[14] which was required by February 28, 2013. ICC believes that proposed ICC Rule 211 is also consistent

[5] The Commission has modified the text of the summaries prepared by the clearing agency.

[6] 17 CFR 45.3.

[7] 17 CFR 45.4(b).

[8] 17 CFR 45.9.

[9] 17 CFR 45.3.

[10] 17 CFR 45.4(b).

[11] 17 CFR 45.3.

[12] 17 CFR 45.4(b).

[13] 17 CFR 45.3.

[14] 17 CFR 45.4.

with the CFTC's Regulation 45.9,[15] which provides that swap counterparties required by Part 45 to report swap creation or continuation data may contract with third-party service providers to facilitate reporting. Proposed ICC Rule 211 ensures that ICC, in the capacity of a third-party service provider, will be able to report required swap creation and continuation data on behalf of ICC's Clearing Participants, in compliance with the Clearing Participants' reporting obligations under CFTC's swap data reporting Regulations.

ICC believes that proposed ICC Rule 211 is consistent with the requirements of Section 17A of the Exchange Act[16] and the rules and regulations thereunder applicable to it. Specifically, ICC believes the proposed rule is consistent with Section 17A(b)(3)(F) of the Exchange Act,[17] which requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to protect investors and the public interest. As a derivatives clearing organization registered with the CFTC, ICC must comply with CFTC Regulations, including CFTC Regulation 45.3[18] and 45.4.[19] ICC believes this proposed rule change will facilitate its own and its Clearing Participants' mandatory compliance with CFTC Regulation 45.3[20] and 45.4.[21] ICC believes that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to ICC, in particular with Section 17A(b)(3)(F), because facilitating clearing members' reporting obligations promotes the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds, and compliance with the CFTC's regulations facilitates the protection of investors and the public interest. In addition, ICC notes that the proposed change is limited to ICC's business as a derivatives clearing organization and therefore does 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. For these reasons, ICC believes the proposed rule is consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act.[22]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICC–2013–05 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–ICC–2013–05. 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 ICC.

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–ICC–2013–05 and should be submitted on or before May 6, 2013.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

Section 19(b)(2)(C) of the Exchange Act[23] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act, in particular, the requirements of Section 17A of the Exchange Act, and the rules and regulations thereunder applicable to ICC.[24] Specifically, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Exchange Act,[25] which requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to protect investors and the public interest.

Based on ICC's representations, the Commission understands that the proposed rule change is designed to codify in ICC's Rules the way in which ICC intends to comply with certain of the CFTC's swap data reporting rules and to facilitate its Clearing Participants' compliance with the same. The Commission finds that, by facilitating compliance with the swap data reporting requirements of another

[15] 17 CFR 45.9.
[16] 15 U.S.C. 78q–1.
[17] 15 U.S.C. 78q–1(b)(3)(F).
[18] 17 CFR 45.3.
[19] 17 CFR 45.4.
[20] 17 CFR 45.3.
[21] 17 CFR 45.4.
[22] 15 U.S.C. 78q–1(b)(3)(F).
[23] 15 U.S.C. 78s(b)(2)(C).
[24] 15 U.S.C. 78q–1.
[25] 15 U.S.C. 78q–1(b)(3)(F).

regulator, the proposed rule change is consistent with promoting the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions, assuring the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and protecting investors and the public interest.

The Commission is mindful of the CFTC's jurisdiction respecting swap data reporting and swap data repositories under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act'').[26] The proposed rule change, which is limited to ICC's business as a derivatives clearing organization and 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,[27] applies only to swaps, which are regulated by the CFTC under the CEA. In this regard, the Commission notes that section 5b(c)(2)(N) of the CEA requires that ''[u]nless necessary or appropriate to achieve the purposes of [the CEA], a derivatives clearing organization shall not—(i) adopt any rule or take any action that results in any unreasonable restraint of trade; or (ii) impose any material anticompetitive burden.'' [28] Section 17A(b)(3)(I) of the Exchange Act, by contrast, requires that ''[t]he rules of the clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Exchange Act].'' [29] To the extent that the Exchange Act provisions on competition apply to swaps-related activity, the Commission finds that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[30] In making this determination, the Commission is mindful of the CFTC's jurisdiction over swap activities, and the Commission could draw a different conclusion about a similar proposal if it applied to security-based swap activity instead of swap activity.

In its filing, ICC requested that the Commission grant accelerated approval of the proposed rule change under Section 19(b)(2)(C)(iii) of the Exchange Act.[31] Under Section 19(b)(2)(C)(iii) of the Exchange Act,[32] the Commission may grant accelerated approval of a proposed rule change if the Commission finds good cause for doing so. ICC believes that accelerated approval is warranted because the proposed rule change will assist swap dealers' mandatory compliance with CFTC Regulation 45.3 [33] and 45.4,[34] which was required by February 28, 2013. ICC states that the proposed rule change does not require any operational changes, as ICC currently complies with the CFTC's Regulations relating to the regulatory reporting of swap data by reporting to IntercontinentalExchange, Inc.'s SDR, selected by ICC. ICC notes that the proposed change is limited to ICC's business as a derivatives clearing organization and therefore does 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. ICC has stated that, in its view, the proposed changes do not raise any issues that would require a lengthier review process under Section 19(b) of the Exchange Act,[35] and ICC does not believe the market would benefit from delaying implementation of the proposed rule changes.

The Commission finds good cause, pursuant to Section 19(b)(2)(C)(iii) of the Exchange Act,[36] for approving the proposed rule change on an accelerated basis, prior to the 30th day after the date of publication of notice in the **Federal Register**, because (i) the proposed rule change is limited to ICC's business as a derivatives clearing organization and 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; and (ii) the activity relating to the non-securities clearing operations of the clearing agency for which the clearing agency is seeking approval is subject to regulation by another federal regulator.[37]

The Commission notes that ICC also has submitted ICC Rule 211 to the CFTC for self-certification pursuant to Section 5c(c)(1) of the Commodity Exchange Act (''CEA'') [38] and CFTC Regulation 40.6.[39] In connection with ICC's submission, the CFTC received a petition for the stay of ICC's self-certification of ICC Rule 211 from the Depository Trust & Clearing Corporation (''DTCC''), in conjunction with DTCC Data Repository (U.S.) LLC.[40] In its submission to the CFTC, ICC also made reference to the CFTC's comment files relating to the submission by the Chicago Mercantile Exchange Inc. (''CME'') of CME Rule 1001 to the CFTC and ''relevant references within the Statement of the [CFTC] granting approval of the CME's Rule 1001 submission.'' [41]

As noted above, in its consideration and approval of the proposed rule change, the Commission is mindful of the CFTC's jurisdiction respecting swap data reporting and swap data repositories under the Dodd-Frank Act.[42] The Commission's approval of the proposed rule change in no way constitutes a determination or finding by the Commission that the proposed rule change complies with or is not inconsistent with the CEA or the rules and regulation thereunder, which are determinations within the purview of the CFTC. The Commission's approval is limited to findings under the Exchange Act and the rules and regulations thereunder in effect on the date hereof and represents neither agreement nor disagreement with the CFTC's analysis and determinations in connection with its Statement approving CME Rule 1001 or other actions to-date respecting CME's or

[26] Public Law 111–203, 124 Stat. 1376 (2010). Title VII of the Dodd-Frank Act gives the CFTC regulatory authority over swaps, including the authority to adopt rules governing SDRs and swap reporting. *See, e.g.,* Pub. L. No. 111–203, § 727. Similarly, Title VII gives the SEC regulatory authority over security-based swaps and the authority to adopt rules governing security-based swap data repositories and security-based swap reporting. *See, e.g.,* Pub. L. No. 111–203, § 763(i).

[27] *Cf.* Amendment to Rule Filing Requirements for Dually-Registered Clearing Agencies, Securities Exchange Act Rel. No. 69284 (Apr. 3, 2013), 78 FR 21046 (Apr. 9, 2013) (amending the Commission's rule filing process in connection with proposed rule changes that primarily affect a registered clearing agency's clearing operations with respect to products that are not securities and that do not significantly affect any securities clearing operations or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities service; effective 60 days from forthcoming publication in the **Federal Register**).

[28] 7 U.S.C. 7a–1(c)(2)(N).

[29] 15 U.S.C. 78q–1(b)(3)(I).

[30] In approving these proposed rule changes, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[31] 15 U.S.C. 78s(b)(2)(C)(iii).

[32] 15 U.S.C. 78s(b)(2)(C)(iii).

[33] 17 CFR 45.3.

[34] 17 CFR 45.4.

[35] 15 U.S.C. 78s(b).

[36] 15 U.S.C. 78s(b)(2)(C)(iii).

[37] *See supra* note 27.

[38] 7 U.S.C. 7a-2(c)(5).

[39] 17 CFR 40.6.

[40] Letter to Ms. Melissa Jurgens, CFTC, from Larry E. Thompson, General Counsel, DTCC, dated March 26, 2013, available at *http://www.cftc.gov/stellent/groups/public/@rulesandproducts/documents/ifdocs/dtcccommentltr032613.pdf.*

[41] ICC Rule Submission Re: SDR Reporting Rule Certification Pursuant to Section 5c(c)(1) of the CEA and [CFTC] Regulation 40.6, dated March 22, 2013, available at *http://www.cftc.gov/stellent/groups/public/@rulesandproducts/documents/ifdocs/rul032213icc001.pdf.*

[42] *See supra* note 26.

ICC's rules relating to swap data reporting. Furthermore, the Commission's approval of the proposed rule change in no way limits or precludes any future actions by the Commission, including pending rulemakings [43] or proposed rule changes, in connection with security-based swaps.

V. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) of the Exchange Act [44] that the proposed rule change (SR–ICC–2013–05), as modified by Amendment No. 1, be, and hereby is, *approved* on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–08727 Filed 4–12–13; 8:45 am]

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[43] *See, e.g.,* Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, Securities Exchange Act Rel. No. 63346 (Nov. 19, 2010), 75 FR 75208 (Dec. 2, 2010); Security-Based Swap Data Repository Registration, Duties, and Core Principles, Securities Exchange Act Release No. 63347 (Nov. 19, 2010), 75 FR 77306 (Dec. 10, 2010), corrected at 75 FR 79320 (Dec. 20, 2010) and 76 FR 2287 (Jan. 13, 2011).

[44] 15 U.S.C. 78s(b)(2).

[45] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69351; File No. SR–Phlx–2013–35]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Pricing for Mini Options

April 9, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 26, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the its Pricing Schedule by adding Section A, entitled ''Mini Options Fees,'' and by redesignating existing Section A as Section B.

The text of the proposed rule change is provided in *Exhibit 5.* The text of the proposed rule change is also available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated that they become operative on March 28, 2013.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to set forth in new Section A of the Pricing Schedule the applicability of various existing fees, rebates, and caps to Mini Options, and specifically to establish that transaction fees with respect to Mini Options will be set at $0.00. Existing Section A, Customer Rebate Program, will be redesignated as Section B.

The Exchange represented in its filing establishing Mini Options (the ''Mini Options Listing Filing'') that ''the current Pricing Schedule will not apply to the trading of mini-option contracts'' and that ''[t]he Exchange will not commence trading of mini-option contracts until specific fees for mini-options contracts trading have been filed with the Commission.'' [3] The purpose of the proposed new Section A is to adopt the fees that are specific to Mini Options, as provided for in the Mini Options Listing Filing.

New Section A will appear after the Preface section of the Pricing Schedule which contains definitions that apply to the entire Pricing Schedule, including new Section A. Except where different treatment is specified for Mini Options in Section A, the rest of the Pricing Schedule will apply to Mini Options in the same way it applies to all other options. For example, a Mini Options class will count as an options class assignment for purposes of determining the level of Streaming Quote Trader Fees and Remote Streaming Quote Trader Fees in Section VI. Cross references to Section A in the Table of Contents and Section IV.A, PIXL Pricing, will be updated to refer to Section B, and the Table of Contents will be updated to refer to Mini Options as new Section A.

Applicable Symbols. Proposed new Section A identifies the Mini Options symbols as AAPL7, AMZN7, GLD7, GOOG7 and SPY7. Accordingly, new Section A will apply exclusively to these new symbols.

Transaction Fees. New Section A provides for a ''Mini Options Transaction Fee—Electronic'' and for a ''Mini-Options Transaction Fee—Floor and QCC'', both of which will apply in the Customer, Professional, Specialist and Market Maker, Broker-Dealer and Firm fee categories.[4] In each case, the Exchange is currently setting these fees at $0.00 but may in the future file proposed rule changes to amend the transaction fee level in one or more categories. The Exchange is establishing the separate Section A Pricing Schedule section for Mini Options transaction fees in order to facilitate differentiation in the future between Mini Options transaction fees and other options transaction fees.

PIXL Executions. The new Section A transaction fees will apply to PIXL executions in Mini Options rather than the PIXL Pricing fees set forth in Section IV.A.[5]

Payment for Order Flow. Pursuant to new Section A, Payment for Order Flow Fees set forth in Section II of the Pricing

[3] *See* SR–Phlx–2012–126, page 8. *See also* Securities Exchange Act Release No. 68132 (November 1, 2012), 77 FR 66904 (November 7, 2012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Option Contracts Overlying 10 Shares of Certain Securities).

[4] Transaction fees for options other than Mini Options are currently found in Sections I through III of the Pricing Schedule.

[5] PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXL℠). *See* Rule 1080(n) and Section IV of the Pricing Schedule.

Schedule will not apply to Mini Options.[6]

Customer Rebate Program. New Section A clarifies that Mini Options volume will not be included in and will not be eligible for the Customer Rebate Program which is being moved from Section A of the Pricing Schedule to Section B of the Pricing Schedule.[7]

Routing Fees. Today, the Exchange calculates Routing Fees by assessing certain Exchange costs related to routing orders to away markets plus the away market's actual transaction fee.[8] The Exchange assesses a $0.05 per contract fixed Routing Fee when routing orders to the NASDAQ Options Market LLC (''NOM'') and NASDAQ OMX BX, Inc. (''BX Options'') and a $0.11 per contract fixed Routing Fee to all other options exchanges in addition to the actual transaction fee or rebate paid by the away market.[9] With respect to the rebate, the Exchange pays a market participant the rebate offered by an away market where there is such a rebate. Any rebate available is netted against a fee assessed by the Exchange. With respect to orders routed to C2 Options Exchange, Incorporated (''C2''), the Exchange assesses non-Customer simple, non-complex orders in equity options (single stock) that are routed to C2 a Routing Fee which includes a fixed cost of $0.11 per contract plus a flat rate of $0.85 per contract, except with respect to Customers. With respect to Customers, the Exchange does not pass the rebate offered by C2, rather, Customer simple, non-complex orders in equity options (single stock) that are routed to C2 are assessed $0.00 per contract.

The Exchange has recently filed a proposed rule change to make a number of pricing changes described in this paragraph to its Routing Fees. Effective April 1, 2013, the Exchange's Routing Fees in Section V of the Pricing Schedule will be as follows: Non-Customers will be assessed a $0.95 per contract flat fee and the Customer Routing Fee will be dependent on the away market.[10] With respect to Customer orders routed to NOM, the Exchange will assess a fixed fee of $0.05 per contract (''Fixed Fee'') in addition to the actual transaction fee assessed by the away market would apply. With respect to Customer orders that are routed to BX Options, the Exchange will not assess a Routing Fee and will not pass the rebate. The Exchange will assess a Customer Routing Fee of $0.11 per contract (''Fixed Fee'') in addition to the actual transaction fee when routing to an options exchange other than NOM and BX Options. Similar to Customer orders routed to BX, the Exchange will no longer pass any rebate paid by any away market for any Customer orders.

New Section A establishes Routing Fees for Mini Options that will apply instead of the existing Routing Fees set forth in Section V of the Pricing Schedule. Routing Fees for Customers are set at $0.01 per contract in addition to the actual transaction fee assessed. If the away market pays a rebate, the Customer Routing Fee will be $0.00. Routing Fees for all other participants (non-Customers) will be a flat rate of $0.15 per contract and the Exchange will not charge non-Customers the actual transaction fee assessed by the away market or pass back any rebate.

QCC Transaction Fees and Rebates. New Section A establishes that QCC Transaction fees and rebates, set forth in Section II[11] of the Pricing Schedule, are not applicable to Section A of the Pricing Schedule.

Fee Caps. New Section A provides that the Monthly Market Maker Cap[12] and the Monthly Firm Fee Cap[13], defined in Section II of the Pricing Schedule, will not be applicable to transactions in Mini Options. Therefore, any fees that may be assessed with respect to transactions in Mini Options will not be applied toward these caps.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(4) of the Act[15] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

Transaction Fees. The Exchange believes that the proposed Mini Options Transaction Fee-Electronic and Mini Options Transaction Fee—Floor and QCC, as well as the applicability of those fees to PIXL executions in Mini Options, are reasonable because those fees are set at zero in order to encourage market participants to transact Mini Options. They are also equitable and not unfairly discriminatory because all the market participant categories will be

[6] The Payment for Order Flow program started on July 1, 2005 as a pilot and after a series of orders extending the pilot became effective on April 29, 2012. See Securities Exchange Act Release No. 52114 (July 22, 2005), 70 FR 44138 (August 1, 2005) (SR–Phlx–2005–44); 57851 (May 22, 2008), 73 FR 31177 (May 20, 2008) (SR–Phlx–2008–38); 55891 (June 11, 2007), 72 FR 333271 (June 15, 2007) (SR–Phlx–2007–39); 53754 (May 3, 2006), 71 FR 27301 (May 10, 2006) (SR–Phlx–2006–25); 53078 (January 9, 2006), 71 FR 2289 (January 13, 2006) (SR–Phlx–2005–88); 52568 (October 6, 2005), 70 FR 60120 (October 14, 2005) (SR–Phlx–2005–58); and 59841 (April 29, 2009), 74 FR 21035 (May 6, 2009) (SR–Phlx–2009–38).

[7] The Exchange has recently described and amended its Customer Rebate Program. *See* SR–Phlx–2013–13. *See also* Securities Exchange Act Release No. 68924 (February 13, 2013), 78 FR 11916 (February 20, 2013).

[8] Routing fees applicable to options other than Mini Options are set forth in Section V of the Pricing Schedule. Routing fees allow the Exchange to recoup costs it incurs for routing and executing orders in equity options to various away markets.

[9] The fixed Routing Fee is based on costs that are incurred by the Exchange when routing to an away market in addition to the away market's transaction fee. For example, the Exchange incurs a fee when it utilizes Nasdaq Options Services LLC (''NOS''), a member of the Exchange and the Exchange's exclusive order router, to route orders in options listed and open for trading on the PHLX XL system to destination markets. Each time NOS routes to away markets NOS incurs a clearing-related cost and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange also incurs administrative and technical costs associated with operating NOS, membership fees at away markets, Options Regulatory Fees (''ORFs'') and technical costs associated with routing options. The transaction fee assessed by the Exchange is based on the away market's actual transaction fee or rebate for a particular market participant at the time that the order was entered into the Exchange's trading system. This transaction fee is calculated on an order-by-order basis, since different away markets charge different amounts. In the event that there is no transaction fee or rebate assessed by the away market, the only fee assessed is the fixed Routing Fee.

[10] *See* SR–Phlx–2013–23 (not yet published) [sic].

[11] QCC Orders are defined in Rule 1080(o).

[12] The Monthly Market Maker Cap is $550,000 for: (i) Electronic and floor Option Transaction Charges; (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)); and (iii) fees related to an order or quote that is contra to a PIXL Order or specifically responding to a PIXL auction. The trading activity of separate Specialist and Market Maker member organizations will be aggregated in calculating the Monthly Market Maker Cap if there is Common Ownership between the member organizations. All dividend, merger, short stock interest and reversal and conversion strategy executions (as defined in this Section II) will be excluded from the Monthly Market Maker Cap. In addition, Specialists or Market Makers that (i) are on the contra-side of an electronically-delivered and executed Customer order; and (ii) have reached the Monthly Market Maker Cap will be assessed a $0.16 per contract fee. For QCC Orders as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e), a Service Fee of $0.07 per side applies once a Specialist or Market Maker has reached the Monthly Market Maker Cap. The $0.07 Service Fee applies to every contract side of the QCC Order and Floor QCC Order after a Specialist or Market Maker has reached the Monthly Market Maker Cap, except for reversal and conversion strategies executed via QCC. The Service Fee is not being assessed to a Specialist or Market Maker that does not reach the Monthly Market Maker Cap in a particular calendar month.

[13] Firms are subject to a maximum fee of $75,000 (''Monthly Firm Fee Cap''). Firm floor option transaction charges and QCC Transaction Fees as defined in Section II of the Pricing Schedule in the aggregate, for one billing month will not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

able to take advantage of the zero fee level and will therefore be treated in a uniform matter. Likewise, the Exchange believes that not applying QCC Transaction fees and rebates to transactions in Mini Options is reasonable, equitable and not unfairly discriminatory because the Exchange does not desire to assess certain transaction fees to encourage all market participants to transact Mini Options. No market participant would be assessed QCC Transaction fees or rebates.

Fee Caps. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to not apply the Monthly Market Maker Cap or Monthly Firm Fee Cap to Mini Options transaction fees because the Mini Options transaction fees are set at zero in any event for all market participants. The fee caps would not be affected by transactions in Mini Options for which transaction fees are not assessed in the first place.

Customer Rebate Program. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory that Mini Options volume will not be included in and will not be eligible for the Customer Rebate Program defined in newly relocated Section B of the Pricing Schedule. The Customer Rebate Program was established to incentivize market participants to increase the amount of Customer order flow they transact on the Exchange.[16] The Customer Rebate Program is predicated on certain volume tiers that assume an option contract size of 100 shares. Due to the smaller size of the Mini Options contract, Mini Options will not make sense in the context of the volume tiers upon which the calculation of the Customer Rebate is based and the logic behind the Customer Rebate Program would not be achieved by including them. For this reason the Exchange believes that it is reasonable to not permit Mini Options to qualify in the Customer Rebate Program. Also, the Exchange would uniformly not pay rebates to any market participant transacting Customer Mini Options. Finally, redesignation of the caption of the Customer Rebate Program from A. to B. will provide clarity to the Pricing Schedule as it accommodates the new Mini Options Fees language in A.

Payment for Order Flow Fees. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory that the Payment for Order Flow fees set forth in Section II will not apply to Mini Options because the Exchange is not charging any transaction fees for these products at this time. By eliminating Payment for Order Flow Fees as applied to Mini Options the Exchange will incentivize members to transact in them. Further, Specialists and Market Makers will not be singled out from among other market participants for assessment of this fee. All market participants will be treated the same way by not having the Payment for Order Flow fees imposed on them with respect to Mini Options.

Proposed Mini Options Routing Fees—Customers. In the proposed new language in Section A of the Pricing Schedule, for Mini Options a $0.01 per contract Routing Fee will be charged for Customer orders in addition to the actual transaction fee assessed, provided that if the away market pays a rebate to the Exchange, the Customer Routing Fee is $0.00. The Customer Routing Fees for Mini Options are reasonable because they will allow the Exchange to recoup and cover its costs of providing routing services for Customer orders in Mini Options just as it does for other standard equity options for which it incurs the same costs. The Exchange believes this Routing Fee for Customers in Mini Options is reasonable because it is lower than the other fixed Routing Fees for standard options, as discussed above, which are assessed with respect to Customer transactions in other options pursuant to Section V of the Pricing Schedule. Additionally, the Customer Routing Fees will be similar to the new Routing Fees that the Exchange recently filed and which will be operative on April 1, 2013, except the fixed cost will be lower in the case of Mini Options. Similar to that filing, the Exchange would not pass rebates back to Customers, but would also not asses a Customer a Routing Fee if a rebate were paid by the away market. The Exchange believes that its proposal to not pass a rebate that is offered by an away market for Customers orders in Mini Options is reasonable because to the extent that another market is paying a rebate, the Exchange will not assess a Routing Fee for that transaction. If a market participant desires the rebate, the market participant has the option to direct the order to that away market. Other options exchanges today do not pass the rebate.[17]

The Exchange believes the Routing Fees for Mini Options for Customers are equitable and not unfairly discriminatory because the Exchange would uniformly assess the same Routing Fees to all Customers, and because market participants have the ability to directly route orders in Mini Options to an away market and avoid the Routing Fee. Also, market participants may submit orders to the Exchange as ineligible for routing or ''DNR'' to avoid Routing Fees. The Exchange believes that its proposal to not pass a rebate that is offered by an away market for Customer Mini Option orders is equitable and not unfairly discriminatory because the Exchange would not pay such a rebate on any Customer Mini Option order.

Proposed Mini Options Routing Fees—Non-Customers. In the proposed new language in Section A of the Pricing Schedule, Routing Fees for Mini Options for all participants other than Customers (''non-Customers'') will be a flat fee of $0.15 per contract. The Exchange believes this fee is reasonable because it is lower than the $0.95 per contract flat fee that will be in effect on April 1, 2013 for non-Customers orders routed to all options exchanges (other than BX Options and NOM) for orders in options other than Mini Options.[18] The non-Customer Routing Fees for Mini Options are reasonable because they will allow the Exchange to recoup and cover its costs of providing routing services for non-Customer orders in Mini Options just as it does for other equity options for which it incurs the same costs. The Exchange believes that its proposal to amend its non-Customer Routing Fees from a fixed fee plus actual transaction charges to a flat rate is reasonable because the flat rate makes it easier for market participants to anticipate the Routing Fees which they would be assessed at any given time. The Exchange believes that assessing all non-Customer orders the same flat rate will provide market participants with certainty with respect to Routing Fees. While each destination market's transaction charge varies and there is a cost incurred by the Exchange when routing orders to away markets, including clearing costs, administrative and technical costs associated with operating NOS, membership fees at away markets, ORFs and technical costs associated with routing options, the Exchange believes that the proposed Routing Fees will enable it to recover the costs it incurs to route non-Customer orders to away markets. Other

[16] *See* Securities Exchange Act Release No. 68924 (February 13, 2013), 78 FR 11916 (February 20, 2013).

[17] *See* CBOE's Fees Schedule and International Securities Exchange LLC's (''ISE'') Fee Schedule.

[18] The Exchange believes that the proposed non-Customer Routing Fee for Mini Options that are routed to BX and NOM is reasonable even though it is higher than $0.05 Routing Fee assessed with respect to non-Customer orders routed to BX and NOM today in options other than Mini Options, inasmuch as the Exchange is not charging any transaction fees with respect to Mini Options.

exchanges similarly assess a fixed rate fee to route non-Customer orders.[19]

The Exchange believes that its proposal to amend the non-Customer Routing Fees from a fixed fee plus actual transaction charges to a flat rate is equitable and not unfairly discriminatory because the Exchange would uniformly assess the same Routing Fees to all non-Customer market participants. Under its flat fee structure, taking all costs to the Exchange into account, the Exchange may operate at a slight gain or a slight loss for non-Customer orders routed to and executed at away markets. The proposed Routing Fee for non-Customer orders is an approximation of the maximum fees the Exchange will be charged for such executions, including costs, at away markets. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services for non-Customer orders. The Exchange believes that the fixed rate non-Customer Routing Fee is equitable and not unfairly discriminatory because market participants have the ability to directly route orders to an away market and avoid the Routing Fee. Also, market participants may submit orders to the Exchange as ineligible for routing or ''DNR'' to avoid Routing Fees. It is important to note that when orders are routed to an away market they are routed based on price first.

The Exchange believes that its proposal to not pass a rebate that is offered by an away market for non-Customers orders is reasonable because to the extent that another market is paying a rebate, the Exchange will assess a $0.15 per contract fee as its total cost in each instance. The Routing Fee is transparent and simple. If a market participant desires the rebate, the market participant has the option to direct the order to that away market. Other options exchanges today do not pass the rebate. The Exchange believes that its proposal to not pass a rebate that is offered by an away market for non-Customers orders is equitable and not unfairly discriminatory because the Exchange would not pay such a rebate on any non-Customer order. The Exchange believes the Routing Fees for Mini Options for non-Customers are equitable and not unfairly discriminatory because the Exchange would uniformly assess the same Routing Fees to all non-Customer market participants.

Finally, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess different fees for Customers orders as compared to non-Customer orders because the Exchange has traditionally assessed lower fees to Customers as compared to non-Customers. Customers will continue to receive the lowest fees or no fees when routing orders, as is the case today. Other options exchanges also assess lower Routing Fees for customer orders as compared to non-customer orders in standard options.[20]

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 not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange operates in a highly competitive market, comprised of eleven exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

The Mini Options are a new product that will commence trading on the Exchange on March 28, 2013. The Exchange believes that incentivizing market participants to transact Mini Options by not assessing transaction fees and certain other fees encourages competition in these products. There is no intra-market competition as the Exchange will treat all market participants in a like manner with respect to the transaction fees. Also, the Exchange believes that because other markets will also list Mini Options there is no undue burden on intermarket competition because market participants will be able to select the venue where they will trade these products. In terms of Routing, the Exchange-believes that assessing Customers lower fees as compared to Non-Customers and assessing the same Routing Fees to all Non-Customers regardless of the venue does not create an undue burden on competition. The Exchange has traditionally assessed no or lower fees to Customers. Also, the Exchange believes that because Mini Options represent 1/10th of the size of a standard option contract, reduced Routing Fees will not misalign the cost to transact Mini Options.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[21] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–Phlx–2013–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2013–35. This file number should be included on the

[19] BATS Exchange, Inc. (''BATS'') assesses non-Customer fixed rates of $0.57 and $0.95 per contract when routing to away markets. *See* BATS BZX Exchange Fee Schedule. The Chicago Board Options Exchange Incorporated (''CBOE'') assesses non-Customer orders a $0.50 per contract routing fee in addition to the customary CBOE execution charges. *See* CBOE's Fees Schedule.

[20] BATS assesses lower customer routing fees as compared to non-customer routing fees per the away market. For example BATS assesses ISE customer routing fees of $0.30 per contract and an ISE non-customer routing fee of $0.57 per contract. *See* BATS BZX Exchange Fee Schedule.

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

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–Phlx–2013–35 and should be submitted on or before May 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08724 Filed 4–12–13; 8:45 am]

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[22] 17 CFR 200.30–3(a)(12).

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

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69354; File No. SR–MIAX–2013–15]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Order Approving, on an Accelerated Basis, Proposed Rule Change Relating to Limit Up Limit Down Functionality

April 9, 2013.

I. Introduction

On March 25, 2013, Miami International Securities Exchange LLC (the ''Exchange'' or ''MIAX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to provide for how the Exchange proposes to treat market-making quoting obligations in response to the Regulation NMS Plan to Address Extraordinary Market Volatility. The proposed rule change was published for comment in the **Federal Register** on March 29, 2013.[4] On April 8, 2013, the Exchange submitted Amendment No. 1 to the proposed rule change.[5] The Commission received no comment letters on the proposal. This order approves the proposed rule change on an accelerated basis.

II. Background

On May 6, 2010, the U.S. equity markets experienced a severe disruption that, among other things, resulted in the prices of a large number of individual securities suddenly declining by significant amounts in a very short time period before suddenly reversing to prices consistent with their pre-decline levels.[6] This severe price volatility led to a large number of trades being executed at temporarily depressed prices, including many that were more than 60% away from pre-decline prices. One response to the events of May 6, 2010, was the development of the single-stock circuit breaker pilot program, which was implemented through a series of rule filings by the equity exchanges and by FINRA.[7] The single-stock circuit breaker was designed to reduce extraordinary market volatility in NMS stocks by imposing a five-minute trading pause when a trade was executed at a price outside of a specified percentage threshold.[8]

To replace the single-stock circuit breaker pilot program, the equity exchanges filed a National Market System Plan[9] pursuant to Section 11A of the Act,[10] and Rule 608 thereunder,[11] which featured a ''limit up-limit down'' mechanism (as amended, the ''Limit Up-Limit Down Plan'' or ''Plan'').

The Plan sets forth requirements that are designed to prevent trades in individual NMS stocks from occurring outside of the specified price bands. The price bands consist of a lower price band and an upper price band for each NMS stock. When one side of the market for an individual security is outside the applicable price band, i.e., the National Best Bid is below the Lower Price Band, or the National Best Offer is above the Upper Price band, the Processors[12] are required to disseminate such National Best Bid or National Best Offer[13] with a flag identifying that quote as non-executable. When the other side of the market reaches the applicable price band, i.e., the National Best Offer reaches the lower price band, or the National Best Bid reaches the upper price band, the market for an individual security enters a 15-second Limit State, and the Processors are required disseminate such National Best Offer or National Best Bid with an appropriate flag identifying it as a Limit State Quotation. Trading in that stock would

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 692347 (March 25, 2013), 78 FR 19344 (''Notice'').

[5] In Amendment No. 1, the Exchange removed language from proposed Rule 530(h) to clarify that its treatment of options overlying securities that are subject to a trading pause in the Limit Up-Limit Down context is intended to be the same as what is currently set forth in Exchange Rule 504(c), which provides generally for the treatment of options overlying securities that are subject to a trading pause. Because the changes made in Amendment No. 1 do not materially alter the substance of the proposed rule change or raise any novel regulatory issues, Amendment No. 1 is not subject to notice and comment.

[6] The events of May 6 are described more fully in a joint report by the staffs of the Commodity Futures Trading Commission (''CFTC'') and the Commission. *See* Report of the Staffs of the CFTC and SEC to the Joint Advisory Committee on Emerging Regulatory Issues, ''Findings Regarding the Market Events of May 6, 2010,'' dated September 30, 2010, available at *http://www.sec.gov/news/studies/2010/marketevents-report.pdf.*

[7] For further discussion on the development of the single-stock circuit breaker pilot program, *see* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (''Limit Up-Limit Down Plan'' or ''Plan'').

[8] *See* Securities Exchange Act Release Nos. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) and Securities Exchange Act Release No. 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR–FINRA–2010–033) (describing the ''second stage'' of the single-stock circuit breaker pilot) and Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (describing the ''third stage'' of the single-stock circuit breaker pilot).

[9] NYSE Euronext filed on behalf of New York Stock Exchange LLC (''NYSE''), NYSE Amex LLC (''NYSE Amex''), and NYSE Arca, Inc. (''NYSE Arca''), and the parties to the proposed National Market System Plan, BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated (''CBOE''), Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, and National Stock Exchange, Inc. (collectively with NYSE, NYSE MKT, and NYSE Arca, the ''Participants''). On May 14, 2012, NYSE Amex filed a proposed rule change on an immediately effective basis to change its name to NYSE MKT LLC (''NYSE MKT''). See Securities Exchange Act Release No. 67037 (May 21, 2012) (SR–NYSEAmex-2012–32).

[10] 15 U.S.C. 78k–1.

[11] 17 CFR 242.608.

[12] As used in the Plan, the Processor refers to the single plan processor responsible for the consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Exchange Act. *See id.*

[13] ''National Best Bid'' and ''National Best Offer'' has the meaning provided in Rule 600(b)(42) of Regulation NMS under the Exchange Act. *See id.*

exit the Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the market does not exit a Limit State within 15 seconds, then the Primary Listing Exchange will declare a five-minute trading pause, which is applicable to all markets trading the security.

The Primary Listing Exchange may also declare a trading pause when the stock is in a Straddle State, i.e., the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State. In order to declare a trading pause in this scenario, the Primary Listing Exchange must determine that trading in that stock deviates from normal trading characteristics such that declaring a trading pause would support the Plan's goal to address extraordinary market volatility.[14]

On May 31, 2012, the Commission approved the Plan as a one-year pilot, which shall be implemented in two phases.[15] The first phase of the Plan was implemented on April 8, 2013.[16]

III. Description of the Proposal

1. Market Maker Quoting Obligations

In light of the Plan, the Exchange has proposed to adopt Rule 530(f) to address market maker quoting obligations when an underlying security enters a Limit or Straddle state. Specifically, MIAX proposed in Rule 530(f)(1)(i)–(iv) to suspend, when the security underlying an option is in a Limit or Straddle State, the following market maker quoting obligations: (i) The bid/ask differential requirements set forth in Exchange Rule 603(b)(4); (ii) the minimum quote size requirement set forth in Exchange Rule 604(b)(2); (iii) the two-sided quote requirement set forth in Exchange Rule 604(c); and (iv) the continuous quote requirement set forth in Exchange Rule 604(e). Concerning the calculation of a market maker's continuous quoting obligation, the Exchange will exclude the amount of time an NMS stock underlying a MIAX option is in a Limit State or Straddle State from the total amount of time in the trading day when calculating the percentage of the trading day MIAX Market Makers are required to quote.

The Exchange represented that market makers should be relieved of these quoting obligations during Limit and Straddle States because during such periods, market makers could not be certain whether they could buy or sell an underlying security, or if they could, at what price or quantity. The Exchange's corresponding proposal to suspend the maximum quotation spread requirement during Limit or Straddle States is intended to encourage market makers to choose to provide liquidity during such states. According to the Exchange, allowing options market makers the flexibility to choose whether to enter quotes, and to do so without restrictions on the bid-ask differential, the minimum size of the quote, and the ability to enter one-sided quotes, is necessary to encourage market makers to provide liquidity in options classes overlying securities that may enter a Limit State or Straddle State. The Exchange proposed Rule 530(f)(2) to make clear that a market maker's relief from the quoting obligations described above shall terminate when the Limit or Straddle state no longer exists in the affected underlying stock.

2. Market Maker Participation Guarantees

MIAX additionally proposed in Rule 530(f)(3) to maintain, unchanged, its scheme concerning the priority of quotes and orders during Limit and Straddle states. Specifically, MIAX has proposed to keep the provisions of Exchange Rule 514 unaffected during Limit or Straddle states when a market maker receives relief from its quoting obligations.

Exchange Rule 514 describes, among other things, priority of quotes and orders on the Exchange, allocation methods used on the Exchange, and participation guarantees granted to certain Market Makers. Rule 514(g) details the Primary Lead Market Maker (''PLMM'') participation guarantee and Rule 514(h) describes the Directed Lead Market Maker (''DLMM'') participation guarantee. The participation guarantees set forth in Exchange Rule 514 only apply if the affected PLMM or DLMM has submitted a priority quote at the NBBO. The Exchange represented that, although proposed rule 530(f)(1) would relieve market makers, including PLMMs and DLMMs, from their quoting obligations during Limit or Straddle states, maintaining participation guarantees could encourage market makers to provide liquidity at the NBBO during such states.

3. Priority Quotes

Similarly, the Exchange proposed in Rule 530(g)(2)(i) to consider all market maker quotes submitted during Limit or Straddle states that result in an execution to be ''priority quotes,'' notwithstanding the usual criteria governing priority quotes that would otherwise be applicable under Rule 517(b).[17] When a quote is deemed a priority quote, it receives precedence for allocation purposes over all ''Professional Interest.''[18]

MIAX represented that the purpose of this proposed rule is to provide an incentive for Market Makers to submit quotations during Limit and Straddle states by affording their quotes priority quote status, ensuring them of priority executions over professional interest when they assume the risk of quoting at or near the NBBO during times of extreme volatility. As with the participation guarantees, a market maker quote is deemed a priority quote during such states only if it participates in an execution at the NBBO.

[14] As set forth in more detail in the Plan, all trading centers would be required to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock. The Processors would be able to disseminate an offer below the Lower Price Band or bid above the Upper Price Band that nevertheless may be inadvertently submitted despite such reasonable policies and procedures, but with an appropriate flag identifying it as non-executable; such bid or offer would not be included in National Best Bid or National Best Offer calculations. In addition, all trading centers would be required to develop, maintain, and enforce policies and procedures reasonably designed to prevent trades at prices outside the price bands, with the exception of single-priced opening, reopening, and closing transactions on the Primary Listing Exchange.

[15] *See* ''Limit Up-Limit Down Plan,'' *supra* note 7. *See also* Securities Exchange Act Release No. 68953 (February 20, 2013), 78 FR 13113 (February 26, 2013) (Second Amendment to Limit Up-Limit Down Plan by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Inc., *et al.*) and Securities Exchange Act Release No. 69062 (March 7, 2013), 78 FR 15757 (March 12, 2013) (Third Amendment to Limit Up-Limit Down Plan by BATS Exchange, Inc., BATS Y- Exchange, Inc., Chicago Board Options Exchange, Inc., *et al.*)

[16] *See* ''Second Amendment to Limit Up-Limit Down Plan,'' *supra* note 15.

[17] The otherwise applicable criteria governing priority quotes are: (A) The bid/ask differential of a Market Maker's two-sided quote pair must be valid width (no wider than the bid/ask differentials outlined in Rule 603(b)(4)); (B) the initial size of both of the Market Maker's bid and the offer must be in compliance with the requirements of Rule 604(b)(2); (C) the bid/ask differential of a Market Maker's two-sided quote pair must meet the priority quote width requirements defined below in subparagraph (ii) for each option; and (D) either of the following are true: (1) At the time a locking or crossing quote or order enters the System, the Market Maker's two-sided quote pair must be valid width for that option and must have been resting on the Book; or (2) Immediately prior to the time the Market Maker enters a new quote that locks or crosses the MBBO, the Market Maker must have had a valid width quote already existing (i.e., exclusive of the Market Maker's new marketable quote or update) among his two-sided quotes for that option. *See* Exchange Rule 517(b)(i).

[18] *See* Exchange Rule 517(b). ''Professional Interest'' is defined in Exchange Rule 100 to include orders for the account of a person or entity that is a broker or dealer in securities or places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

4. Opening Process

Proposed Rule 530(g) sets forth changes in the manner in which the Exchange's System will function during Limit and Straddle States. Specifically Proposed Rule 530(g)(1) describes the functionality of the Exchange's Opening Process [19] when a Straddle State or Limit State occurs before and during the Opening Process.

Proposed Rule 530(g)(1)(i) provides that Opening Process shall be delayed for options overlying an NMS Stock that entered a Straddle State or a Limit State prior to the opening of trading such overlying options. As proposed, the Opening Process shall begin when such Straddle or Limit State has ended and there is not a halt or Trading Pause in effect. The Exchange therefore will not open an option overlying an NMS Stock that is in a Limit State or Straddle State.

Proposed Rule 530(g)(1)(ii) addresses scenarios where the Exchange's Opening Process has started but not yet completed when the underlying NMS Stock enters a Straddle or Limit State. When the affected option is in the Opening Process but trading has not begun, the Opening Process will be terminated if the underlying NMS Stock is in a Limit or Straddle State. The Opening Process will begin anew in the affected overlying options when such Limit or Straddle State has ended and there is not a halt or Trading Pause in effect. Thus, if an Opening Process is occurring, it will cease and the Exchange shall re-commence the Opening Process from the beginning once the Limit or Straddle State is no longer present.

5. Trading Pauses and Opening After a Trading Pause

Proposed Rule 530(h) provides that the Exchange will halt trading in options overlying an NMS Stock that is subject to a trading pause. The Exchange clarified in Amendment No. 1 that proposed Rule 530(h) is intended merely to clarify that current Exchange Rule 504(c)—the generally applicable rule concerning the treatment of options overlying securities subject to a trading pause—shall equally apply when an underlying security becomes subject to a trading pause as a result of the Plan.

Proposed Rule 530(i) provides that the Exchange will open trading following a trading pause pursuant to the Exchange's opening procedures contained in Rule 503. Proposed Rule 530(i) further adds that the Exchange may resume trading in options contracts overlying an affected NMS Stock if trading on the Primary Listing Exchange has not resumed within ten minutes of receipt of a trading pause and at least one exchange has resumed trading in such NMS Stock.

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities exchange.[20] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[21] which, among other things, requires a national securities exchange to be so organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulation, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds that the proposal to suspend a market maker's obligations when the underlying security is in a Limit or Straddle State is consistent with the Act. During a Limit or Straddle State, there may not be a reliable price for the underlying security to serve as a benchmark for market makers to price options. In addition, the absence of an executable bid or offer for the underlying security will make it more difficult for market makers to hedge the purchase or sale of an option. Given these significant changes to the normal operating conditions of market makers, the Commission finds that the Exchange's decision to suspend a market maker's obligations in these limited circumstances is consistent with the Act.

The Commission notes, however, that the Plan was approved on a pilot basis and its Participants will monitor how it is functioning in the equity markets during the pilot period. To this end, the Commission expects that, upon implementation of the Plan, the Exchange will continue monitoring the quoting requirements that are being amended in this proposed rule change and that it will determine if any necessary adjustments are required to ensure that they remain consistent with the Act.

The Commission also finds that the proposal to maintain participation guarantees and priority quote treatment for market makers who participate in an execution at the NBBO during a Limit or Straddle state is consistent with the Act. To the extent that market makers are only eligible for such benefits if they are quoting at the best price on the Exchange, this proposal is reasonably designed to incentivize market makers to quote more aggressively when the underlying security has entered into a limit up-limit down state than they might otherwise quote, potentially providing additional liquidity and price discovery.

Lastly, the Commission finds that the Exchange's proposals concerning its Opening Process and use of trading halts when an underlying security is subject to a trading pause are consistent with the Act. The Exchange's proposal to delay its Opening Process for an option if the underlying has entered a Limit or Straddle is reasonably designed to avoid opening an option during a time when the price of the underlying security may be uncertain.[22] Similarly, the Commission finds that it is reasonable for the Exchange to halt trading in an option when the underlying security is subject to a trading pause under the Plan. This element of the Exchange's proposal is consistent with how the Exchange currently treats options when an underlying security is subject to a trading pause,[23] and is also consistent with the practice of other exchanges in this respect.[24]

In addition, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act [25] for approving the proposed rule change on an accelerated basis. This proposal is related to the Plan, which became operative on April 8, 2013. Accelerating approval will allow the proposed rule change, and any attendant benefits, to take effect as shortly after the Plan's implementation date as possible. Accordingly, the

[19] The Exchange's Opening Process is described in greater detail in Exchange Rule 503.

[20] In approving the proposed rule changes, the Commission has considered their impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b).

[22] The Exchange's proposal concerning its Opening Process is also consistent with what other exchanges have proposed. *See, e.g.,* Phlx Rule 1047(f)(i).

[23] *See* Exchange Rule 504(c).

[24] *See, e.g.,* CBOE Rule 6.3.06; NYSE Arca Rule 6.65(b); Phlx Rule 1047(e).

[25] 15 U.S.C. 78s(b)(2)

Commission finds that good cause exists for approving the proposed rule change on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [26] that the proposed rule change (SR–MIAX–2013–15), as modified by Amendment No. 1, is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08726 Filed 4–12–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69350; File No. SR–C2–2013–008]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Market-Maker Continuous Quoting Obligations

April 9, 2013.

I. Introduction

On February 8, 2013, C2 Options Exchange, Incorporated (''C2'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend C2's rules relating to Market-Maker [3] continuous quoting obligations. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on February 27, 2013.[4] The Commission did not receive any comment letters regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend its rules to exclude intra-day add-on series (''Intra-day Adds'') from Market-Makers' continuous quoting obligations on the day during which such series are added for trading.[5] In addition, the Exchange proposes to permit Designated Primary Market-Makers (''DPMs'') [6] to receive participation entitlements in all Intra-day Adds on the day during which such series are added for trading provided that the DPM elects to quote in such series and otherwise satisfies the requirements set forth in Rule 8.19(b).[7]

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

According to C2, several Market-Makers have communicated to the Exchange that their trading systems do not automatically produce continuous quotes in Intra-day Adds on the trading day during which those series are added and that the only way they could quote in these series in the trading day during which they were added would be to shut down and restart their systems.[10] Further, the Exchange states that Market-Makers have indicated that the work that would be required to modify their systems to permit quoting in Intra-day Adds would be significant and costly.[11] In addition, the Exchange indicates that Intra-day Adds represent only approximately 0.10% of the average number of series listed on the Exchange each trading day, and that Market-Makers will still be obligated to provide continuous two-sided markets in a substantial number of series in their appointed classes.[12]

The Exchange believes that it would be impracticable, particularly given that a number of Market-Makers use their systems to quote on multiple markets and not solely on the Exchange, for Market-Makers to turn off their entire systems to accommodate quoting in Intra-day Adds on the day during which those series are added on the Exchange. In addition, the Exchange believes this would interfere with the continuity of its market and reduce liquidity, which would ultimately harm investors and contradicts the purpose of the Market-Maker continuous quoting obligation.[13]

The Exchange does not believe that the proposed rule change would adversely affect the quality of the Exchange's markets or lead to a material decrease in liquidity. Rather, the Exchange believes that its current market structure, with its high rate of participation by Market-Makers, permits the proposed rule change without fear of losing liquidity. The Exchange also believes that market-making activity and liquidity could materially decrease without the proposed rule change to exclude Intra-day Adds from Market-Maker continuous quoting obligations on the trading day during which they are added for trading.[14]

The Exchange believes that this proposed relief will encourage Market-Makers to continue appointments and other Trading Permit Holders (''TPHs'') to request Market-Maker appointments, and, as a result, expand liquidity in options classes listed on the Exchange to the benefit of the Exchange and its TPHs and public customers. The Exchange believes that its Market-Makers would be disadvantaged without this proposed relief, and that TPHs and public customers would also be disadvantaged if Market-Makers withdrew from appointments in options classes, resulting in reduced liquidity and volume in these classes.[15]

In addition, the Exchange believes that the proposed rule change to clarify that Market-Makers may receive participation entitlements in Intra-day Adds on the day during which such series are added for trading if they satisfy the other entitlement requirements as set forth in Exchange rules, even if the rules do not require the Market-Makers to continuously quote in those series, will incentivize Market-Makers to quote in series in

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[26] 15 U.S.C. 78f(b)(2).

[27] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] C2 Rule 1.1 defines ''Market-Maker'' as ''a Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter 8 of [the C2] Rules.''

[4] *See* Securities Exchange Act Release No. 68964 (February 21, 2013), 78 FR 13389 (''Notice'').

[5] *See id.* at 13389. According to the Exchange, Intra-day Adds are series that are added to the Exchange system after the opening of the Exchange, rather than prior to the beginning of trading. *See id.* at 13389–90.

[6] C2 Rule 1.1 defines ''DPM'' as ''a Participant organization that is approved by the Exchange to function in allocated securities as a Market-Maker (as defined in Rule 1.1) and is subject to the obligations under Rule 8.17 or as otherwise provided under the Rules.''

[7] *See* Notice, *supra* note 4, 78 FR at 13389.

[8] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Notice, *supra* note 4, 78 FR at 13390.

[11] *See id.*

[12] *See id.* at 13391.

[13] *See id.* at 13390.

[14] *See id.* at 13391.

[15] *See id.*

which they are not required to quote, which may increase liquidity in their appointed classes.[16]

The Exchange's proposal to exclude Intra-day Adds from Market-Makers' continuous electronic quoting obligations on the day during which such series are added for trading would not affect Market-Makers' other obligations. For example, Market-Makers will still be required to engage in activities that constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, including (1) to compete with other Market-Makers to improve markets in all series of options classes comprising their appointments; (2) to make markets that, absent changed market conditions, will be honored in accordance with firm quote rules; and (3) to update market quotations in response to changed market conditions in their appointed options classes and to assure that any market quote they cause to be disseminated is accurate.[17] In addition, the proposed rule change would not excuse a Market-Maker from its obligation to submit a single quote or to maintain continuous quotes in one or more series of a class to which the Market-Maker is appointed when called upon by an Exchange official if, in the judgment of such official, it is necessary to do so in the interest of maintaining a fair and orderly market.[18]

The Commission notes that the Exchange indicates that Market-Makers would be required to shut down and restart their systems, or make costly systems changes, in order to quote in Intra-day Adds. A requirement for Market-Makers to maintain continuous electronic quotes in Intra-day Adds, which represents a minor part of Market-Makers' overall obligations, may not justify the system resources, or the disruption to trading, the Exchange states would be necessary to accommodate quoting in Intra-day Adds. Accordingly, the Commission believes that the Exchange's proposal concerning Intra-day Adds would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19]that the proposed rule change (SR–C2–2013–008), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08725 Filed 4–12–13; 8:45 am]

BILLING CODE 8011–01–P

[16] *See id.*

[17] *See* C2 Rule 8.5(a).

[18] *See* C2 Rule 8.5(d).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13530 and #13531]

Alabama Disaster #AL–00049

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Alabama dated 04/04/2013.

Incident: Severe Storms.

Incident Period: 03/18/2013 through 03/19/2013.

Effective Date: 04/04/2013.

Physical Loan Application Deadline Date: 06/03/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 01/06/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: De Kalb, Etowah.

Contiguous Counties:

Alabama: Blount, Calhoun, Cherokee, Jackson, Marshall, Saint Clair.

Georgia: Chattooga, Dade, Walker.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.375
Homeowners Without Credit Available Elsewhere	1.688
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13530 B and for economic injury is 13531 0.

The States which received an EIDL Declaration # are Alabama. Georgia.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: April 4, 2013.

Karen G. Mills,

Administrator.

[FR Doc. 2013–08761 Filed 4–12–13; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2012–0071]

Social Security Ruling, SSR 13–1p; Titles II and XVI: Agency Processes for Addressing Allegations of Unfairness, Prejudice, Partiality, Bias, Misconduct, or Discrimination by Administrative Law Judges (ALJs); Correction

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling; Correction.

SUMMARY: The Social Security Administration published a document in the **Federal Register** of January 29, 2013, in FR Doc. 2013–01833, on page 6171, in the third column, the last line of the document change ''30 days'' to ''60 days''.

Paul Kryglik,

Director, Office of Regulations, Social Security Administration.

[FR Doc. 2013–08804 Filed 4–12–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8273]

60-Day Notice of Proposed Information Collection: PEPFAR Program Expenditures

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to June 14, 2013.

ADDRESSES:

You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may use the Federal Docket Management System (FDMS) to comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Public Notice ####'' in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.
- *Email: duboisa@state.gov*
- *Mail:* Office of the U.S. Global AIDS Coordinator (S/GAC), U.S. Department of State, SA–29, 2100 Pennsylvania Avenue NW., Suite 200, Washington, DC 20522–2920
- *Fax:* 202–663–2979

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Dr. Amy DuBois, 2100 Pennsylvania Avenue NW., Suite 200, SA–29, Washington, DC 20522–2920, who may be reached on 202–663–2440 or at *duboisa@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* PEPFAR Program Expenditures
- *OMB Control Number:* 1405–0208
- *Type of Request:* Revision of a Currently Approved Collection
- *Originating Office:* Office of the U.S. Global AIDS Coordinator (S/GAC)
- *Form Number:* DS–4213
- *Respondents:* Recipients of U.S. government funds appropriated to carry out the President's Emergency Plan for AIDS Relief (PEPFAR)
- *Estimated Number of Respondents:* 1581
- *Estimated Number of Responses:* 1581
- *Average Time per Response:* 24 hours
- *Total Estimated Burden Time:* 37,944 hours
- *Frequency:* Annually
- *Obligation To Respond:* Mandatory

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The U.S. President's Emergency Plan for AIDS Relief (PEPFAR) was established through enactment of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Pub. L. 108–25), as amended by the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (Pub. L. 110–293) (HIV/AIDS Leadership Act) to support the global response to HIV/AIDS. In order to improve program monitoring, the interagency Finance and Economics Work Group supporting PEPFAR has added reporting of expenditures by program area to the current routine reporting of program results for the annual report. Data are collected from implementing partners in countries with PEPFAR programs using a standard tool (DS–4213) via an electronic web-based interface into which users directly input data. These data are analyzed to produce mean and range in expenditures by partner per result/achievement for all PEPFAR program areas. These analyses then feed into partner and program reviews at the country level for monitoring and evaluation on an ongoing basis. Summaries of these data provide key information about program costs under PEPFAR on a global level. Applying expenditure results will improve strategic budgeting, identification of efficient means of delivering services, accuracy in defining program targets, and will inform allocation of resources to ensure the program is accountable and using public funds for maximum impact.

Methodology: Data will be collected in a web-based interface available to all partners receiving funds under PEPFAR. To minimize the respondents' reporting burden and need for information technology investment, a new module capturing expenditure data was added to an already functional system. System upgrades now allow collection of the same information but no longer require uploading and downloading of spreadsheet templates. This approach has minimized U.S. government start up costs for the technology and will make the data collection processes more efficient.

Dated: April 1, 2013.

Deborah von Zinkernagel,

Principal Deputy, Office of the U.S. Global AIDS Coordinator, Department of State.

[FR Doc. 2013–08787 Filed 4–12–13; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 8274]

Culturally Significant Objects Imported for Exhibition Determinations: ''40 Part Motet''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''40 Part Motet,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Cleveland Museum of Art, Cleveland, OH, from on or about May 4, 2013, until on or about June 9, 2013; The Metropolitan Museum of Art, New York, NY, from on or about November 9, 2013, until on or about December 8, 2013, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: April 9, 2013.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–08789 Filed 4–12–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Environmental Impact Statement for the All Aboard Florida Miami—Orlando Passenger Rail Project

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: FRA is issuing this notice to advise the public that FRA will prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental and related impacts of constructing and operating an intercity passenger rail service proposed by the private company, All Aboard Florida—Operations LLC (AAF), between Miami and Orlando, Florida, with intermediate stops in Fort Lauderdale and West Palm Beach, Florida (Proposed Action). FRA will evaluate alternatives for construction and operation of the Proposed Action, which would include infrastructure improvements to existing rail corridor right-of-way between Miami and Cocoa, and the development of a new rail corridor between Cocoa and Orlando. FRA will also evaluate a No Action (No Build) Alternative. FRA is issuing this notice to solicit public and agency input into the development of the scope of the EIS and to advise the public that outreach activities conducted by FRA, AAF and its representatives will be considered in the preparation of the EIS. To ensure all significant issues are identified and considered, the public is invited to comment on the scope of the EIS, including the purpose and need, alternatives to be considered, impacts to be evaluated, and methodologies to be used in the evaluation.

DATES: FRA invites the public, governmental agencies, and all other interested parties to comment on the scope of the EIS. All such comments should be provided to FRA, in writing, within thirty (30) days of the publication of this notice, at the address listed below. Comments may also be provided orally or in writing at the scoping meetings for the Project. Scoping meeting dates, times and locations, in addition to related Project information can be found online at *www.allaboardflorida.com* or *www.fra.dot.gov.*

ADDRESSES: Written comments on the scope of the EIS may be mailed or emailed within thirty (30) days of the publication of this notice to Catherine Dobbs, Transportation Industry Analyst, Office of Railroad Policy and Development, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, or *catherine.dobbs@dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ali Soule, Public Affairs Manager, All Aboard Florida—Operations LLC, 2855 LeJeune Road, 4th Floor, Coral Gables, FL 33134, *eis@allaboardflorida.com,* or Catherine Dobbs, Transportation Industry Analyst, Office of Railroad Policy and Development, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *catherine.dobbs@dot.gov.* Information and documents regarding the EIS process will also be made available through the FRA Web site at *www.fra.dot.gov* and the AAF Web site at *www.allaboardflorida.com.*

SUPPLEMENTARY INFORMATION: FRA is preparing an EIS for a 235-mile intercity passenger railroad system proposed by AAF that will connect Orlando and Miami, Florida, with intermediate stops in Fort Lauderdale and West Palm Beach, Florida (Project). The proposed Project is composed of two connected corridors: (1) A north-south corridor of approximately 195 miles from Miami to Cocoa within an existing rail right-of-way, and (2) an east-west corridor of approximately 40 miles from Cocoa to the Orlando International Airport (MCO). The EIS will evaluate the potential environmental and related impacts of constructing and operating the Project within these corridors in Florida.

Environmental Review Process

The EIS will be developed in accordance with the Council on Environmental Quality (CEQ) regulations (40 CFR part 1500 *et. seq.*) implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (NEPA) and FRA's Procedures for Considering Environmental Impacts (64 FR 28545, May 26, 1999). In addition to NEPA, the EIS will address other applicable statutes, regulations and executive orders, including the 1980 Clean Air Act Amendments, Section 404 of the Clean Water Act, the National Historic Preservation Act, Section 4(f) of the Department of Transportation Act, the Endangered Species Act and Executive Order 12898 on Environmental Justice. The EIS will consider alternatives that could include the use of, or access over, an interstate right-of-way and thus may involve the Federal Highway Administration. The Project's new corridor from Cocoa to MCO may involve alteration and fill of waters of the United States and thus the EIS process will involve the US Army Corps of Engineers, which is expected to serve as a cooperating agency. The Project is proposed to terminate at MCO, the Orlando International Airport, and thus may require review pursuant to the applicable requirements of the Federal Aviation Administration. The purpose of the EIS will be to provide the FRA, reviewing and cooperating agencies, and the public with information to assess alternatives that will meet the Project's purpose and need; to evaluate the potential environmental impacts; and to identify potential avoidance/mitigation measures, associated with the proposed Project alternatives.

Project Background

Florida has historically experienced major population, employment, and tourism growth, which is expected to continue in the coming decades. Florida's travelers are subject to chronic congestion and delays due to inadequate roadway capacity. The limited capacity results in higher road maintenance costs, increased fuel consumption, greater emissions and increased traffic incidents stemming from the high traffic volume. Significant roadway expansion along the I–95 corridor would be expected to cause a large number of displacements and other substantial environmental impacts while failing to provide an alternative to automobile travel.

As an alternative to additional highway development, this Project would help meet the existing need and demand for safe, convenient, and reliable transportation through the development of a privately-owned, operated and maintained intercity passenger rail service between four stations in Orlando, West Palm Beach, Fort Lauderdale, and Miami. Development of passenger rail will also support economic development by generating new revenue and creating

jobs and fulfill several public policy objectives concerning the environment.

AAF is a subsidiary of Florida East Coast Industries, Inc. (FECI), which is a transportation, infrastructure and commercial real estate company based in Coral Gables, Florida. Florida East Coast Railway, L.L.C. (FECR), an affiliate of FECI, owns the right-of-way and existing railroad infrastructure within the corridor between Miami and Jacksonville, over which FECR operates a freight rail service (FEC Corridor). AAF has an exclusive, perpetual easement granted by FECR whereby AAF may develop and operate the proposed passenger service within the FEC Corridor. AAF will operate the proposed passenger rail service within the FEC Corridor in coordination with FECR's continued freight service. AAF is working to secure access to use the right-of-way of State Road 528 between Cocoa and MCO through a combination of passenger rail leases and easements.

FRA issued a finding of no significant impact on January 31, 2013 for passenger rail service and rail and station improvements proposed by AAF between Miami, Fort Lauderdale and West Palm Beach. These improvements would return this 66 mile portion of the FEC Corridor to its historic dual-track system, providing fast, dependable and efficient passenger rail service between West Palm Beach and Miami. The proposed Miami to Orlando passenger rail project would expand this initial service to MCO.

The proposed Project would use stations developed for the Miami to West Palm Beach project that will be located in the central business districts of Miami, Fort Lauderdale, and West Palm Beach, supporting development in these urban centers. The proposed station at MCO is expected to be developed by the Greater Orlando Airport Authority as part of a $1 billion South Terminal Expansion that will include a 3,500-space parking garage and the development of a multi-modal depot.

As proposed, 195 miles of the Project would operate within an active freight rail corridor that has existed for more than 100 years. Proposed alternatives for the remaining 40 miles connecting Cocoa and Orlando generally parallel the existing State Road 528 right-of-way.

Scoping and Public Involvement

FRA encourages broad participation in the EIS process during scoping and review of the resulting environmental documents. Comments are invited from all interested agencies and the public to ensure the full range of issues related to the Proposed Action are addressed, reasonable alternatives are considered, and significant issues are identified. In particular, FRA is interested in identifying areas of environmental concern where there might be a potential for significant impacts. Public agencies with jurisdiction are requested to advise FRA and AAF of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed Project. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed Project and if they wish to cooperate in the preparation of the EIS.

Public scoping opportunities and meetings will be scheduled as described above and are an important component of the scoping process for Federal environmental review. FRA is seeking participation and input of interested Federal, State, and local agencies, Native American groups, and other concerned private organizations and individuals on the scope of the EIS. The Project may affect historic properties and may be subject to the requirements of Section 106 of the National Historic Preservation Act of 1966 (NHPA) (16 U.S.C. 470(f)). In accordance with regulations issued by the Advisory Council on Historic Preservation (36 CFR part 800), FRA intends to coordinate compliance with Section 106 of the NHPA with the preparation of the EIS, beginning with the identification of consulting parties through the scoping process, in a manner consistent with the standards set out in 36 CFR 800.8.

Issued in Washington, DC, on April 5, 2013.

Corey Hill,

Director, Passenger and Freight Programs.

[FR Doc. 2013–08745 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2011–0069]

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 24, 2013, Steam Into History, Inc. (Steam) 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 223, Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses. FRA assigned the petition Docket Number FRA–2011–0069.

Kloke Locomotive Works is constructing for Steam a newly built (2013) replica of a steam locomotive that was originally built in the 1800s. York #17, the locomotive that is the subject of Steam's waiver petition, is a replica of Union Pacific #119, which was constructed in 1979 from the same blueprints and tooling that is being used for the construction of York #17. Union Pacific #119 is owned and operated by the U.S. National Park Service at the Golden Spike National Historic Site in Promontory Summit, UT. Steam intends to operate York #17 with its replica Civil War-era train on the former Northern Central Railway in York County, PA.

Steam asks that FRA determine that 49 CFR part 223 not apply to York #17 because of the language in 49 CFR 223.3, *Application,* which provides an exemption for ''locomotives * * * that are historical or antiquated equipment and are used only for excursion, educational, recreational purposes or private transportation purposes.'' Steam states that York #17 is an accurate, historical design locomotive and will be used primarily for educational purposes. It will also be used for excursions, primarily in an historical, educational context. Steam submits that, because of the historic nature and primarily educational mission of York #17, 49 CFR part 223 should not apply to it.

In the event that FRA determines that York #17 does not qualify for an exemption pursuant to 49 CFR 223.3, Steam requests relief from 49 CFR 223.9, *Requirements for new or rebuilt equipment,* due to its mitigating use of tempered automotive safety-type glazing in the locomotive cab and the open nature of the wooden cab on the locomotive. Additionally, Steam asserts that the historical appearance of York #17 would be unrecognizable with the installation of 49 CFR part 223 glazing.

Steam submitted a similar waiver petition to FRA on July 28, 2011, but FRA dismissed the petition without prejudice on February 3, 2012, because the design of York #17 was not finalized and a sample car (locomotive) inspection could not be performed.

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 30, 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 8, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–08489 Filed 4–12–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities; Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and Request for Comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995.

Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice.

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning renewal of its information collection titled, ''Lending Limits.''

DATES: Comments must be submitted on or before June 14, 2013.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0221, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: You may request additional information from Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

SUPPLEMENTARY INFORMATION:

Title: Lending Limits—12 CFR 32.

Type of Review: Extension, without revision, of a currently approved collection.

OMB Control Number: 1557–0221.

Description: Twelve CFR 32.7(a) provides special lending limits for 1–4 family residential real estate loans, small business loans, and small farm loans for eligible national banks and savings associations. National banks and savings associations that seek to use these special lending limits must apply to the OCC, under 12 CFR 32.7(b), and receive approval before using the special lending limits. The OCC needs the information in the application to evaluate whether a national bank or savings association is eligible to use the special lending limits and to ensure that the safety and soundness of the bank or savings association will not be jeopardized.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 57.

Estimated Number of Responses: 57.

Estimated Burden per Response: 26 hours.

Estimated Annual Burden: 1,482 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of the capital or start-up costs and the costs associated with the operation, maintenance, and acquisition of services necessary to provide the required information.

Dated: April 9, 2013.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2013–08706 Filed 4–12–13; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0586]

Proposed Information Collection (Technical Industry Standards) Activity: Comment Request

AGENCY: Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Acquisition and Logistics (OA&L), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to ensure items being purchased meet minimum safety standards.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 14, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Sylvester Rainey, OA&L (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *sylvester.rainey@va.gov.* Please refer to ''OMB Control No. 2900–0586'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Sylvester Rainey at (202) 632–5993 or Fax (202) 343–1434.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OA&L invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OA&L's functions, including whether the information will have practical utility; (2) the accuracy of OA&L's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Affairs Acquisition Regulation (VAAR) Provision 852.211–72 (formerly 852.211–75), Technical Industry Standards.

OMB Control Number: 2900–0586.

Type of Review: Extension of a currently approved collection.

Abstract: VAAR provision 852.211–72, Technical Industry Standards, requires items offered for sale to VA under the solicitation conform to certain technical industry standards, such as Underwriters Laboratory (UL) or the National Fire Protection Association. Contractor must furnish evidence to VA stating that the items meet the requirements. The evidence can be in a tag or seal affixed to the item, such as the UL tag on an electrical cord or a tag on a fire-rated door. Items that do not meet the standards or not previously tested must come with a certificate from an acceptable laboratory certifying that the items furnished were tested in accordance with, and conform to, the specified standards.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 1225 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2450.

Dated: April 9, 2013.

By direction of the Secretary:

William F. Russo,

Deputy Director, Office of Regulations Policy and Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2013–08739 Filed 4–12–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0589]

Proposed Information Collection (Purchase of Shellfish) Activity: Comment Request

AGENCY: Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Acquisition and Logistics (OA&L), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to ensure that shellfish purchased by VA are from a State- and Federal-approved and inspected source.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 14, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System

(FDMS) at *www.Regulations.gov;* or Sylvester Rainey, OA&L (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *sylvester.rainey@va.gov.* Please refer to ''OMB Control No. 2900–0588'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Sylvester Rainey at (202) 632–5339 or Fax (202) 343–1434.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OA&L invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OA&L's functions, including whether the information will have practical utility; (2) the accuracy of OA&L's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Affairs Acquisition Regulation (VAAR) Provision 852.270–3, Shellfish.

OMB Control Number: 2900–0589.

Type of Review: Extension of a currently approved collection.

Abstract: VAAR clause 852.270–3, Purchase of Shellfish, requires a firm furnishing shellfish must ensure the item are packaged in approved container and labeled with the packer's State certificate number and State abbreviation. In addition, the firm must ensure the container is tagged or labeled indicating the name and address of the approved producer or shipper, the name of the State of origin, and the certificate number of the approved producer or shipper. The information is used to ensure shellfish purchased by VA are from a State and Federal approved and inspected source.

Affected Public: Business or other for-profit.

Estimated Annual Burden: .5 hours.

Estimated Average Burden per Respondent: 1 minute.

Frequency of Response: On occasion.

Estimated Number of Respondents: 25.

Dated: April 9, 2013.

By direction of the Secretary:

William F. Russo,

Deputy Director, Office of Regulations Policy and Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2013–08736 Filed 4–12–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0588]

Proposed Information Collection (Special Notice) Activity: Comment Request

AGENCY: Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Acquisition and Logistics (OA&L), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to ensure that equipment proposed by the contractor meets specification requirements.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 14, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or Sylvester Rainey, OA&L (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *sylvester.rainey@va.gov.* Please refer to ''OMB Control No. 2900–0588'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Sylvester Rainey at (202) 632–5339 or Fax (202) 343–1434.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OA&L invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OA&L's functions, including whether the information will have practical utility; (2) the accuracy of OA&L's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Affairs Acquisition Regulation (VAAR) Provision 852.211–71, Special Notice (previously 852.210–74).

OMB Control Number: 2900–0588.

Type of Review: Extension of a currently approved collection.

Abstract: VAAR provision 852.211–71, Special Notice, is used only in VA's telephone system acquisition solicitations and requires the contractor, after award of the contract, to submit descriptive literature on the equipment stating the equipment meets specification requirements of the solicitation.

Affected Public: Business or other for-profit and Not-for-profit institutions.

Estimated Annual Burden: 875 hours.

Estimated Average Burden per Respondent: 5 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents: 175.

Dated: April 9, 2013.

By direction of the Secretary:

William F. Russo,

Deputy Director, Office of Regulations Policy and Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2013–08737 Filed 4–12–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0587]

Proposed Information Collection (Service Data Manual) Activity: Comment Request

AGENCY: Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Acquisition and Logistics (OA&L), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to repair technical medical equipment and devices or mechanical equipment.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 14, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Sylvester Rainey, OA&L (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *sylvester.rainey@va.gov.* Please refer to ''OMB Control No. 2900–0587'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Sylvester Rainey at (202) 632–5339 or Fax (202) 343–1434.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OA&L invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OA&L's functions, including whether the information will have practical utility; (2) the accuracy of OA&L's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Affairs Acquisition Regulation (VAAR) Clause 852.211–70, Service Data Manual.

OMB Control Number: 2900–0587.

Type of Review: Extension of a currently approved collection.

Abstract: VAAR clause 852.211–70, Service Data Manual, requires a contractor to furnish both operator's manuals and maintenance/repair manuals when technical medical equipment and devices, or mechanical equipment are provided to VA. This clause sets forth those requirements and the minimum standards the manuals must meet to be acceptable. The operator's manual will be used by the individual operating the equipment to ensure proper operation and cleaning and the maintenance/repair manual will be used by VA equipment repair staff.

Affected Public: Business or other for-profit and Not-for-profit institutions.

Estimated Annual Burden: 621 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3725.

Dated: April 9, 2013.

By direction of the Secretary:

William F. Russo,

Deputy Director, Office of Regulations Policy and Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2013–08738 Filed 4–12–13; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 78 Monday,

No. 72 April 15, 2013

Part II

Environmental Protection Agency

40 CFR Part 63

National Emissions Standards for Hazardous Air Pollutants: Mineral Wool Production and Wool Fiberglass Manufacturing; National Emission Standards for Hazardous Air Pollutants for Gas-Fired Melting Furnaces Located at Wool Fiberglass Manufacturing Area Sources; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2010–1041 and EPA–HQ–OAR–2010–1042; FRL–9682–8]

RIN 2060–AQ90

National Emissions Standards for Hazardous Air Pollutants: Mineral Wool Production and Wool Fiberglass Manufacturing; National Emission Standards for Hazardous Air Pollutants for Gas-Fired Melting Furnaces Located at Wool Fiberglass Manufacturing Area Sources

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: This action proposes chromium and particulate matter (for metals) standards for wool fiberglass gas-fired glass-melting furnaces at area sources and adds these sources to the category list in the Urban Air Toxics Strategy. It also proposes amendments to the existing major source rules for Mineral Wool and Wool Fiberglass, supplementing the rule proposed on November 25, 2011. The proposed area source standards for the gas-fired glass-melting furnaces used to make wool fiberglass would increase the level of environmental protection.

DATES: Comments must be received on or before May 30, 2013. If anyone contacts the EPA requesting a public hearing by April 22, 2013, we will hold a public hearing on May 6, 2013. Under the Paperwork Reduction Act, comments on the information collection provisions are best assured of having full effect if the Office of Management and Budget receives a copy of your comments on or before May 15, 2013.

ADDRESSES: Submit your comments on the proposed wool fiberglass area source rule and the major source RTR amendments, identified by Docket ID Number EPA–HQ–OAR–2010–1042, or the mineral wool RTR amendments, identified by EPA–HQ–OAR–2010–1041, by one of the following methods:

- *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Attention Docket ID Number EPA–HQ–OAR–2010–1041 or EPA–HQ–OAR–2010–1042.
- *Fax:* (202) 566–9744, Attention Docket ID Number EPA–HQ–OAR–2010–1041 or EPA–HQ–OAR–2010–1042.
- *Mail:* U.S. Postal Service, send comments to: EPA Docket Center, EPA West (Air Docket), Attention Docket ID Number EPA–HQ–OAR–2010–1041 or EPA–HQ–OAR–2010–1042, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand Delivery/Courier:* U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004, Attention Docket ID Number EPA–HQ–OAR–2010–1041 or EPA–HQ–OAR–2010–1042. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments on the Mineral Wool RTR to Docket ID Number EPA–HQ–OAR–2010–1041 and direct your comments on the Wool Fiberglass RTR and proposed area source rule to Docket ID Number EPA–HQ–OAR–2010–1042. The EPA's policy is that all comments received will be included in the public docket without change to *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: The EPA has established dockets for these rulemakings under Docket ID Number EPA–HQ–OAR–2010–1041 (Mineral Wool Production) and EPA–HQ–OAR–2010–1042 (Wool Fiberglass Manufacturing). All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about these proposed actions, contact Ms. Susan Fairchild, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541–5167; fax number: (919) 541–3207; and email address: *fairchild.susan@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Scott Throwe, Office of Enforcement and Compliance Assurance, U.S. EPA Headquarters Ariel Rios Building, 1200 Pennsylvania Avenue NW., Mail Code: 2227A, Washington, DC 20460; telephone number: (202) 564–7013; fax number: (202) 564–0050; email address: *throwe.scott@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

AEGL acute exposure guideline levels
CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
CO Carbon monoxide
COS Carbonyl sulfide
EPA Environmental Protection Agency
ESP electrostatic precipitators
FA flame attenuation
GP General Provisions
HAP hazardous air pollutants

HCl Hydrogen chloride
HF Hydrogen fluoride
HI Hazard Index
HQ Hazard Quotient
lb/ton pounds per ton
MACT maximum achievable control technology
MIR maximum individual risk
NAICS North American Industry Classification System
NaOH Sodium hydroxide
NESHAP National Emissions Standards for Hazardous Air Pollutants
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PM Particulate matter
RFA Regulatory Flexibility Act
RS rotary spin
RTO regenerative thermal oxidizers
RTR residual risk and technology review
SBA Small Business Administration
SO_2 Sulfur dioxide
SSM startup, shutdown, and malfunction
tpy tons per year
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act

Organization of this Document. The information in this preamble is organized as follows:

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B. Where can I get a copy of this document?
C. What should I consider as I prepare my comments for the EPA?
D. When will a public hearing occur?
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B. What are the HAP-emitting processes in wool fiberglass manufacturing at area and major sources?
C. What is the regulatory history for wool fiberglass manufacturing?
D. What is the authority for the development of NESHAP for area sources?
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A. What are the proposed applicability requirements?
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C. What are the proposed measurement methods, monitoring, reporting and recordkeeping requirements for glass-melting furnaces located at wool fiberglass manufacturing area sources?
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IV. How did we develop the proposed standards for glass-melting furnaces located at wool fiberglass manufacturing area sources?
A. How did the EPA select the emissions sources and pollutants to regulate?
B. How did the EPA select the format for the proposed rule for glass-melting furnaces located at wool fiberglass manufacturing area sources?
C. How did the EPA determine the proposed emission standards for glass-melting furnaces located at wool fiberglass manufacturing area sources?
D. How did the EPA determine the compliance and monitoring requirements for the Wool Fiberglass Manufacturing area sources proposed rule?
E. How did the EPA determine compliance dates for the proposed Wool Fiberglass Manufacturing area sources rule?
F. How did the EPA determine recordkeeping and reporting requirements for the Wool Fiberglass Manufacturing area sources proposed rule?
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A. Subpart DDD—Mineral Wool Production Major Source Rule
B. Subpart NNN—Wool Fiberglass Manufacturing Major Source Rule
C. Revisions to Startup, Shutdown and Malfunction Provisions
VII. Impacts of the Proposed Changes to Mineral Wool Production (Subpart DDD) and Wool Fiberglass Manufacturing (Subpart NNN) Major Source Rules
A. Subpart DDD—Mineral Wool Production Major Source Rule
B. Subpart NNN—Wool Fiberglass Manufacturing Major Source Rule
VIII. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

A. Does this action apply to me?

Regulated Entities. Categories and entities potentially regulated by this action are shown in Table 1 below.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	NAICS code [1]
Mineral Wool Production	Mineral Wool Production	327993
Wool Fiberglass Manufacturing	Wool Fiberglass Manufacturing	327993

[1] North American Industry Classification System.

Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this proposed action for the source categories listed. To determine whether your facility would be affected, you should examine the applicability criteria in the appropriate NESHAP.

If you have any questions regarding the applicability of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this proposed action will also be available on the worldwide web through the EPA's TTN. Following signature, a copy of the proposed action will be posted on

the TTN's policy and guidance page for newly proposed and promulgated rules at the following address: *http://www.epa.gov/ttn/caaa/new.html.* The TTN provides information and technology exchange in various areas of air pollution control. Additional information is available on the RTR Web page at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes source category descriptions and detailed emissions and other data that were used as inputs to the proposed rule development.

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

Submitting CBI. Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. If you submit a CD ROM or disk that does not contain CBI, mark the outside of the disk or CD ROM clearly indicating that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID Number EPA–HQ–OAR–2010–1042 (Wool Fiberglass).

D. When will a public hearing occur?

If a public hearing is requested by April 22, 2013, it will be held on May 6, 2013, at the EPA's Research Triangle Park Campus room C113, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. The hearing will convene at 1 p.m. (Eastern Standard Time) and end at 5 p.m. (Eastern Standard Time). Please contact Pamela Garrett at (919) (541–7966) or at *garrett.pamela@epa.gov* to request a hearing, to determine if a hearing will be held and to register to speak at the hearing, if one is held. If a hearing is requested, the last day to pre-register in advance to speak at the hearing will be Wednesday, May 1, 2013. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, please let us know at the time of registration. If no one contacts the EPA requesting a public hearing to be held concerning this proposed rule by April 22, 2013 a public hearing will not take place.

If a hearing is not requested by April 22, 2013 one will not be held. If a hearing is held it will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing, if held, will be at a U.S. governmental facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons. The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. If a hearing is held on May 6, 2013, written comments on the proposed rule must be postmarked by June 5, 2013. Commenters should notify Ms. Garrett if they will need specific equipment, or if there are other special needs related to providing comments at the hearing. The EPA will provide equipment for commenters to show overhead slides or make computerized slide presentations if we receive special requests in advance. Oral testimony will be limited to 5 minutes for each commenter. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email or CD) or in hard copy form. Verbatim transcripts of the hearings and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. Information regarding the hearing (including information as to whether or not one will be held) will be available at: *http://www.epa.gov/ttnatw01/woolfib/woolfipg.html.* Again, all requests for a public hearing to be held must be received by April 22, 2013.

II. Background Information for Proposed Area Source Standards

A. What is the Wool Fiberglass Manufacturing source category?

In 1992, the EPA listed the Wool Fiberglass Manufacturing major source category and defined that category to include any facility engaged in producing wool fiberglass from sand, feldspar, sodium sulfate, anhydrous borax, boric acid or any other materials. In the wool fiberglass manufacturing process, molten glass is formed into fibers that are bonded with an organic resin to create a wool-like material that is used as thermal or acoustical insulation. The Wool Fiberglass Manufacturing source category includes, but is not limited to, the following processes: Glass-melting furnace, marble-forming, refining, fiber-forming, binder application, curing and cooling. Though the listing was for major sources, all of the manufacturing process steps described here are applicable to both major and area sources. The only difference is that area sources use a formulation for some or all of their binders that does not contain HAP, and, thus, emissions do not exceed the major source threshold. These changes to the bonded lines are independent of and occur downstream of the furnace. Also, furnaces located at major and area sources have the same emissions profiles.

Wool fiberglass manufacturing facilities at major and area sources typically operate one or more manufacturing lines. Refined raw materials for the glass batch are weighed, mixed, and conveyed to the glass-melting furnace, which may be gas-fired, electric, oxygen-enriched or gas and electric combined.

The glass-melting furnace is lined with refractory bricks, providing thermal insulation and corrosion protection. According to industry statements in product specification materials and in ICR responses regarding refractory composition and furnace design, these bricks may contain significant amounts (over 94 percent by weight) of chromium-containing

compounds.[1] Specifically, the 114 responses, which were completed by all wool fiberglass companies, listed the chromium content of the refractory linings of the glass melting furnaces. The chromium content of the refractories in use at wool fiberglass furnaces ranged from 30–94 percent chromium compounds, with a chromium content of up to 68 percent (chromium by weight). The primary component of wool fiberglass is silica (quartz) sand, but it also includes varying quantities of feldspar, sodium sulfate, anhydrous borax, boric acid, previously melted glass and many other materials. Previously melted glass in the form of marbles or crushed recycled glass (cullet) is a primary component in most batches.

In the first step of wool fiberglass manufacturing, raw materials are introduced continuously or in batches on top of a bed of molten glass into glass-melting furnaces where they mix and dissolve at temperatures ranging from 2,700 °F to 3,100 °F (1,500 °C to 1,700 °C), and are transformed by a series of chemical and thermal reactions to molten glass.

In the second step of wool fiberglass manufacturing, fibers are formed using either of two methods: The rotary spin (RS) method or the flame attenuation (FA) method. In the RS process, centrifugal force causes molten glass to flow through small holes in the wall of a rapidly rotating cylinder. In the FA process, molten glass flows by gravity from a small glass-melting furnace, or pot, to form threads that are then attenuated (stretched to the point of breaking) with air and/or flame.

After the fibers are formed, they are sprayed with a binder to hold the fibers together. Both major and area sources use binders. The bonded fibers are then collected as a mat on a moving conveyor. Binder compositions vary with product type. After application of the binder and formation of the mat, the conveyor carries the newly formed mat through an oven for curing of the thermosetting resin contained in the binder and then through a cooling section. Some products do not require curing and/or cooling and FA manufacturing lines do not have cooling processes. Low and high-temperature thermal oxidizers are used to control emissions of phenol, formaldehyde, and methanol from curing operations on bonded lines at major sources.

B. What are the HAP-emitting processes in wool fiberglass manufacturing at area and major sources?

Glass-melting furnaces emit metal HAP (chromium, cadmium, beryllium, manganese, nickel, lead and arsenic), which are present in the particulate emissions. Particulate emissions are caused by entrainment of dust from batch dumping and the combustion process and from melting of the raw mineral materials. In addition, emissions of chromium also result from entrainment of materials eroded from the refractory lining of the glass-melting furnace and the glass-melting furnace exhaust stack. Several HAP metals, including lead and arsenic, are released from the batch materials and from the use of contaminated cullet i.e., crushed recycled glass (64 FR 31695 (June 14, 1999)). As shown in Table 2 below, the total metal emissions from all sources is about 1,800 pounds per year (1,300 from major sources and 500 from area sources), of which 620 pounds are chromium compounds. Area sources contribute approximately 80 pounds of chromium compounds; major sources contribute the balance of 540 pounds of chromium compounds.

TABLE 2—TOTAL METALS AND CHROMIUM EMISSIONS BY FURNACE TYPE AND SOURCE, LB/YR

	Number of furnaces		Total metals emissions (lb/yr)		Chromium emissions (lb/yr)	
	Major	Area	Major	Area	Major	Area
Electric Furnaces	21	46			10	10
Gas-Fired	8	8			530	70
Total	29	54	760	420	540	80

Glass-melting furnaces may be either gas-fired, electric, oxygen-enriched or a combination of gas and electric. About 80 percent of the glass-melting furnaces used in the wool fiberglass industry are electric (e.g., steel shell or cold-top) and about 20 percent are gas-fired (e.g., air gas, recuperative air gas, or oxyfuel). Glass pull rates for glass-melting furnaces typically range from 20 to 240 tons per day, but can go up to 435 tons per day. Emissions from glass-melting furnaces are typically controlled by baghouses or ESP. Electric glass-melting furnaces typically have low PM and metal HAP emissions without add-on controls as a result of their design. Operators of these units maintain a thick crust of raw materials on top of the molten glass, which impedes the release of heat and keeps the air temperature of the glass-melting furnace below 300 °F (120 °C).

Glass-melting furnaces also emit acid gases (hydrofluoric and hydrochloric acid) that result from the presence of chlorides and fluorides in the raw materials. Total emissions of acid gases from both major and area sources are 24 tons per year (about 19 tons from major sources and about 5 tons from area sources).

The forming and binding step occurs at both area and major sources. Emissions from the forming and binding step include formaldehyde, phenol, and methanol. These emissions occur post-furnace, when the volatile components of the binder come in contact with the hot fibers. A portion of the binder components pass through the conveyor and into the control device (thermal oxidizer, catalytic oxidizer or scrubber). However, at area sources some or all of the binders used are formulated to contain no HAP. Though air emissions of non-HAP containing binders still occur, the overall emissions of HAP from binder application are either eliminated or significantly reduced (if some HAP containing binders are still used) to a level where the facility is not a major source.

As explained in our 1997 major source MACT rulemaking (62 FR 15229–530), exposure to the HAPs emitted by wool fiberglass manufacturing can cause reversible or irreversible health effects including carcinogenic, respiratory, nervous system, developmental, reproductive, and/or dermal health effects. However, chromium emissions from furnaces are

[1] *See* product specifications from Saint-Gobain Corporation (chromium refractory product line and SEFPRO) at *saint-gobain.com* and in the docket to this rule.

not affected by the reformulation of the binder. Chromium emissions are of particular concern. The effects of inhaling chromium depend on whether the oxidation state of the metal is trivalent or hexavalent. Trivalent chromium is substantially less toxic than hexavalent chromium. Both types of chromium irritate the respiratory tract. Hexavalent chromium inhalation is associated with lung cancer, and EPA has classified it as a Class A known human carcinogen, per EPA's classification system for the characterization of the overall weight of evidence for carcinogenicity.[2]

Here, we have a situation where the agency had listed and regulated metal HAP emissions from wool fiberglass furnaces as part of Subpart NNN, the major source MACT. As explained above, many of the area sources at issue were, in fact, subject to Subpart NNN, and were required to meet the PM limits (as a surrogate for metal HAP) in that rule. These sources are no longer subject to Subpart NNN because they no longer meet the definition of a ''wool fiberglass facility,'' since they do not use a phenol-formaldehyde binder in their manufacturing lines. Recent data provided by industry confirm that the gas-fired glass-melting furnaces located at area sources emit urban metal HAP, including significant amounts of chromium.

C. What is the regulatory history for wool fiberglass manufacturing?

Section 112 of the Clean Air Act requires the agency to list and promulgate NESHAP in order to control, reduce or otherwise limit the emissions of HAP from categories of major and area sources. Pursuant to the various specific listing requirements in section 112(c), the agency listed 174 categories of major and area sources that would be subject to NESHAP (57 FR 31576, July 16, 1992). The Wool Fiberglass Manufacturing major source category was on that list.

In the 1992 listing notice, we provided source category descriptions and noted that the list, consistent with the statute, may be revised from time to time as additional information became available. The agency also noted the requirement to list area sources pursuant to the Urban Air Toxics Strategy under section 112(c) and (k). (See 57 FR 31582).

We proposed the NESHAP for the Wool Fiberglass Manufacturing major source category on March 31, 1997 (61 FR15228). At proposal, we explained that we were aware of only three facilities that were area sources. We further explained that two glass-melting furnaces located at these area sources had MACT floor level controls. 40 CFR Part 63, Subpart NNN (62 FR 31695). The EPA promulgated the final NESHAP for the Wool Fiberglass Manufacturing major source category on June 14, 1999 (62 FR 31695), and those requirements are codified at 40 CFR Part 63, Subpart NNN.

The requirements of the major source NESHAP apply to HAP emitted from the following new and existing sources at a wool fiberglass manufacturing facility:

1. *Glass-melting furnaces* located at a wool fiberglass manufacturing facility;
2. *Rotary spin wool fiberglass manufacturing lines* producing a bonded wool fiberglass building insulation product; and
3. *Flame attenuation wool fiberglass manufacturing lines* producing a bonded pipe product and bonded heavy density product. (40 CFR 63.1380).

With regard to the two manufacturing lines, rotary spin and flame attenuation, the major source NESHAP provides that a bonded product is wool fiberglass to which a phenol-formaldehyde binder has been applied. (40 CFR 63.1381).

As explained previously, HAP emitted from glass-melting furnaces include acid gases and metals, such as chromium, cadmium, beryllium, manganese, nickel, lead and arsenic. Formaldehyde, phenol and methanol are the HAP emitted from forming, cooling and curing processes, which are the processes associated with the rotary spin and flame attenuation lines.

The major source NESHAP set standards for PM (as a surrogate for non-Hg metal HAP) to address emissions from glass-melting furnaces and formaldehyde (as a surrogate for phenol and methanol) to address emissions from the forming, cooling, and curing processes. (40 CFR 63.1382). Thus, the NESHAP regulates emissions from both glass-melting furnaces and the manufacturing lines. The record supporting the major source NESHAP (Subpart NNN) provides that regulation of PM, chromium and metal HAP emissions from the glass-melting furnaces would occur irrespective of whether the lines were producing a bonded product. The EPA did not intend to exempt any major sources or incentivize such sources to avoid MACT coverage by producing non-bonded products (i.e., wool fiberglass to which a phenol-formaldehyde binder was not applied). Rather the EPA contemplated that the Wool Fiberglass Manufacturing NESHAP would regulate emissions from both glass-melting furnaces and rotary spin and flame attenuation lines, the latter of which are part of the forming, curing and cooling process.[3]

The major source NESHAP, however, also defined the term ''wool fiberglass manufacturing facility'' as ''any facility manufacturing wool fiberglass on a rotary spin manufacturing line or on a flame attenuation manufacturing line.'' (40 CFR 63.1381). As noted above, in order to have a rotary spin manufacturing line or a flame attenuation manufacturing line you must produce a bonded product, which is a product to which a phenol-formaldehyde binder has been applied. Thus, a facility that does not use phenol-formaldehyde binders does not manufacture a bonded product, and therefore does not have a rotary spin manufacturing line or a flame attenuation manufacturing line as defined in the NESHAP. If the facility does not have a rotary spin manufacturing line or a flame attenuation manufacturing line it does not meet the definition of wool fiberglass manufacturing facility and therefore, would no longer be subject to the Wool Fiberglass Manufacturing NESHAP. Thus, the wool fiberglass manufacturing facility definition appears to be in tension with the

[2] From ''Guidelines for Carcinogen Risk Assessment'', 51 FR 33991–34003, September 24, 1986. For more information on chromium's inhalation carcinogenicity: *http://www.epa.gov/iris/subst/0144.htm*—Section II: Carcinogenicity Assessment for Lifetime Exposure. For more information on the support for the summary of the carcinogenicity of chromium in EPA's Integrated Risk Information System (IRIS): *http://www.epa.gov/iris/toxreviews/0144tr.pdf.* For the most recent guideline document for Carcinogen Risk Assessment: *http://www.epa.gov/raf/publications/pdfs/CANCER_GUIDELINES_FINAL_3–25–05.PDF.*

[3] For example, in the response to comments document supporting the final major source NESHAP, EPA clarified the applicability of the rule. Specifically, EPA rejected a request to limit the rule to the manufacturing lines, noting that the commenter's suggested revision ''would alter the applicability of the rule'' such that glass-melting furnaces would not be covered. Further, in response to the commenter's suggested change of the definition of ''wool fiberglass,'' EPA responded that ''while the suggested change may help to clarify the EPA's intent to cover only manufacturing lines producing bonded wool fiberglass products, it would create confusion over the rule's coverage of glass-melting furnaces.'' EPA stated: ''*Because the EPA's intent is to regulate all glass-melting furnaces located at wool fiberglass plants that are major sources of HAP, and not just those melters that feed molten glass to manufacturing lines producing bonded wool fiberglass products, the EPA has decided to not modify the definition of 'wool fiberglass' by adding 'bonded to the definition.* The EPA believes that other definitions and the applicability section of the rule are clear on the EPA's intent to regulate manufacturing lines that produce bonded products and not non-bonded products.'' (Emphasis added). See Comments 2.2 and 2.3 of the response to comment documents for the Wool Fiberglass Manufacturing Source Category, which can be found in the docket for this rulemaking.

applicability provision, (in 40 CFR 63.1380, which is described above), to the extent the provision states that the requirements of the NESHAP apply to HAP emitted from the glass-melting furnaces located at a wool fiberglass manufacturing facility (40 CFR 63.1380).

As shown in a 2002 applicability determination for Johns Mansville (JM), the narrow definition of a wool fiberglass manufacturing facility resulted in a determination that a rotary spin line that stopped making bonded products was no longer subject to Subpart NNN.[4]

However, the phase out of phenol-formaldehyde binders does not reduce or otherwise change emissions from the glass-melting furnace. This is because the first step of wool fiberglass manufacturing at both major and area sources (i.e., where raw materials are introduced) occurs in the glass-melting furnace and as earlier explained total chromium compounds, arsenic, cadmium, beryllium, lead, manganese and nickel are some of the HAP emitted from glass-melting furnaces. These emissions are different from HAP emissions from the forming and bonding section of rotary spin and flame attenuation manufacturing lines; which as explained above are formaldehyde, phenol and methanol or none of these where a facility has phased out the use of phenol-formaldehyde binders. Thus, sources that no longer meet the definition of a wool fiberglass facility because they no longer use phenol-formaldehyde binders on the rotary spin and flame attenuation lines are no longer subject to Subpart NNN. However, they still emit metal HAP from the glass-melting furnaces. These HAP include total chromium compounds, lead, arsenic, cadmium, beryllium, manganese and nickel, which are HAP that the EPA has identified under sections 112(c)(3) and (k)(3) as part of the 30 urban HAP (the ''urban HAP'').

[4] The determination provided, in pertinent part, ''Based on the definitions provided in section 63.1381, EPA agrees that if the [rotary spin line located at the] JM Penbryn Plant is no longer using a phenol-formaldehyde binder, the facility no longer meets the definition of a wool fiberglass manufacturing facility in Subpart NNN.'' Memorandum from Michael S. Alushin, Director for Compliance Assessment and Media Programs Division, Office of Compliance, USEPA to Karl Mangels, Air Compliance Branch, USEPA, Region II, (August 1, 2002)). EPA also agreed ''that as a result of the switch to a non phenol-formaldehyde binder, the glass-melting furnace is not subject to Subpart NNN since it is no longer located at a wool fiberglass manufacturing facility.'' (Memorandum from Michael S. Alushin, Director for Compliance Assessment and Media Programs Division, Office of Compliance, USEPA to Karl Mangels, Air Compliance Branch, USEPA, Region II, (August 1, 2002)).

On November 25, 2011, the EPA proposed revisions to the Mineral Wool and the Wool Fiberglass Manufacturing NESHAP, 40 CFR part 63, subparts DDD and NNN, respectively, to address the results of the technology review and residual risk review that the EPA is required to conduct under sections 112(d)(6) and 112(f)(2) (76 FR 72770). The limits in those proposed amendments apply to major sources, that is, sources emitting at least 10 tons per year of a single HAP or 25 tons per year of any combination of HAP.

In the November 25, 2011 proposal, the agency noted that since promulgation of the 1999 NESHAP, sources had modified certain processes by using non-HAP binders instead of phenol-formaldehyde binders (76 FR 72770). As noted above, a facility that no longer uses phenol-formaldehyde binders does not meet the definition of ''wool fiberglass facility'' under Subpart NNN. Many sources that were subject to the major source NESHAP (Subpart NNN) have eliminated the use of phenol-formaldehyde binders and these sources now emit less than 10 tons per year of a single HAP or 25 tons per year of any combination of HAP. We understand that 20 of the existing 30 wool fiberglass facilities have become area sources through the phase-out of phenol-formaldehyde in the binders. However, the glass-melting furnaces at these sources continue to emit chromium and other HAP metal compounds. As explained above, emissions from glass-melting furnaces are completely separate and independent from emissions from the bonding portion of the process. Further, while replacement of phenol-formaldehyde binders with non-HAP binders is an environmentally responsible, or ''green'' choice within the wool fiberglass manufacturing industry, recent data from industry show that gas-fired glass-melting furnaces specifically continue to emit chromium and other HAP metal compounds, and for furnaces located at area sources these emissions are not currently regulated pursuant to CAA section 112.

While subpart NNN applies to wool fiberglass manufacturing facilities that are major sources, today's proposed rule would apply to gas-fired glass-melting furnaces located at wool fiberglass manufacturing facilities that are area sources (subpart NN). As explained below in section IV, we are listing gas-fired glass-melting furnaces located at wool fiberglass manufacturing facilities that are area sources pursuant to section 112(c)(3) and (k)(3)(B) of the CAA.

D. What is the authority for the development of NESHAP for area sources?

1. Authority Under Section 112(k) Area Source Program

Sections 112(c)(3) and (k) of the CAA require the EPA to identify and list the area source categories that represent 90 percent of the emissions of the 30 urban air toxics associated with area sources and subject them to standards under the CAA (section 112(d)). Cross referencing section 112(c)(3), section 112(k)(3) requires the EPA to identify a list of at least 30 air toxics that pose the greatest potential health threat in urban areas (the ''urban'' HAP). Taken together, these requirements are known as the Urban Air Toxics Strategy (Strategy). These are the HAP that present the greatest threat to public health in the largest number of urban areas (section 112(k)(3)(B)(i) of the Act). The EPA is also required to ''assure that sources accounting for 90 percent or more of the 30 identified hazardous air pollutants are subject to standards.'' (Section 112(k)(3)(B)(ii) and section 112(c)(3)). Under the Strategy, the EPA has developed standards to control toxic air pollutants from area sources. For the Strategy, the EPA identified a list of 33 air toxics in the area source program under which a total of 68 area source categories were identified which represented 90 percent of the emissions of the 33 listed air toxics. Under the Strategy, EPA regulated these 68 source categories of urban HAP in 56 subparts of the Code of Federal Regulations.[5] [6]

As noted above, section 112(k)(3)(B)(ii) requires the EPA to ''assure that [area] sources accounting for 90 percent or more of the 30 identified hazardous air pollutants [the 30 urban HAP] are subject to standards.'' (Emphasis added). Nothing in the CAA prevents the agency from going beyond the statutory minimum of 90 percent. Indeed, to date, we have established emission standards for sources accounting for almost 100 percent of area source emissions of certain urban HAP. For example, we have established emission standards for various source categories emitting dioxin, which is an urban HAP, and these categories represent 100 percent of area source dioxin emissions.

To date, the agency has regulated 90 percent of sources accounting for area source chromium, manganese, lead and nickel emissions, all of which are urban

[5] For EPA's notice on the Urban Air Toxics Strategy, see 64 FR 38706, 38715–716 (July 19, 1999.)

[6] EPA issued final area source standards in the following FR notices:

HAP emitted by gas-fired glass-melting furnaces, and 93 percent of sources accounting for cadmium emissions and 99 percent for arsenic and beryllium emissions.[7] Consistent with the authority provided in section 112(c)(3) and (k)(3)(B), the agency is listing and proposing emission standards for these urban metal HAP emissions from gas-fired glass-melting furnaces located at area sources. With this regulation, pursuant to section 112(c)(3) and (k)(3)(B), the agency will have subjected additional sources to regulation for urban metal HAP, which is wholly consistent with the goals of the Strategy. Under the Strategy, we went above the 90 percent when it was feasible to do so.[8] For example, EPA subjected 99 percent of sources of arsenic and beryllium compounds to regulation under the Strategy. We have no requirement to limit our regulation to the minimum of 90 percent of sources; we however must subject at least 90 percent of the sources of the urban HAP to regulation under the strategy.

As we are adding gas-fired glass-melting furnaces located at area sources to the source category list, we are also proposing standards for the category.[9] See section III.B below regarding the proposed standards.

2. Alternative Standards for Area Sources Under Section 112(d)(5)

Under CAA section 112(d)(5), EPA may elect to promulgate standards or requirements for area sources ''which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.'' Additional information on generally available control technologies or management practices (GACT) is found in the Senate report on the legislation (Senate report Number 101–228, December 20, 1989), which describes GACT as:

* * * methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems.

Consistent with the legislative history, we can consider costs and economic impacts in determining GACT. Determining what constitutes GACT involves considering the control technologies and management practices that are generally available to the area sources in the source category.

In setting GACT, we always look to the standards applicable to major sources in the same industrial sector to determine if the control technologies and management practices are transferable and generally available to area sources. In appropriate circumstances, we may also consider technologies and practices at area and major sources in similar categories to determine whether such technologies and practices could be considered generally available for the area source category at issue. In this case, the control technologies and managment practices for major sources are transferable because major source glass-melting furnaces are no different than area source glass-melting furnaces. Finally, as we have already noted, in determining GACT for a particular area source category, we consider the costs and economic impacts of available control technologies and management practices on that category.

GACT differs from MACT in that cost can be considered in the first instance when establishing a GACT standard. By contrast, when establishing MACT standards pursuant to section 112(d)(3), EPA must determine the average emission limitation achieved by the best performing 12 percent of existing sources and the emission limitation achieved by the best controlled similar source for new sources, without regard to cost.

As explained in greater detail in section III.B below, we determined that GACT standards for area sources should be the same as the major source standards proposed for PM and chromium on November 25, 2011, pursuant to section 112(d)(6), based on the similarity between production processes, emission points, emissions, and control technologies that are characteristic of both major and area source wool fiberglass manufacturing facilities and considerations of cost.[10]

E. What sources did EPA look to in assessing GACT?

As noted above, determining what constitutes GACT involves considering the control technologies and management practices that are generally available to the area sources in the source category. We also consider the standards applicable to major sources in the same industrial sector, which is particularly relevant here as the control technologies and management practices are transferable and generally available to area sources. Given the above, it is appropriate to consider both major and area sources in assessing GACT.

In order to identify all wool fiberglass manufacturing facilities we relied on the original listing of facilities from the 1999 NESHAP, based on industry comments. Major sources are subject to Title V, and are identified in a database used for Title V permitting purposes. The agency used this Title V database to identify major sources in the Wool Fiberglass Manufacturing source category. There are currently 30 facilities in this source category, of which 10 are major sources and 20 are area sources. Currently, area sources operate 54 glass-melting furnaces while major sources operate 29 glass-melting furnaces. We also note that the industry has provided information that some of the major sources have already filed permit modifications with the appropriate permitting agencies to become area sources, but the permitting agency has not yet acted on the request.

F. Upon what set of data are the limits for glass-melting furnaces located at area sources based?

At the time of the November 25, 2011, RTR proposal, the EPA had information that all glass-melting furnaces emit metal HAP in the form of particulate emissions. In addition, subsequent to the November 25, 2011, proposal, the EPA requested information through a section 114 information request regarding PM and chromium compounds that are either used in or emitted by glass-melting furnaces at facilities that engage in wool fiberglass manufacturing. The EPA has evaluated the responses and confirmed that over 90 percent (15 out of 16) of gas-fired glass-melting furnaces emit chromium compounds at measurable amounts. These data have been compiled with previously submitted industry source tests into a database for this source category and serve as the technical basis for this area source rulemaking.

The EPA reviewed the entire set of data for the wool fiberglass manufacturing industry, which includes

[7] See. ''Technical Memorandum. Emission Standards for Meeting the 90 Percent Requirement under Section 112(c)(3) and Section 112(k)(3)(B) of the Clean Air Act'' From Nathan E. Topham, Environmental Engineer, USEPA February 18, 2011.

[8] For the listing notices of the Strategy, see 64 FR 38705, July 19, 1999; 67 FR 43112, June 26, 2002; 67 FR 70427, November 22, 2002; 73 FR 78637, December 23, 2008; and 74 FR 30366, June 25, 2009.

[9] We have made several revisions to the section 112(c)(3) list since its issuance: 67 FR 43112, June 26, 2002; 67 FR 70427, November 22, 2002; 73 FR 78637, December 23, 2008; 74 FR 30366, June 25, 2009.

[10] The EPA also considers the costs and economic impacts of available control technologies and management practices when determining whether to revise a standard pursuant to section 112(d)(6).

both major and area sources. We conducted QA/QC analyses to ensure data accuracy, identified the area sources and arrayed those data according to the magnitude of the emissions and control device.

We considered whether to include all glass-melting furnaces in the set of data or only those glass-melting furnaces located at area sources. We concluded it was most reasonable to base the emission limit on the entire set of data, and not on a subset of area sources for the reasons described below.

First, due to the definition of ''wool fiberglass facility'' in Subpart NNN, the set of area sources is constantly growing. When facilities change their status from a major source to an area source, they typically do so as a result of changes in their binder formulation, a process occurring downstream of the glass-melting furnace. In 2002, two out of 33 facilities were area sources; within 10 years that number had increased 10-fold, and by December 2012, 20 out of 30 had become area sources. The bonded lines are independent of glass-melting furnaces; the binder formulation change does not affect glass-melting furnace operations, limits or production.

Second, the glass-melting furnaces in use when the facility is a major source are the same glass-melting furnaces operating in the same manner as when it becomes an area source. Because there is no difference between the glass-melting furnace operations at area sources and those at major sources, we found no reason to differentiate the glass-melting furnaces located at major sources from the furnaces located at area sources.

Third, there is no definitive cut-off date to determine when facilities that are major sources become area sources. As discussed earlier, the industry is phasing out its use of phenol-formaldehyde based binders, but each company/facility has its own schedule for the transition to non phenol-formaldehyde binders. As explained earlier, because the HAP emissions resulting from the use of phenol-formaldehyde binders place the facility in major source status (that is, the HAP emissions are at least 10 tpy of a single HAP or 25 tpy of a combination of HAP), when a facility discontinues the phenol-formaldehyde binder and begins use of a non-HAP binder, it becomes an area source, emitting less than major source levels.

The limits we are proposing in today's action are GACT limits, and are based on the ''generally available control technologies or management practices by such sources to reduce emissions of HAP.'' We note that this is the same data set on which technology review was based for the wool fiberglass RTR proposed rule.[11] We therefore propose that the larger industry dataset, including glass-melting furnaces at both major and area wool fiberglass manufacturing sources, is the appropriate set on which to base the proposed GACT limits.

III. What are the proposed requirements for glass-melting furnaces located at area sources?

As previously discussed, we have determined the EPA's intent in developing the 1999 Wool Fiberglass Manufacturing NESHAP was to regulate metal HAP emissions from all glass-melting furnaces, but now many glass-melting furnaces are no longer regulated by the NESHAP. Based on industry-provided data, these glass-melting furnaces emit metal HAP. However, we have determined that gas-fired glass-melting furnaces at wool fiberglass manufacturing facilities can emit higher levels of metal HAP, and also higher than expected levels of chromium than electric glass-melting furnaces. This is due to the use of high chromium refractories above the glass melt line, and use of these refractories is essential to obtain the desired glass-melting furnace life. Also, the industry has indicated that the current trend is to replace air gas glass-melting furnaces with oxyfuel glass-melting furnaces.[12] [13] Oxyfuel glass-melting furnaces have the highest potential for elevated chromium emissions as discussed further in section IV.A of this preamble. Accordingly, we believe it is appropriate to add gas-fired glass-melting furnaces at wool fiberglass manufacturing facilities that are located at area sources to the list of area sources regulated in the Urban Air Toxics Program.

The following sections present the applicability requirements, emission limits, measurement methods, monitoring, notification, recordkeeping and reporting requirements we are proposing for these area sources. The rationale for these requirements follows this section.

A. What are the proposed applicability requirements?

The proposed rule would apply to gas-fired glass-melting furnaces located at wool fiberglass manufacturing facilities that are at area sources. Gas-fired furnaces include, but are not limited to, oxyfuel, air gas and recuperative air gas glass-melting furnaces.

We also considered having the limits apply only to glass-melting furnaces constructed using chromium in the refractory of the glass-melting furnace. However, we also learned from the section 114 responses that most wool fiberglass glass-melting furnaces are constructed of refractory materials containing similar chromium content. The potential for chromium emissions is related more to the amount of high chromium refractories above the glass melt line and the air temperature above the glass melt. The furnace energy source (gas versus electric) is a more reliable indicator of the potential for chromium emissions from the refractory than refractory chromium content. Therefore, we opted to use the energy source as a basis of determining the types of area source furnaces to regulate rather than the chromium content of the refractory. We therefore propose that all wool fiberglass gas-fired glass-melting furnaces located at area sources should be subject to the same emission limit being proposed today, regardless of the chromium content of the refractory bricks used to construct them.

B. What are the proposed emission limits for gas-fired glass-melting furnaces located at wool fiberglass manufacturing area sources?

We are proposing a GACT standard of 0.00006 pounds (lb) of chromium compounds per ton of glass pulled (0.06 lb per thousand tons glass). This is the same limit we previously proposed for glass-melting furnaces used by wool fiberglass manufacturing facilities at major sources, pursuant to section 112(d)(6) (76 FR 72770).

We found that emissions of glass-melting furnaces, including those located at area sources, are generally below this limit. Thus, most glass-melting furnaces, specifically gas-fired glass-melting furnaces at wool fiberglass manufacturing facilities, show this limit can be met using generally available control technologies and practices.

We are also proposing a PM emission limit of 0.33 lb per ton of glass pulled. This is the same limit we are proposing for major sources in this action based on technology review showing most glass-melting furnaces using baghouses or

[11] This is similar to our decision in the Portland Cement NESHAP (74 FR 21155, May 6, 2009), where we based the PM, mercury, and total hydrocarbon limits on all the kilns used by industry for which we had data because there were no differences between kilns located at major sources and those located at area sources.

[12] US DOE Energy Efficiency and Renewable Energy, Industrial Technologies Program, Final Technical Report. ''Compressive Creep and Thermophysical Performance of Refractory Materials''. Oak Ridge National Laboratories. June 2006.

[13] *Oxygen-Enhanced Combustion,* Baukal, Charles E., Jr. 1998.

electrostatic precipitators for PM control. Similarly, PM emissions from gas-fired glass-melting furnaces located at wool fiberglass manufacturing facilities are all below this limit. The above proposed limits apply at all times. See Sierra Club v. EPA, 551 F.3d 1019 (D.C. Cir. 2008) (Vacating the provisions of 40 CFR 63.6(f)(1) and 63.6(h)(1) that exempt sources from the requirement to comply with otherwise applicable CAA section 112(d) emissions standards during periods of startup, shutdown and malfunctions).

Finally, because the analyses for technology review and for GACT both consider costs and analyze available technologies, and because major and area sources share the same control approaches, it is a reasonable outcome that the emission limits proposed for major sources under the technology review and the proposed GACT limits are the same.

C. What are the proposed measurement methods, monitoring, reporting and recordkeeping requirements for glass-melting furnaces located at wool fiberglass manufacturing area sources?

To be consistent with the major source rule, we are proposing the same test methods and procedures for PM and chromium compounds contained in 40 CFR part 63, subpart NNN.

In order to minimize the burden associated with stack testing, we are proposing a reduction in performance testing frequency. We are proposing that sources measuring chromium compounds in two successive performance tests that are less than 75 percent of the limit of the rule be allowed to reduce their testing frequency (for chromium) to no less than every 3 years. We are also proposing that sources measuring PM emissions less than 75 percent of the limit in two successive performance tests be allowed to reduce their PM testing frequency to no less than every 3 years. With each of these performance test frequency reductions, the reduced frequency benefit is lost if a subsequent re-test shows PM or chromium emissions above 75 percent of the emission standard. In that case, two successive performance tests demonstrating compliance below 75 percent of the emission limit would be required for a source to, once again, qualify for less frequent emissions testing.

To be consistent with the wool fiberglass manufacturing major source rule, we are proposing that glass-melting furnaces located at area sources must meet all applicable monitoring requirements and all notification, recordkeeping and reporting requirements contained in 40 CFR part 63, subpart NNN.

D. What are the proposed decisions and actions related to startup, shutdown and malfunction provisions?

Consistent with *Sierra Club* v. *EPA,* the EPA is proposing standards in this rule that apply at all times. In proposing these standards, the EPA has taken into account startup and shutdown periods. Based on the information before the Agency, which includes information provided by industry, we expect facilities can meet the proposed emission standards during startup and shutdown. Nothing in the record suggests that emissions will be greater during startup and shutdown periods and the record confirms that the control devices are operated during these periods.

We are also including an alternative compliance provision that would allow sources to demonstrate compliance with the standards during startup and shutdown by keeping records showing that your furnace emissions were controlled using air pollution control devices operated at the parameters established by the most recent performance test that showed compliance with the standard. During startup and shutdown of a gas-fired furnace the operating temperatures and amounts of raw materials available to produce air emissions are lower than other operating periods. This would tend to result in lower uncontrolled emissions levels. Therefore, it is reasonable to assume that by continuing to operate the air pollution control equipment during these periods a source will be in compliance with the emissions limit.

For the reasons discussed in the preamble to the November 2011 proposal and as discussed further below, we are proposing in this area source rule to include an affirmative defense to civil penalties for violations of emission limits that are caused by malfunctions. See 40 CFR 63.881 of the proposed rule (defining ''affirmative defense'' to mean, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding).

We also are proposing other regulatory provisions to specify the elements that are necessary to establish this affirmative defense; the source must prove by a preponderance of the evidence that it has met all of the elements set forth in 40 CFR 63.886. (See 40 CFR 22.24). The criteria are designed in part to ensure that the affirmative defense is available only where the event that causes a violation of the emission limit meets the narrow definition of malfunction in 40 CFR 63.2 (sudden, infrequent, not reasonable preventable and not caused by poor maintenance and or careless operation). For example, to successfully assert the affirmative defense, the source must prove by a preponderance of the evidence that the violation ''[w]as caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner * * *.'' The criteria also are designed to ensure that steps are taken to correct the malfunction, to minimize emissions in accordance with 40 CFR 63.882(b) when finalized and to prevent future malfunctions. For example, the source must prove by a preponderance of the evidence that ''[r]epairs were made as expeditiously as possible when a violation occurred * * *'' and that ''[a]ll possible steps were taken to minimize the impact of the excess emissions on ambient air quality, the environment and human health * * *.'' In any judicial or administrative proceeding, the Administrator may challenge the assertion of the affirmative defense and, if the respondent has not met its burden of proving all of the requirements in the affirmative defense, appropriate penalties may be assessed in accordance with section 113 of the CAA (see also 40 CFR 22.27).

The EPA included an affirmative defense in this proposed rule in an attempt to balance a tension, inherent in many types of air regulations, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances beyond the control of the source. The EPA must establish emission standards that ''limit the quantity, rate, or concentration of emissions of air pollutants on a continuous basis.'' 42 U.S.C. 7602(k)(defining ''emission limitation and emission standard''). See generally *Sierra Club* v. *EPA,* 551 F.3d 1019, 1021 (D.C. Cir. 2008) Thus, the EPA is required to ensure that section 112 emissions standards are continuous. The affirmative defense for malfunction events meets this requirement by ensuring that even where there is a malfunction, the emission standard is still enforceable through injunctive relief. The United States Court of

Appeals for the Fifth Circuit recently upheld the EPA's view that an affirmative defense provision is consistent with section 113(e) of the Clean Air Act. *Luminant Generation Co. LLC* v. *United States EPA,* 699 F.3d.427 (5th Cir. Oct. 12 2012) (upholding the EPA's approval of affirmative defense provisions in a CAA State Implementation Plan). While ''continuous'' standards, on the one hand, are required, there is also case law indicating that in many situations it is appropriate for the EPA to account for the practical realities of technology. For example, in *Essex Chemical* v. *Ruckelshaus,* 486 F.2d 427, 433 (D.C. Cir. 1973), the D.C. Circuit acknowledged that in setting standards under CAA section 111 ''variant provisions'' such as provisions allowing for upsets during startup, shutdown and equipment malfunction ''appear necessary to preserve the reasonableness of the standards as a whole and that the record does not support the 'never to be exceeded' standard currently in force.'' See also, *Portland Cement Association* v. *Ruckelshaus,* 486 F.2d 375 (D.C. Cir. 1973). Though intervening case law such as *Sierra Club* v. *EPA* and the CAA 1977 amendments call into question the relevance of these cases today, they support the EPA's view that a system that incorporates some level of flexibility is reasonable. The affirmative defense simply provides for a defense to civil penalties for violations that are proven to be beyond the control of the source. By incorporating an affirmative defense, the EPA has formalized its approach to upset events. In a Clean Water Act setting, the Ninth Circuit required this type of formalized approach when regulating ''upsets beyond the control of the permit holder.'' *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977). See also, *Mont. Sulphur & Chem. Co.* v. *United States EPA,* 2012 U.S. App. LEXIS 1056 (Jan 19, 2012)(rejecting industry argument that reliance on the affirmative defense was not adequate). But see, *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal approach is adequate). The affirmative defense provisions give the EPA the flexibility to both ensure that its emission standards are ''continuous'' as required by 42 U.S.C. 7602(k), and account for unplanned upsets and thus support the reasonableness of the standard as a whole.

IV. How did we develop the proposed standards for glass-melting furnaces located at wool fiberglass manufacturing area sources?

At proposal of the technology review and residual risk review of the major source NESHAP in 2011, we proposed emission limits for chromium compounds because hexavalent chromium is emitted from wool fiberglass glass-melting furnaces and stated that we planned to regulate wool fiberglass glass-melting furnaces located at area sources in a future action. (76 FR 72770). The highest emitting glass-melting furnace, an oxyfuel glass-melting furnace, was measured emitting at 550 pounds per year, while other glass-melting furnaces were emitting between five and 250 pounds of chromium per year. We considered whether it was possible for other facilities to emit chromium compounds at the level of the highest emitting facility and proposed that, under the same circumstances, other wool fiberglass manufacturing facilities could emit at similar levels. We reasoned at proposal in 2011 that nothing prevents a wool fiberglass company from constructing a glass-melting furnace identical to the glass-melting furnace with the highest chromium emissions.

As explained in the November 25, 2011, proposal, the industry trade association (National Association of Insulation Manufacturers of America (NAIMA) had conducted a voluntary survey of companies that manufacture wool fiberglass. The survey sought test data on HAP emissions, process equipment, control devices and other aspects of the wool fiberglass manufacturing operations. With regard to total chromium compounds, the survey requested information on the chromium content of glass-melting furnaces at different parts of the glass-melting furnace and required all glass-melting furnaces to be tested for both total chromium and hexavalent chromium emissions. This voluntary survey was followed by the EPA's section 114 information request letter requesting test data on total chromium compounds emissions from all glass-melting furnaces and information on glass-melting furnace design and refractory chromium content.

A. How did the EPA select the emissions sources and pollutants to regulate?

As previously discussed, wool fiberglass manufacturing facilities emit the following urban air toxics: arsenic, beryllium, cadmium, chromium, lead, manganese, and nickel (PM is regulated as a surrogate for these metals) from the glass-melting furnace; and phenol, formaldehyde and methanol from the binding process. The emissions profile of glass-melting furnaces at area sources and major sources are identical. However, this is not true for emissions of formaldehyde from the binding operation. A facility becomes an area source by minimizing or eliminating binder formaldehyde emissions. For this reason, we determined that it is not necessary to include the binding operation in this proposed listing, and have limited the listing to chromium and PM as a surrogate for the remaining metal HAP from glass-melting furnaces.

The glass-melting furnace design (layout and location of chromium refractory), energy source, and refractory age are the major factors affecting chromium emissions from glass-melting furnaces.

There are two types of glass-melting furnaces in the wool fiberglass industry, gas-fired and electric. Oxyfuel, air gas, and recuperative air gas are gas-fired; cold-top electric and electric steel shell are electric glass-melting furnaces. All of these furnace types emit metal HAP in the form of controlled PM emissions at similar levels. However, based on new information gathered since the November 25, 2011, proposal of the major source RTR, we have determined that gas-fired glass-melting furnaces at wool fiberglass manufacturing facilities exhibit a greater potential to emit chromium compounds and other metal HAP than electric furnaces, and also to convert trivalent chromium to hexavalent chromium.

Table 3 of this preamble presents a summary of the chromium test data for wool fiberglass glass-melting furnaces. The data show a significant range of chromium emissions. All of the glass-melting furnace types have some sources that emit at very low levels, but only gas-fired glass-melting furnaces show a potential to have chromium emissions levels above the 0.00006 lb/ton glass pulled emissions level proposed for glass-melting furnaces.

TABLE 3—RANGE OF CHROMIUM COMPOUND EMISSIONS BY GLASS-MELTING FURNACE TYPE

Glass-melting furnace type	Cr compound emissions (lb/1000 tons glass pulled)
Electric Steel Shell	0.0022–00.039
Cold-Top Electric	0.00078–0.027
Air Gas	.0025–0.96
Oxy Fuel	.011–3.5

Available data indicate that all furnace types use high chromium

refractory in some areas. However, information provided by the industry on furnace design indicates that gas-fired glass-melting furnaces have a higher potential to emit chromium compounds due to the placement of the high chromium refractory, the physical layout of the furnace, the size and placement of the burners in relation to the sides and top of the glass-melting furnace, the depth from the burners to the top of the raw materials, the temperature at and above the melt, and the oxide concentration of the glass-melting furnace gas environment. In addition, gas-fired furnaces show the greatest potential to convert chromium to its most toxic form, hexavalent chromium, due to the significantly higher temperature above the glass melt line of a gas-fired furnace.

These data (i.e., data submitted by the wool fiberglass manufacturing industry on glass-melting furnace type and construction materials in response to both NAIMA's voluntary survey and the agency's section 114 letter) indicate that the highest emitting glass-melting furnace is a gas-fired furnace, specifically, an oxyfuel glass-melting furnace constructed using chromium refractories. However, all glass-melting furnaces with the high chromium emissions were either oxyfuel or air gas glass-melting furnaces. The section 114 information letter required measurements of both hexavalent and total chromium as well as identification of the location and chromium content of the refractories used in glass-melting furnace construction.

The reason for the higher emission potential for gas-fired glass-melting furnaces is due to differences in design, construction materials, and operation of gas-fired glass-melting furnaces compared to electric glass-melting furnaces. A chromium refractory product has the greatest resistance to heat and wear of any refractory in use today. The temperatures above the melt in gas-fired glass-melting furnaces range from 2,500 °F to 4,500 °F, while the temperatures in electric glass-melting furnaces are a few hundred degrees. Due to their higher operating temperatures, gas-fired glass-melting furnaces are constructed using chromium refractories at various parts of the glass-melting furnace that are above the molten glass, including the crown. The chromium in the refractory is the source of the chromium emissions from the gas-fired glass-melting furnaces.[14] However, other influencing factors determine both the rate and magnitude of the chromium emissions when chromium is available in the furnace lining. The presence of chromium above the glass melt line, the percentage of chromium available in the refractory, the rate of degradation of the furnace interior, the chemistry of the wool fiberglass 'recipe', the temperature of the furnace, the oxidizing atmosphere of the furnace, the placement and proximity of burners to the furnace wall, and other design and construction factors contribute to the corrosion and erosion of the gas-fired glass-melting furnace refractory and the formation of hexavalent chromium furnace. In addition, the high temperatures result in more of the chromium being converted to its hexavalent state compared to electric furnaces.

Since our November 25, 2011, proposal, we have learned that if a source of reasonably priced oxygen is available, the oxyfuel glass-melting furnace is the design favored for use by glass manufacturers due to the glass-melting furnace's low NO_X emissions (NO_X is an ozone precursor), and low energy demands per volume output of glass. The low NO_X emissions of an oxyfuel glass-melting furnace result from the fact that no air (which contains nitrogen) is introduced into the high temperature zone above the glass melt. Instead, the oxyfuel glass-melting furnace design mixes the natural gas fuel with pure oxygen for combustion, thus reducing NO_X emissions.

The DOE's office of Industrial Technology, in association with industry experts from the glass manufacturing, refractory production sectors and the Oak Ridge National Laboratory, conducted studies to determine ways to optimize energy uses, needs and efficiencies in industrial sectors. In these studies, industry experts agreed (Oak Ridge National Laboratory, June 2006, p. 9) that oxyfuel glass-melting furnaces will ultimately replace air gas glass-melting furnaces by 2020 due to these economic and environmental factors. For example, industry experts participating in the Industrial Technologies Program (ITP), under the Department of Energy's Energy Efficiency and Renewable Energy program, described the demands an oxyfuel glass-melting furnace places upon the refractory lining: ''The ITP has recognized that a reduction in overall domestic energy consumption will occur if the primary energy-consuming industries improve their own energy efficiencies. Recognizing this need, the glass industry is currently converting older, conventional air-fuel-fired furnaces to oxyfuel firing, or in the case of new construction, is building new oxyfuel-fired furnaces instead. This has caused oxyfuel technology to become one of the fastest growing technologies in the glass industry because it promises pollution abatement, increased glass-pull effectiveness, capital cost savings and increased energy efficiency. For example, a recent study has shown that approximately $202M in energy savings per year in 2005 and a $445M per year savings by 2020 could be expected with the conversion of air/fuel to oxy-fuel-fired glass manufacturing furnaces. These results, which reflect energy savings of 2.8 and 14.2 TBtu/year, respectively, are based on the projection that 61 percent and 100 percent furnace conversions will occur by the years 2005 and 2020, respectively.''

Other studies (Metallurgical and Materials Transactions, Lee,Y., Nassaralla, C.L., 1998) advise us that, under normal industrial temperatures, which can exceed 1,300 ° F., and oxidizing conditions, trivalent chromium, which is present in the refractory, oxidizes to hexavalent chromium.[15] It was found that uncombined and available oxides were responsible for a higher yield of hexavalent chromium. Consequently, an increasing concentration of oxides in the oxyfuel glass-melting furnace environment increases the formation of chromium from the trivalent state to hexavalent state. The condition of high oxides in the oxyfuel glass-melting furnace environment is one characteristic of the highest emitting glass-melting furnace (see Docket number EPA–HQ–OAR–2010–1042 document number 0067: Region 7 Notes on CertainTeed Kansas City. June 10, 2011. 13 pages).

Moreover, while the degradation of the glass-melting furnace refractory indicates increasing chromium emissions, that process does not necessarily follow a normal and predictable pattern. The degradation of refractories within the glass-melting furnace is a function of numerous factors, including temperature, time, stress and the composite effects of aging and creep response. These processes are highly nonlinear, so the traditional equations that assume steady-state deformation rates are not appropriate (DOE and Oak Ridge National Laboratory, June 2006 p. 63).

[14] EPA Notes of meeting with Certainteed, April 14, 2011; Industry Meetings with EPA on March 19, 2012; April 30, 2012; and December 6, 2012; email from Lauren P. Alterman, Saint-Gobain Corporation, regarding chrome emissions and refractory bricks, August 6, 2012).

[15] Metallurgical and Materials Transactions B. ''Minimization of Hexavalent Chromium in Magnesite-Chrome Refractory''. Y. Lee and C. L. Nassaralla. Vol. 28 B, Oct. 1997—pp. 855–859.

Although all glass-melting furnaces are constructed using chromium refractories (NAIMA letter dated January 28, 2013. Industry Meeting Notes, August 31, 2011) at and below the line of contact defined by the refractory wall and the molten glass within the glass-melting furnace (the glass/metal line), oxyfuel and some air gas glass-melting furnaces have other glass-melting furnace parts constructed using chromium refractories, such as the crown and forehearth. The use of chromium refractories above the melt line is necessary to obtain the desired furnace life and reduce the necessity for hot repairs of the furnace. When the hot, corrosive and reactive gases of a gas-fired glass-melting furnace come in contact with the high chromium refractories lining the area above the glass melt in high temperature glass-melting furnaces, the chromium is available to be oxidized and converted into its hexavalent form.

The cost of rebuilding a wool fiberglass glass-melting furnace ranges from 10–12 million dollars; most of this cost is the cost of skilled labor (C. Davis, CertainTeed Corp., April 2011). While chromium refractories are more expensive than conventional refractories, they are only incrementally so (DOE and Oak Ridge National Laboratory, June 2006, p. 1). When conventional (high alumina/silica) refractories are used, the useful life of the glass-melting furnace is about 7 years. Chromium refractories almost double the useful life of the glass-melting furnace. Therefore, industry has a strong economic incentive to develop and use longer lasting refractories in construction of the glass-melting furnaces. Industry spokespersons have indicated that they rely on using chromium refractories offering longer glass-melting furnace life, and have commented that the EPA should regulate the chromium emissions from wool fiberglass glass-melting furnaces rather than regulate chromium content of refractories. (Email from *Lauren.P.Alterman@saint-gobain.com* to persons at the EPA, July 27, 2012, 10:32 a.m., regarding chrome emissions and refractory bricks.)

We have also found that as the refractories of the gas-fired glass-melting furnaces degrade, the chromium of those refractories at and above the metal/glass line is emitted as particulate to the outside air. Chromium from the refractories below the metal/glass line is absorbed into the molten glass and becomes vitrified with the other raw minerals. Industry commented that refractory loss from degradation of the refractory walls in use is approximately 20,000 pounds of refractory annually (minutes of the August 31, 2011 Meeting with Representatives of the Wool Fiberglass Industry and NAIMA). However, much of the loss occurs below the glass melt line. The chromium released below the glass melt line is believed to stay in the glass.

The facility with the highest emitting glass-melting furnace (an oxyfuel glass-melting furnace) submitted chromium testing for state inventory reporting purposes over a seven-year period. As shown in Table 4 below, those test results are extrapolated using permitted production rates to calculate approximate annual emissions of chromium compounds. The calculations show that in 2004, chromium emissions are estimated to be less than 5 pounds annually. Repeated chromium emissions testing for the State reports in 2005 and 2008 and permitted production rates for those years show chromium emissions increased to 540 pounds per year for the same glass-melting furnace. Emissions testing conducted in 2010 speciating chromium by its compounds show that 93 percent of the chromium was in the hexavalent state.

TABLE 4—SUMMARY OF CHROMIUM EMISSIONS FROM 2004–2010

Year	Glass-melting furnace chromium emissions at permitted production rate, pounds per year
2004	<5
2005	30
2008	114
2010	540

This glass-melting furnace was not reconstructed during this 7-year period covered by the chromium testing. This indicates that a degradation of the chromium refractory resulted in a significant increase in chromium emissions during this period. We collected source testing for all types of furnaces used in the wool fiberglass manufacturing industry. Specifically, each air-gas and oxyfuel furnace was tested, and facilities that operated identical electric furnaces provided testing for one furnace along with design, construction, and refractory information for all furnaces operated. Industry provided schematics of all types of furnace designs showing that while all wool fiberglass furnace 'tanks' (holding the molten materials) are constructed of high chromium refractory, only the gas-fired furnaces may also be constructed from chromium refractories above the molten glass. In our review of all the data submitted, only gas-fired furnaces are designed in a manner that, during operation, may emit significant amounts of chromium compounds. We, therefore, believe that because the gas-fired furnaces are the only furnaces in which the chromium refractory is exposed to oxidizing conditions at temperatures exceeding 1,300 °F, gas-fired furnaces clearly demonstrate a greater potential for increased chromium emissions. While the highest emitting glass-melting furnace is located at a major source, we note, as we discussed in the proposed RTR rule, that there is no difference in a glass-melting furnace at a major source and the same design glass-melting furnace at an area source facility.

The thermal, physical and chemical properties of molten wool fiberglass cause corrosion and erosion to the refractory lining of the glass-melting furnace, and the glass-melting furnace must be constructed of materials capable of resisting this environment. Because oxygen burns very hot, some of the highest refractory performance requirements in the industry are placed upon wool fiberglass oxyfuel glass-melting furnaces (''New High Chrome Fused Cast Refractory for Use in Contact With Highly Corrosive Glasses'', T.A. Myles and F. Knee, in Ceramic Engineering and Science Proceedings, The American Ceramic Society, 1986). Consequently, an oxyfuel glass-melting furnace used to produce wool fiberglass must be constructed of chromium refractories because these are the only types of materials currently available that are suitable for this use and meet the rigorous practical demands of wool fiberglass manufacturing. The industry has commented that the use of chromium refractories is economically essential to wool fiberglass manufacturing, because of normal high thermal and chemical stressors to oxyfuel glass-melting furnaces, chromium refractories are preferred by industry for economical and safe oxyfuel glass-melting furnace operation. Construction using these materials significantly increases the life of the glass-melting furnace (see Region 7 Notes on CertainTeed Kansas City. June 10, 2011. p. 5 of 13; email from *Lauren.P.Alterman@saint-gobain.com* to persons at the EPA, July 27, 2012, 10:32 a.m., regarding chrome emissions and refractory bricks).

In summary, because of the advantages of oxyfuel glass-melting furnaces over other wool fiberglass glass-melting furnace technology described in the preceding discussions, we expect oxyfuel glass-melting furnaces constructed of chromium refractories to replace many existing

wool fiberglass glass-melting furnaces of other designs (Letter from NAIMA to Ms. Susan Fairchild, EPA, January 28, 2013), particularly as sources of industrial oxygen are sited near wool fiberglass facilities (*Oxygen-Enhanced Combustion*, Baukal, Charles E. Jr., Prince B. Eleazar III, and Bryan C. Hoke, Jr. 1998).

Emissions of the other metal HAP are very low for electric glass-melting furnaces. This low emission potential is inherent in the glass-melting furnace design. Electric glass-melting furnaces establish a crust on the raw material at the surface of the molten glass. They use electrodes which are embedded below the crust and within the molten glass to maintain the temperature of the melt, while the temperature above the melt is low. They also have lower air flows and low turbulence above the glass melt. Therefore the potential for metal emissions (in the form of PM entrained in the exhaust gas) from electric glass-melting furnaces is much lower than from gas-fired glass-melting furnaces.

Electric furnaces also do not have the same potential to emit chromium as gas-fired furnaces. Although electric glass-melting furnaces are lined at and below the glass/metal line with chromium refractories, they are constructed using either non-chromium refractories (cold-top electric) or steel in place of refractories (electric steel shell) above the glass/metal line. This design is used because electric glass-melting furnaces operate with a dry batch cover and are tapped at the bottom or end of the glass-melting furnace to draw off the molten glass. Raw materials are constantly added to the top of the glass-melting furnace in damp form and create a crust on top of the molten glass. Steel shell glass-melting furnaces have a steel enclosure above glass/metal the line and cold-top electric glass-melting furnaces use non-chromium refractories above the glass/metal line. The air above the melt inside an electric glass-melting furnace is below 300 °F, and is not hot enough to warrant use of chromium refractories. Even if chromium refractories were used to construct the crown of the electric glass-melting furnace, the temperature of an electric glass-melting furnace above the glass/metal line is insufficient to drive the chromium to its hexavalent state.

Consequently, electric glass-melting furnaces do not have the same potential to emit chromium compounds that gas-fired glass-melting furnaces have, and accordingly, many of the chromium test data collected at electric glass-melting furnaces are below the detection level of the emissions measurement method. All the electric glass-melting furnace test data were also below the proposed chromium limit for glass-melting furnaces at major sources in the November 25, 2011, proposed RTR rule amendments.

Gas-fired furnaces also have a higher potential to emit PM, and consequently metal HAP. This is because gas-fired furnaces require that combustion air or oxygen and natural gas be blown into the furnace. This increases the gas flow velocities and turbulence above the glass melt tine, which increases the potential for particle entrainment in the exhaust gas.

EPA's original intent was to regulate metal emissions from glass-melting furnaces, which at that time included all existing furnaces. We have now determined that glass-melting furnaces at area source and major source facilities have the same emissions profiles. Therefore, it is appropriate to add glass-melting furnaces at wool fiberglass manufacturing facilities to the area source list, and as previously noted we have the statutory authority to do so. However, gas-fired furnaces have a greater emissions potential than electric furnaces. Metal HAP emissions from electric glass-melting furnaces are inherently low, and more importantly, the potential to emit elevated amounts of chromium are low. Therefore we are limiting this listing to the furnaces with the greatest emissions potential, which are the gas-fired furnaces. In addition, due to certain source category specific facts, we are proposing limits for both PM and a separate limit for chromium. (See Memo to File ''Development of Background Information on Proposed Area Source Emissions Limits'', March 15, 2013.)

Wool fiberglass glass-melting furnaces that are hybrid gas-fired and electric glass-melting furnaces would be included in this action; wool fiberglass glass-melting furnaces that are all-electric would not be included. Therefore, in today's action we are proposing PM and chromium compounds emission limits that would apply to gas-fired glass-melting furnaces located at wool fiberglass manufacturing facilities that are area sources. Electric glass-melting furnaces located at area sources would not be subject to this proposed rule.

In today's proposal, we are soliciting comment on whether to regulate only gas-fired glass-melting furnaces located at area sources or to regulate all glass-melting furnaces located at wool fiberglass manufacturing facilities that are area sources. In addition we are soliciting comment on the pollutants regulated.

B. How did the EPA select the format for the proposed rule for glass-melting furnaces located at wool fiberglass manufacturing area sources?

The emission points covered by this proposed area source rule were selected to ensure control of chromium compounds and other metal HAP emissions from gas-fired glass-melting furnaces located at area sources. We are proposing to establish numerical emission limits in the form of mass of pollutant (chromium compounds and PM) per mass of glass pulled through the glass-melting furnace. The same format is used for emission limits in both the area and the major source rules.

The emission limits in the proposed rule provide flexibility for the regulated community by allowing a regulated source to choose any control technology or technique to meet the emission limits, rather than requiring each unit to use a prescribed control method that may not be appropriate in every case. The EPA solicits comment on the format of the proposed standards.

C. How did the EPA determine the proposed emission standards for glass-melting furnaces located at wool fiberglass manufacturing area sources?

Under CAA section 112(d)(5), the Administrator may, in lieu of standards requiring maximum achievable control technology (MACT) under section 112(d)(2), elect to promulgate standards or requirements for area sources ''which provide for the use of generally available control technologies [''GACT''] or management practices by such sources to reduce emissions of hazardous air pollutants.'' Further, legislative history describes GACT as standards reflecting application of generally available control technology, that is, ''methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems'' (S. Rep. 101–228 (December 20, 1989). In addition to technical capabilities of the facilities and availabilities of control measures, legislative history suggests that we may consider costs and economic impacts in determining GACT.

In this proposed rule, we are setting emission standards to address emissions of chromium compounds and other metal HAP from wool fiberglass gas-fired glass-melting furnaces (i.e. cadmium, beryllium, manganese, lead, and arsenic). In determining what

constitutes GACT for this proposed rule, we considered the control technologies and management practices that are generally available to gas-fired wool fiberglass furnaces at area sources by examining relevant data and information, including information collected from all known wool fiberglass manufacturing sources. We also considered the risk and technology review standards proposed for major sources (76 FR 72770, November 25, 2011), to determine if the control technologies and management practices proposed for the major sources are generally available to area sources as well. Finally, we considered the costs of available control technologies and management practices on area sources.

In setting GACT we look to the control technologies generally available for major and area sources. From the information that we have collected to date in conjunction with this rulemaking, which includes stack testing and site visits at both major and area sources, we know that area sources have the same types of emissions, emission sources, and controls as major sources. Gas-fired wool fiberglass glass-melting furnaces at major and area sources are using the same control technologies (baghouses or electrostatic precipitators). The available emission data show no discernible differences between area source and major source furnaces. In fact, when a major source facility becomes an area source, the furnace emission and emissions controls do not change. Therefore, the control technologies used by major sources are generally available for area sources.

The data in the record show that major and area source furnaces are equipped with technologies that effectively control chromium and metal HAP emissions, including, but not limited to, ESPs and fabric filters. In determining GACT, we examined different levels of control using these generally available control technologies and evaluated the cost of such control. We are proposing a PM emissions limit of 0.33 lb/ton glass pulled, and a chromium emissions limit of 6.5×10^{-5} lb/ton glass pulled. We are proposing these limits because they reflect a level of control that can be achieved cost-effectively using generally available control technologies and management practices. See Development of Background Information on Proposed Area Source Emissions Limit, March 15, 2013.

We estimate no costs or emission reductions associated with the proposed PM standard because the record shows that all the gas-fired area source furnaces are currently meeting the proposed emissions limit. Significantly, however, the proposed PM limit will codify current actual current PM emissions levels to prevent any future increase in PM emissions. Without the proposed limits, these furnaces could increase PM emissions at any time as they are no longer subject to Subpart NNN.

There are three area source gas-fired furnaces that currently do not meet the proposed GACT for chromium. However, data are available for industries with similar control requirements that demonstrate that there are effective chromium control technologies available. We searched other industries for controls that would remove chromium and found that a sodium hydroxide (NaOH) scrubber is used in both high temperature metallurgical industries and in the chromium electroplating industry for removal of hexavalent chromium.[16] Based on the effectiveness of this technology on to two different types of exhaust gas streams, we believe this control technology is transferable to wool fiberglass furnaces. Though there are currently no NaOH scrubbers applied in the wool fiberglass industry, there is currently one gas-fired furnace equipped with a PM control followed by a wet scrubber for SO_2 control. This is directly analogous to using a NaOH wet scrubber downstream of the PM controls to achieve additional chromium removal. Assuming that the facilities not currently meeting the proposed chromium emission limit opted to use the NaOH scrubbers to achieve compliance, the cost of the proposed chromium emissions limit is $7,600 per pound of chromium. This is a reasonable cost given that chromium is an urban air toxic and that a significant portion of the chromium emitted from gas-fired glass-melting furnaces is hexavalent chromium, which is extremely toxic and carcinogenic even in low amounts. We note that we found $11,000 per pound chromium removed to be a reasonable cost in the final Chromium Electroplating RTR rulemaking, where we regulated chromium compounds (77 FR 59220, September 19, 2012). For information on the methodology and more detailed results of this analysis, see the memorandum, *Costs and Emission Reductions for the Proposed Wool Fiberglass Manufacturing NESHAP—Area Sources,* in the docket and section V.B of this preamble. We did, however, examine lower limits and the costs associated therewith. See Development of Background Information on Proposed Area Source Emissions Limit, March 15, 2013.

The proposed limits for area sources are identical to the limits we have proposed for furnaces located at major sources as part of our technology review under 112(d)(6). It is reasonable that the limits for major and area sources be the same, especially, where, as here, there are no discernible differences between area and major source furnaces. Accordingly, we are proposing GACT standards for PM and chromium. We solicit comment on the proposed GACT standards for PM and chromium.

D. How did the EPA determine the compliance and monitoring requirements for the Wool Fiberglass Manufacturing area sources proposed rule?

We are proposing testing, monitoring, notification, recordkeeping, and reporting requirements to assure continuous compliance with the requirements of the proposed rule and that are consistent with the major source rule requirements in subpart NNN. In fact, the specific requirements in the proposed rule reference the requirements in § 63.1386 of subpart NNN. We solicit comment on the proposed compliance and monitoring requirements for area sources. These proposed requirements impose on facilities the minimum burden that is necessary to ensure compliance with the proposed rule.

E. How did the EPA determine compliance dates for the proposed Wool Fiberglass Manufacturing area sources rule?

Section 112 of the CAA provides limits for the dates by which affected sources must comply with the emission standards. New or reconstructed units would be required to be in compliance with the final rule immediately upon startup, or the date the final rule is published in the **Federal Register**, whichever is later. The proposed rule allows existing area sources up to one year to comply with the final rule. The CAA provides that existing sources must comply as expeditiously as possible but not later than 3 years after promulgation of the final NESHAP. We do not believe that 3 years for compliance is necessary to allow adequate time to design, install, and test control systems. All facilities currently already meet the proposed PM limit. If an area source must apply additional control to meet the chromium limit, we believe one year is adequate time given

[16] NaOH Scrubber Information. Telephone discussion and emails between vendors, companies and EPA. Steffan Johnson, Measurement Policy Group. USEPA/OAQPS/SPPD.

the fact that there is only one pollutant involved, and the available chromium control technology can be added downstream of the current PM controls and is a well established technology. However, sources can always petition their permitting authorities to allow for additional time to install controls pursuant to section 112(i)(3)(B). We solicit comment on the proposed compliance dates for area sources.

F. How did the EPA determine recordkeeping and reporting requirements for the Wool Fiberglass Manufacturing area sources proposed rule?

Section 112 of the CAA requires the EPA to develop regulations that include requirements for reporting the results of testing and monitoring performed to determine compliance with the standards. In today's action, we are proposing sources be required to comply with the applicable requirements in the NESHAP General Provisions, subpart A of 40 CFR part 63, as referenced in Table 1 of the proposed rule. We evaluated the General Provisions requirements, and included those we determined to be the minimum notification, recordkeeping, and reporting necessary to ensure compliance with, and effective enforcement of, the proposed rule. The reports that we are proposing to be required are found in 40 CFR 63.886 of the proposed rule.

We also determined the necessary records that need to be kept to demonstrate continuous compliance with the proposed emission limits. These recordkeeping requirements are specified directly in the today's proposed rule, and in the General Provisions to 40 CFR part 63. The recordkeeping requirements are found in 40 CFR 63.886 of the proposed rule. We are proposing that records be kept for 5 years in a form suitable and readily available for EPA review. We are proposing that records be kept on site for 2 years. Records may be kept off site for the remaining 3 years.

The General Provisions include specific requirements for notifications, recordkeeping, and reporting. The reports are specified in proposed 40 CFR 63.886.

The notification of compliance status report required by 40 CFR 63.9(h) must include certifications of compliance with rule requirements. The excess emissions and continuous system performance report and summary report required by 40 CFR 63.10(e)(3) of the NESHAP General Provisions (referred to in the rule as a compliance report) would be required to be submitted semiannually for reporting periods during which there was an exceedance of any emission limit, or a monitored parameter, or when a deviation from any of the requirements in the rule occurred, or if any process changes occurred, and compliance certifications were reevaluated.

V. Impacts of the Proposed Wool Fiberglass Manufacturing Area Source Rule

The impacts presented in this section include the air quality, cost, non-air quality and economic impacts of complying with the proposed rule for wool fiberglass manufacturing located at facilities that are area sources to comply with the proposed rule.

A. What are the air impacts for the proposed Wool Fiberglass Manufacturing area source rule?

We have estimated the potential emission reductions from implementation of the proposed emission standards to be 50 pounds of chromium compounds per year.

We estimated emission reductions of the proposed rule for each gas-fired glass-melting furnace. For all emission points, we first calculated emissions at the current level of control for each facility (referred to as the baseline level of control), and at the proposed level of control. We calculated emission reductions as the difference between the proposed level and baseline.

B. What are the cost impacts for the proposed Wool Fiberglass Manufacturing area source rule?

We considered the costs and benefits of achieving the proposed emission limits and identified five facilities with a total of eight glass-melting furnaces that would be subject to the proposed requirements. All eight glass-melting furnaces would have to conduct annual testing to demonstrate compliance. Based on the emission testing conducted in 2011 and 2012, three of the eight glass-melting furnaces would need to reduce their emissions to meet the proposed chromium compound emission limits. We found that the use of a sodium hydroxide scrubber is effective in reducing emissions of hexavalent chromium from other industrial processes and that the technology can be transferred to this industry sector. We estimated the capital cost for a sodium hydroxide scrubber to be $250,000 and the total annualized costs, including operating costs, to be $100,000.

Costs are also incurred for compliance testing, monitoring, recordkeeping, and reporting requirements of the proposed rule. Based on the most recent test data provided, all eight glass-melting furnaces currently meet the proposed PM emission limit.

Because the scrubbers will be installed on three furnaces, the industry-wide total capital investment will be $750,000. We estimate that the total annualized cost of these controls will be $300,000, in 2011 dollars. The annual performance testing costs are $10,000 per gas-fired glass-melting furnace. Since there are a total of eight gas-fired glass-melting furnaces at the five facilities, the total annual testing cost is $80,000. The estimated HAP reduction is 50 pounds of chromium compounds resulting in overall cost effectiveness of $7,600 per pound of HAP reduced.

While we do not anticipate the construction of any new wool fiberglass manufacturing facilities in the next 5 years, we do expect most, if not all, of the 10 major source facilities to convert to non-HAP binders and become area sources. However, we did not estimate new source cost impacts for any additional facilities to avoid double counting the costs associated with the major source rule (subpart NNN) with similar gas-fired glass-melting furnace requirements. Table 5 below presents the costs to wool fiberglass area sources.

TABLE 5—ESTIMATED COSTS AND REDUCTIONS FOR THE PROPOSED WOOL FIBERGLASS MANUFACTURING AREA SOURCE STANDARDS (NN) IN THIS ACTION

Proposed amendment	Est. capital cost ($MM)	Est. total annualized cost ($MM)	Total HAP emissions reductions	Cost effectiveness	Number facilities
Installation of NaOH scrubber	0.25 × 3	0.1 × 3	50 pounds per year	7,600 ($ per pound)	2

TABLE 5—ESTIMATED COSTS AND REDUCTIONS FOR THE PROPOSED WOOL FIBERGLASS MANUFACTURING AREA SOURCE STANDARDS (NN) IN THIS ACTION—Continued

Proposed amendment	Est. capital cost ($MM)	Est. total annualized cost ($MM)	Total HAP emissions reductions	Cost effectiveness	Number facilities
Additional testing and monitoring for glass-melting furnaces.	0	0.01 × 8	N/A		5

The analysis is documented in the memorandum, *Costs and Emission Reductions for the Proposed Wool Fiberglass Manufacturing NESHAP—Area Sources,* and is available in the docket.

C. What are the non-air quality health, environmental and energy impacts for the proposed Wool Fiberglass Manufacturing area source rule?

We anticipate that three gas-fired glass-melting furnaces would need to apply additional controls to meet the proposed chromium emission limits. These controls, sodium hydroxide scrubbers, use water. We estimate an annual requirement of 4.8 million gallons per year of additional wastewater would be generated as a result of additional water used for scrubbers.

The energy impacts associated with meeting the proposed emission limits would consist primarily of additional electricity needs to run added or improved air pollution control devices. By our estimate, we anticipate that an additional 1,000 megawatt-hours per year would be required for the additional and improved control devices.

We anticipate the secondary air impacts from adding controls to meet the standards to be minimal. The combustion of fuel needed to generate additional electricity would yield slight increases in NO_X, CO, SO_2 emissions. Since NO_X and SO_2 emissions and electric generating units are covered by capped emissions trading programs, we do not estimate an increase in secondary air impacts for these pollutants for this rule form additional electricity demand. The combustion of additional fuel from additional electrical usage and supplemental fuel for incineration devices would yield CO emissions of less than 0.1 tpy. The analyses are documented in the memorandum, *Secondary Impacts of the Proposed Wool Fiberglass Manufacturing NESHAP—Area Sources,* which is available in the docket.

D. What are the economic impacts of the proposed Wool Fiberglass Manufacturing area source rule?

We performed an economic impact analysis for wool fiberglass consumers and producers nationally, using the annual compliance costs estimated for this proposed rule. The impacts to producers affected by this proposed rule are annualized costs of less than 0.01 percent of their revenues, using the most current year available for revenue data. Prices and output for wool fiberglass products should increase by no more than the impact on cost to revenues for producers; thus, wool fiberglass prices should increase by less than 0.01 percent. Hence, the overall economic impact of this proposed rule should be low on the affected industries and their consumers. For more information, please refer to the Economic Impact and Small Business Analysis for this proposed rulemaking that is in the docket (EPA–HQ–OAR–2010–1042).

VI. What are the proposed changes to Mineral Wool Production (Subpart DDD) and Wool Fiberglass Manufacturing (Subpart NNN) major source rules?

On November 25, 2011, the EPA proposed revisions to the Mineral Wool and the Wool Fiberglass Manufacturing NESHAP, 40 CFR part 63, subparts DDD and NNN, respectively, to address the results of the residual risk and technology review (RTR) that the EPA is required to conduct under sections 112(d)(6) and 112(f)(2)(76 FR 72812). Today's notice also proposes several revisions, corrections and clarifications to that proposal.

A. Subpart DDD—Mineral Wool Production Major Source Rule

Based on comments on the November 2011 proposal and new data supplied by the industry, we are proposing the following revisions to the major source rule amendments:

(1) In response to the limits proposed on November 25, 2011, we received raw material content information from the seven facilities producing mineral wool in the U.S. Of the seven facilities, three reported using slag and four reported only using minerals (rock) and coke (e.g., ''no slag''). Slag is a waste by-product from the iron and steel industry and is location-specific depending on the type of facility/process generating the slag. Some slags have residual fluorides or chlorides which vary from location to location and from process to process. In response to this information, we are proposing to subcategorize the mineral wool cupolas into two categories: Those that process slag materials and those that do not. Based on this subcategorization, we are proposing revised standards for HCl and HF.

The revised limits being proposed today are summarized in Table 6 below:

TABLE 6—HCL AND HF EMISSION LIMITS FOR MINERAL WOOL CUPOLAS

[lb/ton of melt]

Pollutant	2011 Proposed limit for all cupolas	2013 Proposed limit for existing, new, and reconstructed cupolas using slag	2013 Proposed limit for existing, new, and reconstructed cupolas not using slag
HCl	0.0096	0.21	0.43
HF	0.014	0.16	0.13

(2) We are also proposing revised COS emission limits for cupolas based on additional information regarding cupola design supported by test data provided by industry in their comments on the November 2011 proposal. In response to the information provided, we are proposing to subcategorize cupolas into closed-top and open-top cupolas. The revised COS emission limits being proposed in this action are summarized in Table 7 below:

TABLE 7—COS EMISSION LIMITS FOR MINERAL WOOL CUPOLAS

[lb/ton of melt]

COS	2011 Proposed limit for existing cupolas	2013 Proposed limit for existing cupolas	2011 Proposed limit for new and reconstructed cupolas	2013 Proposed limit for new and reconstructed cupolas
Closed-Top	3.3	3.4	0.017	0.025
Open-Top	3.3	6.8	0.017	4.3

(3) The formaldehyde, phenol, and methanol emission limits for combined collection/curing operations proposed on November 25, 2011, have been revised based on comments and additional facility information. The revised limits being proposed in this action are summarized in Table 8 below. As a result of new test data, limits for vertical and drum collection/curing would increase compared to the limits previously proposed on November 25, 2011.

TABLE 8—EMISSION LIMITS FOR MINERAL WOOL COMBINED COLLECTION/CURING OPERATIONS

[lb/ton of melt]

	2011 Proposed limit	2013 Proposed limit
Curing & Drum Collection		
Formaldehyde	0.067	0.18
Phenol	0.0023	1.3
Methanol	0.00077	0.48
Curing & Vertical Collection		
Formaldehyde	0.46	2.7
Phenol	0.52	0.74
Methanol	0.63	1.0
Curing & Horizontal Collection		
Formaldehyde	0.054	0.054
Phenol	0.15	0.15
Methanol	0.022	0.022

The updated draft risk assessment, located in the docket for this rulemaking, is based on actual emissions currently emitted by the industry. Due to new formaldehyde emissions data that were provided by the industry our estimate of risk from actual emissions has increased slightly compared to the risk assessment conducted for the November 25, 2011, proposal. The risk from mineral wool production is driven by formaldehyde. The MIR at proposal for actual baseline emissions was 4-in-1 million. The allowable MIR was estimated to be 10-in-1 million. The post control emissions MIR was estimated to be 4-in-1 million.

The actual MIR increased to 10-in-1 million, acute noncancer HQ increased from eight to 22 and the AEGL–1 increased from 0.4 to 1.1 based on the new test data characterizing actual emissions. While the risk increased slightly, we note that it is still very low, is evaluated using conservative methods, and is still well within a level we consider acceptable (that is, less than 100-in-1 million).

(4) We are proposing definitions for open-top cupolas, closed-top cupolas and slag.

(5) The Part 63 GP have been amended seven times since they were first promulgated in 1994 (59 FR 12430), and subpart DDD cites to the GP requirements as they appeared in 1999. As a result, numerous citations to the GP appear in subpart DDD that have since changed. In today's action, we propose technical corrections to GP citations to accurately reflect the GP as they now appear.

(6) In response to industry comments we are proposing to remove the requirement for PM testing by EPA method 202 contained in the original proposal. The PM emission limits were based on testing that measured only filterable particulate. Including Method 202 as a required test method would measure condensible particulate, which was not accounted for in determining the PM limit.

B. Subpart NNN—Wool Fiberglass Manufacturing Major Source Rule

Based on comments on the November 2011 proposal and new data supplied by the industry, we are proposing the following revisions to the major source rule amendments:

(1) At the time of the November 25, 2011 proposal, we proposed that all glass-melting furnaces (electric or gas-fired) located at major sources would be subject to the limit for chromium compounds we proposed pursuant to 112(d)(6) and (f)(2). However, because of information we have developed since the November 25 proposal, we are now only proposing to apply the chromium emissions limit for glass-melting furnaces to furnaces fired with gas. This would include oxyfuel, recuperative air gas, air gas, and hybrid electric and air gas furnaces. Comments received indicated that a separate chromium limit is not necessary for electric furnaces. (See section IV.A of this preamble for more information) Gas-fired glass-melting furnaces would be required to limit their emissions of

chromium compounds to no more than 0.06 pounds of chromium compounds per thousand tons of glass pulled (6×10^{-5} lb/ton). Glass-melting furnaces emitting at rates less than 75 percent of the proposed limit would be able to reduce their testing frequency from annually to every 3 years. Glass-melting furnaces emitting at or above 75 percent of the proposed limit would be required to test annually, as described in the performance test requirements (see section 63.884) of the proposed rule.

(2) Consistent with our intent to propose PM standards resulting from our technology review, under section 112(d)(6), we are revising the PM limit for all glass-melting furnaces from 0.5 to 0.33 lb PM per ton glass pulled. The limits proposed in the November 25, 2011, notice (76 FR 72815) were calculated incorrectly and did not reflect the technology review results as described in that notice. The revised limits proposed in today's action are based on our technology review and reflect our analysis of the level of control being achieved by the majority of the industry using baghouses and electrostatic precipitators.

(3) We are proposing work practice standards for control of HF and HCl emissions from furnaces, instead of the emission limits in the November 25, 2011, proposal. During the comment period, we received comment from industry that most of the test data revealed results that were below the detection limits (BDL) of the method. Upon reexamination of our analysis of the acid gas data, we found that over 80 percent of the HF and HCl test data were BDL, and as such we now agree with the commenter and believe that rather than a numerical emission limit, a work practice standard is appropriate for this case. We are therefore proposing a work practice standard for HF and HCl emissions from furnaces. (See Memo to File ''Development of Background Information on Proposed Area Source Emissions Limits'', March 15, 2013.)

Under section 112(h) of the CAA, the EPA may adopt a work practice standard in lieu of a numerical emission standard only if it is ''not feasible in the judgment of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant''. This phrase is defined in the Act to apply to any situation ''in which the Administrator determines that * * * the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.'' CAA section 112(h)(1) and (2).

The EPA regards situations where, as here, the majority of the measurements are below the detection limit as being a situation where measurement is not ''technologically practicable'' within the meaning of section 112(h)(2)(B) of the CAA. (See 76 FR 25046 where EPA proposed set work practice standards for dioxins and organic HAP for utility boilers.) Unreliable measurements raise issues of practicability and of feasibility and enforceability (see section 112(h)(1)). The application of measurement methodology in this situation would also not be ''practicable due to * * * economic limitation'' within the meaning of section 112(h)(2)(B) since it would just result in cost expended to produce analytically suspect measurements.

(4) In the November 25, 2011 proposal we proposed new MACT emission limits for RS lines for formaldehyde, phenol, and methanol. In today's proposal, we are revising the emission limits for RS lines based on clarification of test data received from the industry during the comment period. During the data collection phase, we required companies to provide test data on bonded lines even if these lines had phased out the use of formaldehyde and were not producing a product that was subject to Subpart NNN. Many companies did not distinguish between the bonded lines that still used formaldehyde and those that did not. We mistakenly included some data for HAP-free lines with the data for lines still using formaldehyde. Today's notice proposes to correct that error and to propose revised emission limits for formaldehyde, phenol and methanol from RS manufacturing lines summarized in Table 9 of this preamble.

TABLE 9—EMISSION LIMITS FOR ROTARY SPIN MANUFACTURING LINES

HAP	Current limit (1999 rule)	2011 Proposal	2013 Proposal
Existing Sources (lb/ton of glass pulled)			
Formaldehyde	1.2	0.17	0.19
Phenol	.....	0.19	0.26
Methanol	.....	0.48	0.83
New or Reconstructed Sources (lb/ton of glass pulled)			
Formaldehyde	0.8	0.020	0.087
Phenol	.....	0.0011	0.063
Methanol	.....	0.00067	0.61

(5) In the original NESHAP, FA lines were subcategorized by product (heavy density wool fiberglass verses pipe product). In the November 25, 2011 proposal we included new MACT emission limits for FA lines for formaldehyde, phenol, and methanol that applied to both heavy density wool fiberglass and pipe product. However, we did not clearly state that we were eliminating the FA line subcategories that existed in the original NESHAP. We are proposing to eliminate subcategories of FA manufacturing lines because we no longer believe that a technical basis exists to distinguish these subcategories. As part of rule development, industry provided test data that they claimed was representative of FA lines for both product types. The 2011 and 2012 ICR response data indicate that only one company uses FA processes to produce several different products on the same lines. This is the company that provided the test data on which the limits for FA lines are based.

(6) As with the amendments to subpart DDD discussed in section VI(A)(5) of this preamble, we are proposing to make technical corrections to the GP citations in the rule. These amendments would serve to accurately identify the requirements of the GP that apply to subpart NNN.

(7) An industry commenter stated that for measuring the concentration of formaldehyde, phenol, and methanol the use of the proposed EPA Method 318 can result in non-quantifiable levels

that are inappropriate to determine the proposed emission limits. The commenter requested the option to determine all organics by EPA Method 318 or, alternatively, to determine formaldehyde by EPA Method 316; determine phenol by EPA Method 8270D; and determine methanol by EPA Method 308. The EPA agrees that EPA Method 318 may result in non-quantifiable levels that are inappropriate for compliance determination. Therefore we are proposing to allow compliance testing with EPA Method 318 for all organics or, alternatively, to determine formaldehyde by EPA Method 316; determine phenol by EPA Method 8270D; and determine methanol by EPA Method 308.

(8) In the November 25, 2011 proposal, we proposed to require Method 0061 to measure chromium compounds. An industry commenter stated that most existing compliance tests require the use of EPA Method 29 to measure chromium compounds, and asked us to allow Method 29 to also be acceptable for measuring chromium compounds. We agree with the commenter that Method 29 is an acceptable method for this purpose, and we propose to also allow compliance testing with EPA Method 29 for total chromium compounds.

C. Revisions to Startup, Shutdown and Malfunction Provisions

In the proposed rules for mineral wool and wool fiberglass to which this supplemental proposal is added, the EPA proposed the removal of the exemptions pertaining to periods of startup, shutdown, and malfunction, and proposed standards that apply at all times. This supplemental proposal does not change those proposed standards.

In our proposal to revise subparts DDD and NNN for major sources, we proposed the elimination of the startup and shutdown exemption and other related requirements, including eliminating the requirement to develop and maintain a startup, shutdown, and malfunction plan. However, in the proposal notice, we neglected to revise section 63.1386(c), which contains planning, recordkeeping, and reporting requirements related to startup and shutdown. In this supplemental proposal, we are correcting this oversight and replacing prior requirements with recordkeeping and reporting appropriate to standards applicable at all times.

Consistent with our intent to revise the requirements related to SSM, we proposed several revisions to Table 1 (the General Provisions Applicability Table). The changes in the supplemental proposal here correctly correspond to the recordkeeping and reporting requirements related to the rule revisions as proposed in 76 FR 72770.

The EPA has attempted to ensure that the revisions we are proposing to eliminate are inappropriate, unnecessary, or redundant in the absence of the SSM exemption. We are specifically seeking comment on whether we have successfully done so.

As we proposed, the Subpart DDD emissions limits apply at all times. In the proposed RTR rule, we did not define the periods of startup or shutdown. In light of the comments received on the proposed rule, which raise questions as to when startup and shutdown begin and end, we are proposing definitions of startup and shutdown. We are proposing to define startup to be when the coke interspersed with layers of rock and/or slag and other mineral products are ignited. We are proposing startup as ending when molten mineral wool begins to flow from the cupola. We are proposing to add a definition of shutdown to be when the cupola has reached the end of the melting campaign and is empty.

As was the case with wool fiberglass furnaces, the uncontrolled emissions from a mineral wool cupola are expected to be lower during startup and shutdown periods than during other operating periods due to lower temperatures, and in the case of shutdown less raw materials. Therefore, if a source continues to route the exhaust to the air emissions control equipment, and operate that equipment consistent with the operating parameters established during the last successful compliance test, the source would be expected to maintain compliance with the emissions limits during startup and shutdown. Therefore, we are proposing a compliance alternative allowing sources to demonstrate compliance with the emissions limits during startup and shutdown by keeping records establishing that its emissions were routed to the air pollution control devices, and these control devices were operated at the parameters established by the most recent performance test that showed compliance with the emissions limit.

For subpart NNN we are also retaining the requirements that the emissions limits apply at all times, including startup and shutdown. For the reasons previously discussed in III.D, we are adding a compliance alternative for startup and shutdown of all furnaces that a facility keep records demonstrating that emissions are routed to the air pollution control devices, and all applicable control devices were operated at the same parameters as they were operated during the most recent performance test that showed compliance with the standard.

Electric cold-top furnaces are controlled differently than other furnace types. In this case cold-top glass-melting furnaces could demonstrate compliance by melting only cullet until a crust on the batch cover has been established. Cullet has a lower emissions potential than other raw materials typically used. Therefore, limiting the raw material to only cullet during startup will result in lower emissions. We are also adding a requirement that all other glass-melting furnaces could demonstrate compliance during startup by preheating the empty glass-melting furnace using only natural gas.

As with the amendments to subpart DDD discussed in section VI(A)(5) of this preamble, we are proposing to make technical corrections to the GP citations in the rule. These amendments would serve to accurately identify the requirements of the GP that apply to subpart NNN.

Finally, we are also proposing affirmative defense language that differs in some respects from the language we proposed in November of 2011. For example, we have used the term ''exceedance'' rather than the term ''violation'' in several places. We have also eliminated the two-day notification requirement and the directive that off-shift and overtime labor be used to the extent practicable to make repairs and have revised the reporting requirement deadlines. We are asking for comments on the language we have proposed today that differs from the language proposed in November 2011.

VII. Impacts of the Proposed Changes to Mineral Wool Production (Subpart DDD) and Wool Fiberglass Manufacturing (Subpart NNN) Major Source Rules

A. Subpart DDD—Mineral Wool Production Major Source Rule

Emissions of COS and formaldehyde from mineral wool production facilities have declined over the last decade as a result of federal rules, state rules and on the industry's own initiative. Today's proposed amendments would maintain emissions of COS, formaldehyde, phenol or methanol emissions at their current low levels.

We do not anticipate any adverse water quality or solid waste impacts from the proposed amendments to the 1999 MACT rule because the proposed requirements would not change the

existing requirements that impact water quality or solid waste.

The estimated cost impacts have been reduced from those in the November 25, 2011, proposal. In the November 2011 RTR proposal, we estimated the total annualized costs from the rule as $548,000. Those cost estimates included $360,000 for low sulfur coke and other raw materials and $243,000 for additional testing and monitoring. In that proposal, annual testing was required for sources to comply with the rule. In this supplemental proposal, we reevaluated those costs and the compliance testing frequency, and the costs presented below in Table 10 wholly replace those estimated in the November 2011 proposed rule. As explained in section VI.A. of this preamble, the EPA is establishing subcategories for mineral wool based on (1) whether slag is included in the raw materials melted in the cupola(s), and (2) whether the line has a closed-top cupola or an open-top cupola. All existing lines with closed-top cupolas are fitted with RTO which convert the high concentrations of COS in the cupola exhaust gas to energy that is returned to the cupola. This technology reduces the consumption of coke up to 30 percent and, because of the cost of coke, this technology pays for itself over a period of several years. Emissions of COS are below 0.03 lb COS per ton melt when an RTO is installed for energy recovery and new source MACT for closed-top cupolas is based upon the use of this technology. Open-top cupolas do not accommodate RTO. Today's proposed rule establishes a limit of 4.3 lbs COS per ton melt for new lines with open-top cupolas, and 6.8 lbs COS per ton melt for existing lines. All lines currently in operation can meet this limit without new control equipment or different input materials, and thus will not incur additional costs.

The total annualized costs for these proposed amendments are estimated at $59,200 (2011 dollars) for additional testing and monitoring. Note also that the cost impacts for today's proposed rule are about 10 percent of those proposed in November 2011. This reduction in cost is due to two factors. First, we have subcategorized cupolas according to design and use of slag. Second, cost changes for testing and monitoring are due to a reduced frequency of testing: from annual required under the proposed rule to testing every 5 years under this supplemental proposal. Other differences also affect the cost comparison. These include one new source in the source category (Roxul in Mississippi) and the change from cost estimates based upon 2010 dollars to 2011 dollars. Table 10 below provides a summary of the estimated costs and emissions reductions associated with today's proposed amendments to the Mineral Wool Production NESHAP.

TABLE 10—ESTIMATED COSTS AND REDUCTIONS FOR THE MINERAL WOOL PRODUCTION PROPOSED STANDARDS IN THIS ACTION

Proposed amendment	Estimated capital cost ($MM)	Estimated annual cost ($MM)	Total HAP emissions reductions (tons per year)	Cost effectiveness in $ per ton total HAP reduction
Additional testing and monitoring	0	0.059	N/A	N/A

B. Subpart NNN—Wool Fiberglass Manufacturing Major Source Rule

We evaluated the impacts to the affected sources based on all available information. Two significant sources were the 2010 and 2011/2012 emissions testing and subsequent conversations with NAIMA and individuals operating industry facilities. According to the 2010 and 2012 emissions test data, there are three glass-melting furnaces at two facilities that do not meet the proposed chromium compound emission limit.

Our assessment of impacts is based on the data from tested glass-melting furnaces only, and may not be representative of untested glass-melting furnaces. We anticipate that 10 of the 30 wool fiberglass manufacturing facilities currently operating in the United States are currently major sources and would be affected by these proposed amendments. We estimate that two of the 10 wool fiberglass manufacturing facilities that are major sources would install air pollution controls.

We expect that today's proposed RTR amendments would result in reductions of 442 pounds of chromium compounds. Hexavalent chromium can be as much as 93 percent of the total chromium compounds emitted from wool fiberglass glass-melting furnaces.

We believe that all affected facilities will be able to comply with the today's proposed work practice standards for HF and HCl without additional controls, and that there will be no measurable reduction in emissions of these gases. Also, we anticipate that there will be no reductions in PM emissions due to these proposed PM standards because all sources currently meet the revised PM limit.

Indirect or secondary air quality impacts include impacts that will result from the increased electricity usage associated with the operation of control devices. We do not anticipate significant secondary impacts from the proposed amendments to the Wool Fiberglass MACT.

The capital costs for each facility were estimated based on the ability of each facility to meet the proposed emissions limits for PM, chromium compounds, formaldehyde, phenol and methanol. The memorandum, *Cost Impacts of the Proposed NESHAP RTR Amendments for the Wool Fiberglass Manufacturing Source Category,* includes a complete description of the cost estimate methods used for this analysis and is available in the docket.

Under today's proposed amendments, eight of the 10 major source wool fiberglass facilities will not to incur any capital costs to comply with the proposed emissions limits. Five facilities would be subject to new costs for compliance testing on gas-fired glass-melting furnaces, which will total $80,000 annually for the entire industry. At this time, there are two facilities with a total of three gas-fired glass-melting furnaces that do not meet the proposed emissions limit for chromium compounds. We anticipate that these facilities would install a sodium hydroxide scrubber on each of three glass-melting furnaces, for a total capital cost of $750,000. The total annualized cost for the scrubbers, including operating and maintenance costs, is estimated to be $300,000. There are a total of eight gas-fired glass-melting furnaces located at five major source facilities. Annual performance testing costs would be $10,000 per glass-melting furnace, resulting in total glass-melting furnace testing costs of $80,000.

The 10 major source facilities would incur total annualized costs of $80,400

for additional compliance testing on their FA and RS manufacturing lines and six of those facilities would incur a total cost of $750,000 for operation and maintenance of their existing thermal oxidizers due to the proposed rule emission limits. The total annualized costs for the proposed amendments are estimated at $1.21 million (2011 dollars).

Table 11 below summarizes the costs and emission reductions associated with the proposed amendments.

TABLE 11—ESTIMATED COSTS AND REDUCTIONS FOR THE PROPOSED WOOL FIBERGLASS MANUFACTURING MAJOR SOURCE STANDARDS (NNN) IN THIS ACTION

Proposed amendment	Est. capital cost ($MM)	Est. total annualized cost ($MM)	Total HAP emissions reductions	Cost effectiveness	Number facilities
Gas-Fired Glass-Melting Furnaces					
Installation of NaOH scrubber	0.25 × 3	0.1 × 3	455 pounds per year	835 ($ per pound)	2
Additional testing and monitoring for gas-fired glass-melting furnaces.	0	0.01 × 8	N/A		5
RS and FA Manufacturing Lines					
Operation and Maintenance of thermal oxidizer	0	0.750	123 tons per year	6750 ($ per ton)	6
Additional testing and monitoring for FA and RS lines	0	0.080	N/A		10

VIII. Statutory and Executive Order Reviews

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

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

In addition, the EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is contained in *Costs and Emission Reductions for the Proposed Wool Fiberglass Manufacturing NESHAP—Area Source,* in Docket ID No. EPA–HQ–OAR–2010–1042. A copy of the analysis is available in the docket for this action and the analysis is briefly summarized in section V.B of this preamble.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the *Paperwork Reduction Act,* 44 U.S.C. 3501, *et seq.* The Information Collection Request (ICR) document prepared by the EPA has been assigned EPA ICR No. 2481.01.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B. The requirements discussed below pertain only to the proposed area source rule. The requirements for the major source rule remain unchanged from the November 2011 proposal.

The proposed rule would require maintenance inspections of the control devices, and some notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance. The information collection activities in this ICR include the following: Performance tests, operating parameter monitoring, preparation of a site-specific monitoring plan, monitoring and inspection, one-time and periodic reports, and the maintenance of records. Some information collection activities included in the NESHAP may occur within the first 3 years, and are presented in this burden estimate, but may not occur until 4 or 5 years following promulgation of the proposed standards for some affected sources. To be conservative in our estimate, the burden for these items is included in this ICR. An initial notification is required to notify the Designated Administrator of the applicability of this subpart, and to identify gas-fired glass-melting furnaces subject to this subpart. A notification of performance test must be submitted, and a site-specific test plan written for the performance test, along with a monitoring plan. Following the initial performance test, you must submit a notification of compliance status that documents the performance test and the values for the operating parameters. A periodic report submitted every six months documents the values for the operating parameters and deviations. Owners or operators of wool fiberglass manufacturing facilities are required to keep records of certain parameters and information for a period of 5 years. The annual testing, annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) is estimated to be $32,808. This includes 77 labor hours per year at a total labor cost of $6,088 per year, and total non-labor capital costs of $26,720 per year. This estimate includes initial and annual performance tests, conducting and documenting semiannual excess emission reports, maintenance inspections, developing a monitoring plan, notifications and recordkeeping. Monitoring and testing cost were also included in the cost estimates presented in the control costs impacts estimates in section V of this preamble. The total burden for the Federal government (averaged over the first 3 years after the effective date of the standard) is estimated to be 16 hours per year, at a total labor cost of $695 per year. Burden is defined at 5 CFR 1320.3(b).

When malfunctions occur, sources must report them according to the applicable reporting requirements of 40 CFR part 63, subpart NN. An affirmative defense to civil penalties for violations of emission limits that are caused by malfunctions is available to a source if it can demonstrate that certain criteria and requirements are satisfied. The criteria ensure that the affirmative defense is available only where the event that causes an exceedance of the emission limit meets the narrow definition of malfunction in 40 CFR 63.2 (e.g., sudden, infrequent, not reasonably preventable and not caused by poor maintenance or careless operation) and where the source took necessary actions to minimize emissions. In addition, the source must meet certain reporting requirements. For example, the source must prepare a written root cause analysis and submit a written report to the Administrator documenting that it has met the conditions and requirements for assertion of the affirmative defense. The EPA considered whether there might be any burden associated with the recordkeeping and reporting requirements associated with the assertion of the affirmative defense. Any such burdens are only incurred if there has been a violation and a source chooses to take advantage of the affirmative defense. Therefore, the EPA estimates that there would be no additional costs for sources that choose to take advantage of the affirmative defense for malfunctions since it is already required for compliance with the rule. However, there may be other malfunctions that are not currently regulated under the part 61 NESHAP that might prompt a source to take advantage of an affirmative defense.

To provide the public with an estimate of the relative magnitude of the burden associated with an assertion of the affirmative defense position adopted by a source, the EPA has provided administrative adjustments to the ICR that show what the recordkeeping and reporting requirements associated with the assertion of the affirmative defense might entail. The EPA's estimate for the required reports and records, including the root cause analysis, totals $3,141, and is based on the time and effort required of a source to review relevant data, interview plant employees, and document the events surrounding a malfunction that has caused a violation of an emission limit. The estimate also includes time to produce and retain the record and reports for submission to the EPA. The EPA provides this illustrative estimate of this burden because these costs are only incurred if there has been a violation and a source chooses to take advantage of the affirmative defense.

Given the variety of circumstances under which malfunctions could occur, as well as differences among sources' operation and maintenance practices, we cannot reliably predict the severity and frequency of malfunction-related excess emissions events for a particular source. It is important to note that the EPA has no basis currently for estimating the number of malfunctions that would qualify for an affirmative defense. Current historical records would be an inappropriate basis, as source owners or operators previously operated their facilities in recognition that they were exempt from the requirement to comply with emissions standards during malfunctions. Of the number of excess emissions events reported by source operators, only a small number would be expected to result from a malfunction (based on the definition above), and only a subset of violations caused by malfunctions would result in the source choosing to assert the affirmative defense.

Thus, we expect the number of instances in which source operators might be expected to avail themselves of the affirmative defense will be extremely small. For this reason, we estimate no more than one such occurrence will occur per year for all sources subject to subpart NN over the 3-year period covered by this ICR. We expect to gather information on such events in the future and will revise this estimate as better information becomes available.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, the EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA–HQ–OAR–2010–1042. Submit any comments related to the ICR to the EPA and the OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to the EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after April 15, 2013, a comment to OMB is best assured of having its full effect if OMB receives it by May 15, 2013. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business as defined by the SBA's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. For this source category, which has the general NAICS code 327993 (i.e., Mineral Wool Production and Wool Fiberglass Manufacturing), the SBA small business size standard is 750 employees according to the SBA small business standards definitions.

After considering the economic impacts of this proposed rule on small entities in the Mineral Wool Production and Wool Fiberglass Manufacturing source categories, I certify that this action will not have a significant economic impact on a substantial number of small entities. Five of the seven Mineral Wool Production parent companies affected in this proposed rule are considered to be small entities per the definition provided in this section. There are no small businesses in the Wool Fiberglass Manufacturing source category. We estimate that this proposed rule will not have a significant economic impact on any of those companies.

While there are some costs imposed on affected small businesses as a result of this rulemaking, the costs associated with today's action are less than the costs associated with the limits proposed on November 25, 2011. Specifically, the cost to small entities in the Mineral Wool Production source category due to the changes in COS, HF, and HCl are lower as compared to the limits proposed on November 25, 2011.

None of the five small mineral wool parent companies are expected to have an annualized compliance cost of greater than one percent of its revenues. All other affected parent companies are not small businesses according to the SBA small business size standard for the affected NAICS code (NAICS 327993). Therefore, we have determined that the impacts for this proposed rule do not constitute a significant economic impact on a substantial number of small entities.

Although these proposed rules would not have a significant economic impact on a substantial number of small entities, the EPA nonetheless has tried to mitigate the impact that these rules would have on small entities. The actions we are proposing to take to mitigate impacts on small businesses include less frequent compliance testing for the entire mineral wool industry and subcategorizing the Mineral Wool Production Source Category in developing the proposed COS, HF and HCl emissions limits than originally required in the November 25, 2011, proposal. For more information, please refer to the economic impact and small business analysis that is in the docket.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The total annualized cost of these rules is estimated to be no more than $150,000 (2011$) in any one year. Thus, these rules are not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA, because they contain no regulatory requirements that might significantly or uniquely affect small governments. These rules only impact mineral wool and wool fiberglass manufacturing facilities, and, thus, do not impact small governments uniquely or significantly.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed rules impose requirements on owners and operators of specified major and area sources, and not on state or local governments. There are no wool fiberglass manufacturing facilities or mineral wool production facilities owned or operated by state or local governments. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with the EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicits comment on this proposed action from State and local officials.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The proposed rules impose requirements on owners and operators of specified area and major sources, and not tribal governments. There are no wool fiberglass manufacturing facilities or mineral wool production facilities owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this action. The EPA specifically solicits additional comment on this proposed action from tribal officials.

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

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045, because it is based solely on technology performance.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The EPA estimates that the requirements in this proposed action would cause most wool fiberglass manufacturers to modify existing air pollution control devices (*e.g.,* increase the horsepower of their wet scrubbers) or install and operate new control devices, resulting in a small increase in the megawatt-hours per year of additional electricity being used.

Given the negligible change in energy consumption resulting from this proposed action, the EPA does not expect any significant price increase for any energy type. The cost of energy distribution should not be affected by this proposed action at all since the action would not affect energy distribution facilities. We also expect that any impacts on the import of foreign energy supplies, or any other adverse outcomes that may occur with regards to energy supplies, would not be significant. We, therefore, conclude that if there were to be any adverse energy effects associated with this proposed action, they would be minimal.

I. National Technology Transfer and Advancement Act

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

This rulemaking involves technical standards. Therefore, the agency conducted searches for the Wool Fiberglass Manufacturing Area Source NESHAP through the Enhanced NSSN Database managed by the American National Standards Institute (ANSI). We also contacted VCS organizations and accessed and searched their databases.

Under 40 CFR part 63 subpart NN, searches were conducted for EPA Methods 5 and 29. The search did not identify any other VCS that were potentially applicable for this rule in lieu of EPA reference methods.

We proposed VCS under the NTTAA for Wool Fiberglass Manufacturing (NNN) and for Mineral Wool Production (DDD) in November 2011. Commenters asked to have the option to use other EPA methods to measure their emissions for compliance purposes. These are not VCS and as such are not subject to this requirement.

The EPA welcomes comments on this aspect of the proposed rulemaking, and, specifically, invites the public to identify potentially applicable VCS, and to explain why such standards should be used in this regulation.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs

federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations, because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

An analysis of demographic data shows that the average percentage of minorities, percentages of the population below the poverty level, and the percentages of the population 17 years old and younger, in close proximity to the sources, are similar to the national averages, with percentage differences of 3, 1.8, and 1.7, respectively, at the 3-mile radius of concern. These differences in the absolute number of percentage points from the national average indicate a 9.4-percent, 14.4-percent, and 6.6-percent over-representation of minority populations, populations below the poverty level, and the percentages of the population 17 years old and younger, respectively.

In determining the aggregate demographic makeup of the communities near affected sources, the EPA used census data at the block group level to identify demographics of the populations considered to be living near affected sources, such that they have notable exposures to current emissions from these sources. In this approach, the EPA reviewed the distributions of different socio-demographic groups in the locations of the expected emission reductions from this rule. The review identified those census block groups with centroids within a circular distance of a 0.5, 3, and 5 miles of affected sources, and determined the demographic and socio-economic composition (*e.g.,* race, income, education, etc.) of these census block groups. The radius of three miles (or approximately five kilometers) has been used in other demographic analyses focused on areas around potential sources.[17 18 19 20] There was only one census block group with its centroids within 0.5 miles of any source affected by the proposed rule. The EPA's demographic analysis has shown that these areas, in aggregate, have similar proportions of American Indians, African-Americans, Hispanics, and ''Other and Multi-racial'' populations to the national average. The analysis also showed that these areas, in aggregate, had similar proportions of families with incomes below the poverty level as the national average, and similar populations of children 17 years of age and younger.[21]

The EPA defines Environmental Justice to include meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and polices. To promote meaningful involvement, the EPA has developed a communication and outreach strategy to ensure that interested communities have access to this proposed rule, are aware of its content, and have an opportunity to comment during the comment period. During the comment period, the EPA will publicize the rulemaking via environmental justice newsletters, Tribal newsletters, environmental justice listservs and the Internet, including the EPA Office of Policy Rulemaking Gateway Web site (*http://yosemite.epa.gov/opei/RuleGate.nsf/*). The EPA will also conduct targeted outreach to environmental justice communities, as appropriate. Outreach activities may include providing general rulemaking fact sheets (e.g., why is this important for my community) for environmental justice community groups, and conducting conference calls with interested communities. In addition, State and Federal permitting requirements will provide State and local governments, and members of affected communities the opportunity to provide comments on the permit conditions associated with permitting the sources affected by the proposed rule.

[17] U.S. GAO (Government Accountability Office). *Demographics of People Living Near Waste Facilities.* Washington DC: Government Printing Office; 1995.

[18] Mohai P, Saha R. *Reassessing Racial and Socio-economic Disparities in Environmental Justice Research.* Demography. 2006;43(2): 383–399.

[19] Mennis J. *Using Geographic Information Systems to Create and Analyze Statistical Surfaces of Populations and Risk for Environmental Justice Analysis.* Social Science Quarterly, 2002;83(1):281–297.

[20] Bullard RD, Mohai P, Wright B, Saha R, et al. *Toxic Waste and Race at Twenty 1987–2007.* United Church of Christ. March, 2007.

[21] The results of the demographic analysis are presented in *Review of Environmental Justice Impacts: Polyvinyl Chloride,* September 2010, a copy of which is available in the docket.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Wool fiberglass manufacturing.

Dated: March 15, 2013.

Bob Perciasepe,

Acting Administrator.

For the reasons stated in the preamble, part 63 of title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

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

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

Subpart A—[AMENDED]

■ 2. Section 63.14 is amended by revising paragraph (p)(10) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(p) * * *

(10) Method 8270D (SW–846–8270D), Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS), Revision 4, February 2007, in EPA Publication No. SW–846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition, IBR approved for §§ 63.1385, 63.11960, 63.11980, and table 10 to subpart HHHHHHH of this part.

* * * * *

■ 3. Part 63 is amended by adding subpart NN to read as follows:

Subpart NN—National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing at Area Sources

Sec.

63.880 Applicability.
63.881 Definitions.
63.882 Emission standards.
63.883 Monitoring requirements.
63.884 Performance test requirements.
63.885 Test methods and procedures.
63.886 Notification, recordkeeping, and reporting requirements.
63.887 Compliance dates.
63.888 Startups and shutdowns.
63.889–63.899 [Reserved]

Table 1. Subpart NN of Part 63—Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart NN

Subpart NN—National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing at Area Sources

§ 63.880 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, the requirements of this subpart apply to the owner or operator of each wool fiberglass manufacturing facility that is an area source or is located at a facility that is an area source.

(b) The requirements of this subpart apply to emissions of particulate matter (PM) and chromium compounds, as measured according to the methods and procedures in this subpart, emitted from each new and existing gas-fired glass-melting furnace located at a wool fiberglass manufacturing facility that is an area source.

(c) The provisions of this part 63, subpart A that apply and those that do not apply to this subpart are specified in Table 1 of this subpart.

(d) Gas-fired glass-melting furnaces that are not subject to NNN are subject to this subpart

(e) Gas-fired glass-melting furnaces using electricity as a supplemental energy source are subject to this subpart

§ 63.881 Definitions.

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, or in this section as follows:

Affirmative defense means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

Bag leak detection system means systems that include, but are not limited to, devices using triboelectric, light scattering, and other effects to monitor relative or absolute particulate matter (PM) emissions.

Gas-fired glass-melting furnace means a unit comprising a refractory vessel in which raw materials are charged, melted at high temperature using natural gas and other fuels, refined, and conditioned to produce molten glass. The unit includes foundations, superstructure and retaining walls, raw material charger systems, heat exchangers, exhaust system, refractory brick work, fuel supply and electrical boosting equipment, integral control systems and instrumentation, and appendages for conditioning and distributing molten glass to forming processes. The forming apparatus, including flow channels, is not considered part of the gas-fired glass-melting furnace. Cold-top electric glass-melting furnaces as defined in Part 63, subpart NNN are not gas-fired glass-melting furnaces.

Glass pull rate means the mass of molten glass that is produced by a single glass-melting furnace or that is used in the manufacture of wool fiberglass at a single manufacturing line in a specified time period.

Manufacturing line means the manufacturing equipment for the production of wool fiberglass that consists of a forming section where molten glass is fiberized and a fiberglass mat is formed and which may include a curing section where binder resin in the mat is thermally set and a cooling section where the mat is cooled.

Wool fiberglass means insulation materials composed of glass fibers made from glass produced or melted at the same facility where the manufacturing line is located.

Wool fiberglass manufacturing facility means any facility manufacturing wool fiberglass.

§ 63.882 Emission standards.

(a) *Emission limits.* (1) Gas-fired glass-melting furnaces. On and after the date the initial performance test is completed or required to be completed under § 63.7 of this part, whichever date is earlier,

(i) For each existing, new, or reconstructed gas-fired glass-melting furnace you must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 0.33 pound (lb) of particulate matter (PM) per ton of glass pulled; and

(B) 0.00006 lb of chromium (Cr) compounds per ton of glass pulled (60 lb per million tons glass pulled).

(b) *Operating limits.* On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.1384 is completed, you must operate all affected control equipment and processes according to the following requirements.

(1)(i) You must initiate corrective action within one hour of an alarm from a bag leak detection system and complete corrective actions in a timely manner according to the procedures in the operations, maintenance, and monitoring plan.

(ii) You must implement a Quality Improvement Plan (QIP) consistent with the compliance assurance monitoring provisions of 40 CFR part 64, subpart D when the bag leak detection system alarm is sounded for more than 5 percent of the total operating time in a 6-month block reporting period.

(2)(i) You must initiate corrective action within one hour when any 3-hour block average of the monitored electrostatic precipitator (ESP) parameter is outside the limit(s) established during the performance test as specified in § 63.884 and complete corrective actions in a timely manner according to the procedures in the operations, maintenance, and monitoring plan.

(ii) You must implement a QIP consistent with the compliance assurance monitoring provisions of 40 CFR part 64 subpart D when the monitored ESP parameter is outside the limit(s) established during the performance test as specified in § 63.884 for more than 5 percent of the total operating time in a 6-month block reporting period.

(iii) You must operate the ESP such that the monitored ESP parameter is not outside the limit(s) established during the performance test as specified in § 63.884 for more than 10 percent of the total operating time in a 6-month block reporting period.

(3)(i) You must initiate corrective action within one hour when any 3-hour block average value for the monitored parameter(s) for a gas-fired glass-melting furnace, which uses no add-on controls, is outside the limit(s) established during the performance test as specified in § 63.884 and complete corrective actions in a timely manner according to the procedures in the operations, maintenance, and monitoring plan.

(ii) You must implement a QIP consistent with the compliance assurance monitoring provisions of 40 CFR part 64 subpart D when the monitored parameter(s) is outside the limit(s) established during the performance test as specified in § 63.884 for more than five percent of the total operating time in a 6-month block reporting period.

(iii) You must operate a gas-fired glass-melting furnace, which uses no add-on technology, such that the monitored parameter(s) is not outside the limit(s) established during the performance test as specified in § 63.884 for more than 10 percent of the total operating time in a 6-month block reporting period.

(4)(i) You must initiate corrective action within one hour when the average glass pull rate of any 4-hour block period for gas-fired glass-melting furnaces equipped with continuous glass pull rate monitors, or daily glass pull rate for glass-melting furnaces not so equipped, exceeds the average glass pull rate established during the performance test as specified in § 63.884, by greater than 20 percent and

complete corrective actions in a timely manner according to the procedures in the operations, maintenance and monitoring plan.

(ii) You must implement a QIP consistent with the compliance assurance monitoring provisions of 40 CFR part 64, subpart D when the glass pull rate exceeds, by more than 20 percent, the average glass pull rate established during the performance test as specified in § 63.884 for more than five percent of the total operating time in a 6-month block reporting period.

(iii) You must operate each gas-fired glass-melting furnace such that the glass pull rate does not exceed, by more than 20 percent, the average glass pull rate established during the performance test as specified in § 63.884 for more than 10 percent of the total operating time in a 6-month block reporting period.

(5)(i) You must initiate corrective action within one hour when the average pH (for a caustic scrubber) or pressure drop (for a venturi scrubber) for any 3-hour block period is outside the limits established during the performance tests as specified in § 63.884 for each wet scrubbing control device and complete corrective actions in a timely manner according to the procedures in the operations, maintenance, and monitoring plan.

(ii) You must implement a QIP consistent with the compliance assurance monitoring provisions of 40 CFR part 64, subpart D when any scrubber parameter is outside the limit(s) established during the performance test as specified in § 63.884 for more than five percent of the total operating time in a 6-month block reporting period.

(iii) You must operate each scrubber such that each monitored parameter is not outside the limit(s) established during the performance test as specified in § 63.884 for more than 10 percent of the total operating time in a 6-month block reporting period.

§ 63.883 Monitoring requirements.

You must meet all applicable monitoring requirements contained in 40 CFR part 63, subpart NNN.

§ 63.884 Performance test requirements.

(a) If you are subject to the provisions of this subpart you must conduct a performance test to demonstrate compliance with the applicable emission limits in § 63.882. Compliance is demonstrated when the emission rate of the pollutant is equal to or less than each of the applicable emission limits in § 63.882. You must conduct the performance test according to the procedures in 40 CFR part 63, subpart A and in this section.

(b) You must meet all applicable performance test requirements contained in 40 CFR part 63, subpart NNN.

§ 63.885 Test methods and procedures.

(a) You must use the following methods to determine compliance with the applicable emission limits:

(1) Method 1 (40 CFR part 60, appendix A) for the selection of the sampling port location and number of sampling ports;

(2) Method 2 (40 CFR part 60, appendix A) for volumetric flow rate;

(3) Method 3 or 3A (40 CFR part 60, appendix A) for O_2 and CO_2 for diluent measurements needed to correct the concentration measurements to a standard basis;

(4) Method 4 (40 CFR part 60, appendix A) for moisture content of the stack gas;

(5) Method 5 (40 CFR part 60, appendix A) for the concentration of PM. Each run must consist of a minimum run time of 2 hours and a minimum sample volume of 2 dry standard cubic meters (dscm). The probe and filter holder heating system may be set to provide a gas temperature no greater than 120 ±14 °C (248 ±25 °F);

(6) Method 29 (appendix A of this subpart) for the concentration of chromium compounds. Each run must consist of a minimum run time of 2 hours and a minimum sample volume of 2 dscm.

(7) An alternative method, subject to approval by the Administrator.

(b) Each performance test shall consist of three runs. You must use the average of the three runs in the applicable equation for determining compliance.

§ 63.886 Notification, recordkeeping, and reporting requirements.

(a) *Requirements.* You must meet all applicable notification, recordkeeping and reporting requirements contained in 40 CFR part 63, subpart NNN.

(b) *Affirmative Defense for Exceedance of Emission Limit During Malfunction.* In response to an action to enforce the standards set forth in this subpart, you may assert an affirmative defense to a claim for civil penalties for exceedances of such standards that are caused by malfunction, as defined at 40 CFR 63.2. Appropriate penalties may be assessed if you fail to meet the burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(1) Assertion of affirmative defense. To establish the affirmative defense in any action to enforce such a standard, you must timely meet the notification requirements in paragraph (b) of this section, and must prove by a preponderance of evidence that:

(i) The violation:

(A) Was caused by a sudden, infrequent, and unavoidable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner; and

(B) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(C) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(D) Were not part of a recurring pattern indicative of inadequate design, operation or maintenance.

(ii) Repairs were made as expeditiously as possible when a violation occurred and

(iii) The frequency, amount and duration of the violation (including any bypass) were minimized to the maximum extent practicable; and

(iv) If the violation resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(v) All possible steps were taken to minimize the impact of the violation on ambient air quality, the environment and human health; and

(vi) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(vii) All of the actions in response to the violation were documented by properly signed, contemporaneous operating logs; and

(viii) At all times, the affected source was operated in a manner consistent with good practices for minimizing emissions; and

(ix) A written root cause analysis has been prepared, the purpose of which is to determine, correct, and eliminate the primary causes of the malfunction and the violation resulting from the malfunction event at issue. The analysis must also specify, using best monitoring methods and engineering judgment, the amount of any emissions that were the result of the malfunction.

(2) *Report.* The owner or operator seeking to assert an affirmative defense you must submit a written report to the Administrator, with all necessary supporting documentation, that meets the requirements set forth in paragraph (b)(1) of this section. This affirmative defense report shall be included in the

first periodic compliance, deviation report or excess emission report otherwise required after the initial occurrence of the violation of the relevant standard (which may be the end of any applicable averaging period). If such compliance, deviation report or excess emission report is due less than 45 days after the initial occurrence of the violation, the affirmative defense report may be included in the second compliance, deviation report or excess emission report due after the initial occurrence of the violation of the relevant standard.

§ 63.887 Compliance dates.

(a) *Compliance dates.* The owner or operator subject to the provisions of this subpart shall demonstrate compliance with the requirements of this subpart by no later than:

(1) Except as noted in paragraph (a)(3) of this section, the compliance date for an owner or operator of an existing plant or source subject to the provisions in this subpart would be 1 year after promulgation.

(2) Except as noted in paragraph (a)(3) of this section, the compliance date for new and reconstructed plants or sources is upon startup of a new gas-fired glass-melting furnace or at promulgation of the final rule.

(3) The compliance date for the provisions related to malfunctions and affirmative defense provisions of § 63.886 and the electronic reporting provisions of § 63.886 is at promulgation of the final rule.

(b) *Compliance extension.* The owner or operator of an existing source subject to this subpart may request from the Administrator an extension of the compliance date for the emission standards for one additional year if such additional period is necessary for the installation of controls. You must submit a request for an extension according to the procedures in § 63.6(i)(3) of this part.

§ 63.888 Startups and shutdowns.

(a) The provisions set forth in this subpart apply at all times.

(b) You must not shut down items of equipment that are required or utilized for compliance with the provisions of this subpart during times when emissions are being routed to such items of equipment, if the shutdown would contravene requirements of this subpart applicable to such items of equipment. This paragraph does not apply if you must shut down the equipment to avoid damage due to a contemporaneous startup or shutdown of the affected source or a portion thereof.

(c) Startup begins when the wool fiberglass gas-fired glass-melting furnace has any raw materials added. Startup ends when molten glass begins to flow from the glass-melting furnace.

(d) Shutdown begins when the heat sources to the glass-melting furnace are reduced to begin the glass-melting furnace shut down process. Shutdown ends when the glass-melting furnace is empty or the contents are sufficiently viscous to preclude glass flow from the glass-melting furnace.

(e) For a new or existing affected source, to demonstrate compliance with the gas-fired glass-melting furnace emission limits in § 63.882 during periods of startups and shutdowns, demonstrate compliance in accordance with this paragraph (e) of this section.

(f) During periods of startup and shutdown, records establishing that your air pollution control devices were operated at the parameters established by the most recent performance test that showed compliance with the standard may be used to demonstrate compliance with the emission limits.

§§ 63.889–63.899 [Reserved]

TABLE 1—SUBPART NN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART NN

General provisions citation	Requirement	Applies to subpart NN	Explanation
63.1	Applicability	Yes	
63.2	Definitions	Yes	Additional definitions in § 63.881.
63.3	Units and Abbreviations	Yes	
63.4	Prohibited Activities	Yes	
63.5	Construction/Reconstruction Applicability.	Yes	
63.5(a), (b), (c)	Existing, New, Reconstructed Sources Requirements.	Yes	
63.5(d)	Application for Approval of Construction/Reconstruction.	No	[Reserved].
63.6(e)(1)(i)		No	See § 63.882 for general duty requirements.
63.6(e)(1)(ii)		No	
63.6(e)(1)(iii)		Yes	
63.6(e)(2)		No	
63.6(e)(3)	Startup, Shutdown, and Malfunction Plan.	No	
63.6(f)(1)	Compliance with Emission Standards.	No	
63.6(g)	Alternative Standard	Yes	
63.6(h)	Compliance with Opacity/VE Standards.	No	Subpart DDD—no COMS, VE or opacity standards.
63.6(i)	Extension of Compliance	Yes	
63.6(j)	Exemption from Compliance	Yes	
§ 63.7(a)–(d)	Performance Test Requirements Applicability Notification Quality Assurance/Test Plan Testing Facilities.	Yes	§ 63.884 has specific requirements.
63.7(e)(1)	Conduct of Tests	No	
§ 63.7(e)(2)–(e)(4)		Yes	
63.7(f), (g), (h)	Alternative Test Method Data Analysis Waiver of Tests.	Yes	

TABLE 1—SUBPART NN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART NN—Continued

General provisions citation	Requirement	Applies to subpart NN	Explanation
63.8(a)–(b)	Monitoring Requirements Applicability Conduct of Monitoring.	Yes	
63.8(c)(1)(i)	CMS Operation/Maintenance	No	See § 63.882(b) for general duty requirement.
63.8(c)(1)(ii)		Yes	
63.8(c)(1)(iii)		No	
63.8(c)(2)–(d)(2)		Yes	
63.8(d)(3)	Quality Control	Yes, except for the last sentence	
63.8(e)–(g)	CMS Performance Evaluation	Yes	
63.9(a)	Notification Requirements Applicability.	Yes	
63.9(b)	Initial Notifications	Yes	
63.9(c)	Request for Compliance Extension.	Yes	
63.9(d)	New Source Notification for Special Compliance Requirements.	Yes	
63.9(e)	Notification of Performance Test	Yes	
63.9(f)	Notification of VE/Opacity Test	No	Opacity/VE tests not required.
63.9(g)	Additional CMS Notifications	Yes	
63.9(h)(1)–(3)	Notification of Compliance Status		
63.9(h)(4)		No	[Reserved].
63.9(i)	Adjustment of Deadlines	Yes	
63.9(j)	Change in Previous Information	Yes	
63.10(a)	Recordkeeping/Reporting-Applicability.	Yes	
63.10(b)(1)	General Recordkeeping Requirements.	Yes	
63.10(b)(2)(i)		No	
63.10(b)(2)(ii)		No	See 63.886 for recordkeeping of occurrence and duration of malfunctions and recordkeeping of actions taken during malfunction.
63.10(b)(2)(iii)		Yes	
63.10(b)(2)(iv)–(b)(2)(v)		No	
63.10(b)(2)(vi)–(b)(2)(xiv)		Yes	
63.10(b)(3)		Yes	
63.10(c)(1)–(9)	Additional CMS Recordkeeping	Yes	
63.10(c)(10)–(11)		No	See 63.886 for recordkeeping of malfunctions.
63.10(c)(12)–(c)(14)		Yes	
63.10(c)(15)		No	
63.10(d)(1)–(4)	General Reporting Requirements Performance Test Results Opacity or VE Observations.	Yes	
63.10(d)(5)	Progress Reports/Startup, Shutdown, and Malfunction Reports.	No	See 63.886(c)(2) for reporting of malfunctions.
63.10(e)–(f)	Additional CMS Reports Excess Emission/CMS Performance Reports COMS Data Reports Recordkeeping/Reporting Waiver.	Yes	
63.11	Control Device Requirements Applicability Flares.	No	Flares will not be used to comply with the emissions limits.
63.12	State Authority and Delegations	Yes	
63.13	Addresses	Yes	
63.14	Incorporation by Reference	Yes	
63.15	Information Availability/Confidentiality.	Yes	

Subpart DDD—[AMENDED]

■ 4. Section 63.1178 is amended by revising paragraph (a)(2) and adding paragraphs (a)(3) through (a)(5) to read as follows:

§ 63.1178 For cupolas, what standards must I meet?

(a) * * *

(2) Limit emissions of carbonyl sulfide (COS) from each existing, new, or reconstructed closed-top cupola to the following:

(i) 3.4 lb of COS per ton melt or less for existing closed-top cupolas.

(ii) 0.025 lb of COS per ton melt or less for new or reconstructed closed-top cupolas.

(3) Limit emissions of COS from each existing, new, or reconstructed open-top cupola to the following:

(i) 6.8 lb of COS per ton melt or less for existing open-top cupolas.

(ii) 4.3 lb of COS per ton melt or less for new or reconstructed open-top cupolas.

(4) Limit emissions of hydrogen fluoride (HF) from each existing, new, or reconstructed cupola to the following:

(i) 0.16 lb of HF per ton of melt or less for cupolas using slag as a raw material.

(ii) 0.13 lb of HF per ton of melt or less for cupolas that do not use slag as a raw material.

(5) Limit emissions of hydrogen Chloride (HCl) from each existing, new, or reconstructed cupola to the following:

(i) 0.21 lb of HCl per ton of melt or less for cupolas using slag as a raw material.

(ii) 0.43 lb of HCl per ton of melt or less for cupolas that do not use slag as a raw material.

* * * * *

■ 5. Section 63.1179 is amended by revising the section heading, paragraph (a) and paragraph (b) introductory text to read as follows:

§ 63.1179 For combined collection/curing operations, what standards must I meet?

(a) You must control emissions from each existing and new combined collection/curing operations by limiting emissions of formaldehyde, phenol, and methanol to the following:

(1) For combined drum collection/curing operations:

(i) 0.18 lb of formaldehyde per ton melt or less,

(ii) 1.3 lb of phenol per ton melt or less, and

(iii) 0.48 lb of methanol per ton melt or less.

(2) For combined horizontal collection/curing operations:

(i) 0.054 lb of formaldehyde per ton melt or less,

(ii) 0.15 lb of phenol per ton melt or less, and

(iii) 0.022 lb of methanol per ton melt or less.

(3) For combined vertical collection/curing operations:

(i) 2.7 lb of formaldehyde per ton melt or less,

(ii) 0.74 lb of phenol per ton melt or less, and

(iii) 1.0 lb of methanol per ton melt or less.

(b) You must meet the following operating limits for each combined collection/curing operations subcategory:

* * * * *

■ 6. Section 63.1180 is amended by revising paragraph (d) and adding paragraph (e) to read as follows:

§ 63.1180 When must I meet these standards?

* * * * *

(d) At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(e) *Affirmative defense for violation of emission standards during malfunction.* In response to an action to enforce the standards set forth in § 63.1197, you may assert an affirmative defense to a claim for civil penalties for violations of such standards that are caused by malfunction, as defined at 40 CFR 63.2. Appropriate penalties may be assessed if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(1) Assertion of affirmative defense. To establish the affirmative defense in any action to enforce such a standard, you must timely meet the reporting requirements in § 63.1191 of this subpart, and must prove by a preponderance of evidence that:

(i) The violation:

(A) Was caused by a sudden, infrequent, and unavoidable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner; and

(B) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(C) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(D) Was not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(ii) Repairs were made as expeditiously as possible when a violation occurred; and

(iii) The frequency, amount, and duration of the violation (including any bypass) were minimized to the maximum extent practicable; and

(iv) If the violation resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(v) All possible steps were taken to minimize the impact of the violation on ambient air quality, the environment, and human health; and

(vi) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(vii) All of the actions in response to the violation were documented by properly signed, contemporaneous operating logs; and

(viii) At all times, the affected source was operated in a manner consistent with good practices for minimizing emissions; and

(ix) A written root cause analysis has been prepared, the purpose of which is to determine, correct, and eliminate the primary causes of the malfunction and the violation resulting from the malfunction event at issue. The analysis shall also specify, using best monitoring methods and engineering judgment, the amount of any emissions that were the result of the malfunction.

(2) *Report.* The owner or operator seeking to assert an affirmative defense must submit a written report to the Administrator with all necessary supporting documentation that explains how it has met the requirements set forth in paragraph (e)(1) of this section. This affirmative defense report shall be included in the first periodic compliance, deviation report or excess emission report otherwise required after the initial occurrence of the violation of the relevant standard (which may be the end of any applicable averaging period). If such compliance, deviation report or excess emission report is due less than 45 days after the initial occurrence of the violation, the affirmative defense report may be included in the second compliance, deviation report or excess emission report due after the initial occurrence of the violation of the relevant standard.

* * * * *

■ 7. Section 63.1196 is amended by adding definitions, in alphabetical order, for ''Closed-top cupola,'' ''Combined collection/curing operations,'' and ''Open-top cupola'' to read as follows:

§ 63.1196 What definitions should I be aware of?

* * * * *

Closed-top cupola means a cupola that operates as a closed (process) system and has a restricted air flow rate.

Combined collection/curing operations means the combination of fiber collection operations and curing ovens used to make bonded products.

* * * * *

Open-top cupola means a cupola that is open to the outside air and operates with an air flow rate that is unrestricted and at low pressure.

* * * * *

■ 8. Section 63.1197 is added to read as follows:

§ 63.1197 Startups and shutdowns.

(a) The provisions set forth in this subpart apply at all times.

(b) You must not shut down items of equipment that are utilized for compliance with this subpart.

(c) *Startup* begins when the coke interspersed with layers of rock and/or slag and other mineral products are ignited. Startup ends when molten mineral wool begins to flow from the cupola.

(d) *Shutdown* begins when the cupola has reached the end of the melting campaign and is empty. No mineral wool glass continues to flow from the cupola during shutdown.

(e) During periods of startups and shutdowns you may demonstrate compliance with the emission limits in § 63.1178 by keeping records showing that your emissions were controlled using air pollution control devices operated at the parameters established by the most recent performance test that showed compliance with the standard.

■ 9. Table 1 to subpart DDD of part 63 is revised to read as follows:

TABLE 1 TO SUBPART DDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART DDD

Citation	Requirement	Applies to subpart DDD	Explanation
63.1(a)(1)–(a)(4)	General Applicability	Yes	
63.1(a)(5)		No	[Reserved].
63.1(a)(6)		Yes	
63.1(a)(7)–(a)(9)		No	[Reserved].
63.1(a)(10)–(a)(12)		Yes	
63.1(b)(1)	Initial Applicability Determination	Yes	
63.1(b)(2)		No	[Reserved].
63.1(b)(3)		Yes	
63.1(c)(1)–(c)(2)	Applicability After Standard Established.	Yes	
63.1(c)(3)–(c)(4)		No	[Reserved].
63.1(c)(5)		Yes	
63.1(d)		No	[Reserved].
63.1(e)	Applicability of Permit Program	Yes	
63.2	Definitions	Yes	
63.3	Units and Abbreviations	Yes	
63.4(a)(1)–(a)(2)	Prohibited Activities	Yes	
63.4(a)(3)–(a)(5)		No	[Reserved].
63.4(b)(1)–(b)(2)	Circumvention	Yes	
63.4(c)	Fragmentation	Yes	
63.5(a)(1)–(a)(2)	Construction/Reconstruction Applicability.	Yes	
63.5(b)(1)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes	
63.5(b)(2)		No	[Reserved].
63.5(b)(3)–(b)(4)		Yes	
63.5(b)(5)		No	[Reserved].
63.5(b)(6)		Yes	
63.5(c)		No	[Reserved].
63.5(d)	Application for Approval of Construction or Reconstruction.	Yes	
63.5(e)	Approval of Construction/Reconstruction.	Yes	
63.5(f)	Approval of Construction/Reconstruction Based on State Review.	Yes	
63.6(a)	Compliance with Standards and Maintenance Applicability.	Yes	
63.6(b)(1)–(b)(5)			
63.6(b)(6)		No	[Reserved].
63.6(b)(7)		Yes	
63.6(c)(1)–(c)(2)	Compliance Dates for Existing Sources.	Yes	§ 63.1180 specifies compliance dates.
63.6(c)(3)–(c)(4)		No	[Reserved].
63.6(c)(5)		Yes	
63.6(d)		No	[Reserved].
63.6(e)(1)(i)	General Duty to minimize emissions.	No	See § 63.1180(d) for general duty requirement.
63.6(e)(1)(ii)	Requirement to correct malfunctions as soon as possible.	No	§ 63.1187(b) specifies additional requirements.
63.6(e)(1)(iii)		Yes	
63.6(e)(2)		No	[Reserved].

TABLE 1 TO SUBPART DDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART DDD—Continued

Citation	Requirement	Applies to subpart DDD	Explanation
63.6(e)(3)	Startup, Shutdown Malfunction (SSM) Plan.	No	Startups and shutdowns addressed in § 63.1197.
63.6(f)(1)–f(3)	SSM exemption	No	
63.6(g)	Alternative Nonopacity Emission Standard.	Yes	
63.6(h)	SSM exemption	No	
63.6(i)(1)–(i)(14)	Extension of Compliance	Yes	§ 63.1180 specfies the dates
63.6(i)(15)		No	[Reserved].
63.6(i)(16)		Yes	
63.6(i)(j)	Exemption from Compliance	Yes	
63.7(a)	Performance Test Requirements Applicability.	Yes	
63.7(b)	Notification of Performance Test	Yes	
63.7(c)	Quality Assurance Program	Yes	
63.7(d)	Performance Testing Facilities	Yes	
63.7(e)(1)	Performance testing	No	See § 63.1180.
63.7(e)(2)–(e)(4)		Yes	
63.6(f)	Use of an alternative test method	Yes	
63.7(g)(1)	Data Analysis, Recordkeeping, and Reporting.	Yes	
63.7(g)(2)		No	[Reserved].
63.7(g)(3)		Yes	
63.7(h)	Waiver of Performance Test	Yes	
63.8(a)(1)–(a)(2)	Monitoring Requirements Applicability.	Yes	
63.8(a)(3)		No	[Reserved].
63.8(a)(4)		Yes	
63.8(b)	Conduct of Monitoring	Yes	
63.8(c)(1)(i)	General duty to minimize emissions and CMS operation.	No	See § 63.1180(e) for general duty requirement.
63.8(c)(1)(iii)	Requirement to develop SSM Plan for CMS.	No	
63.8(d)(3)	Written procedures for CMS	Yes, except for last sentence, which refers to SSM plan. SSM plans are not required.	
63.8(e)	Performance Evaluation of Continuous Monitoring Systems.	No	Subpart DDD does not require CMS performance evaluations.
63.8(f)(1)–(f)(5)	Alternative Monitoring Method	Yes	
63.8(f)(6)	Alternative to RATA Test	No	Subpart DDD does not require CEMS.
63.8(g)(1)	Reduction of Monitoring Data	Yes	
63.8(g)(2)		No	Subpart DDD does not require COMS or CEMS.
63.8(g)(3)–(g)(5)		Yes	
63.9(a)	Notification Requirements Applicability.	Yes	
63.9(b)(1)–(2)	Initial Notifications	Yes	
63.9(b)(3)		No	[Reserved].
63.9(b)(4)–(b)(5)		Yes	
63.9(c)	Request for Compliance Extension.	Yes	
63.9(d)	New Source Notification for Special Compliance Requirements.	Yes	
63.9(e)	Notification of Performance Test	Yes	
63.9(f)	Notification of VE/Opacity Test	No	Subpart DDD does not include VE/opacity standards.
63.9(g)	Additional CMS Notifications	No	Subpart DDD does not require CMS performance evaluation, COMS, or CEMS.
63.9(h)(1)–(h)(3)	Notification of Compliance Status	Yes	
63.9(h)(4)		No	[Reserved].
63.9(h)(5)–(h)(6)		Yes	
63.9(i)	Adjustment of Deadlines	Yes	
63.9(j)	Change in Previous Information	Yes	
63.10(a)	Recordkeeping/Reporting-Applicability.	Yes	
63.10(b)(1)	General Recordkeeping Requirements.	Yes	§ 63.1192 includes additional requirements.
63.10(b)(2)(i)	Recordkeeping of occurrence and duration of startups and shutdowns.	No	

TABLE 1 TO SUBPART DDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART DDD—Continued

Citation	Requirement	Applies to subpart DDD	Explanation
63.10(b)(2)(ii)	Recordkeeping of malfunctions	No	See § 63.1193(c) for recordkeeping of (ii) occurrence and duration and (iii) actions taken during malfunction.
63.10(b)(2)(iii)	Maintenance records	Yes	
63.10(b)(2)(iv)–(v)	Actions taken to minimize emissions during SSM.	No	
63.10(b)(2)(vi)	Recordkeeping for CMS malfunctions.	Yes	
63.10(b)(2)(vii)–(xiv)	Other CMS requirements	Yes	
63.10(c)(1)	Additional CMS Recordkeeping	Yes	
63.10(c)(2)–(c)(4)		No	[Reserved].
63.10(c)(5)		Yes	
63.10(c)(6)		No	Subpart DDD does not require CMS performance specifications.
63.10(c)(7)–(c)(8)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Yes	
63.10(c)(9)		No	[Reserved].
63.10(c)(10)–(c)(11)		No	See § 63.1192 for recordkeeping of malfunctions.
63.10(c)(12)–(c)(14)		No	Subpart DDD does not require a CMS quality control program.
63.10(c)(15)	Use of SSM Plan	No	
63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements in § 63.1193.
63.10(d)(2)	Performance Test Results	Yes	
63.10(d)(3)	Opacity or VE Observations	No	Subpart DDD does not include VE/opacity standards.
63.10(d)(4)	Progress Reports	Yes	
63.10(d)(5)	SSM reports	No	See § 63.1193(f) for reporting of malfunctions.
63.10(e)(1)–(e)(2)	Additional CMS Reports	No	Subpart DDD does not require CEMS or CMS performance evaluations.
63.10(e)(3)	Excess Emissions/CMS Performance Reports.	Yes	
63.10(e)(4)	COMS Data Reports	No	Subpart DDD does not require COMS.
3.10(f)	Recordkeeping/Reporting Waiver	Yes	
63.11(a)	Control Device Requirements Applicability.	Yes	
63.11(b)	Flares	No	Flares not applicable.
63.11(c)	Alternative Work Practice for Monitoring Equipment for Leaks.	Yes	
63.11(d)	Alternative Work Practice Standard.	Yes	
63.11(e)	Alternative Work Practice Requirements.	Yes	
3.12	State Authority and Delegations	Yes	
63.13	Addresses	Yes	
63.14	Incorporation by Reference	Yes	
63.15	Availability of Information and Confidentiality.	Yes	
63.16	Performance Track Provisions	Yes	

Subpart NNN—[AMENDED]

■ 10. Section 63.1380 is amended by revising paragraph (b)(3) to read as follows:

§ 63.1380 Applicability.

* * * * *

(b) * * *

(3) Each new and existing flame attenuation wool fiberglass manufacturing line producing a bonded product.

* * * * *

■ 11. Section 63.1381 is amended by adding in alphabetical order a definition for ''Gas-fired glass-melting furnace.''

§ 63.1381 Definitions.

* * * * *

Gas-fired glass-melting furnace means a unit comprising a refractory vessel in which raw materials are charged, melted at high temperature using natural gas and other fuels, refined, and conditioned to produce molten glass. The unit includes foundations,

superstructure and retaining walls, raw material charger systems, heat exchangers, exhaust system, refractory brick work, fuel supply and electrical boosting equipment, integral control systems and instrumentation, and appendages for conditioning and distributing molten glass to forming processes. The forming apparatus, including flow channels, is not considered part of the gas-fired glass-melting furnace. Cold-top electric glass-melting furnaces as defined in this subpart are not gas-fired glass-melting furnaces.

* * * * *

■ 12. Section 63.1382 is amended by revising paragraph (a) to read as follows:

§ 63.1382 Emission standards.

(a) *Emission limits*—(1) *Glass-melting furnaces.* On and after the date the initial performance test is completed or required to be completed under § 63.7 of this part, whichever date is earlier:

(i) For each existing, new, or reconstructed glass-melting furnace you must not discharge or cause to be discharged into the atmosphere in excess of 0.33 pound (lb) of particulate matter (PM) per ton glass pulled;

(ii) For each existing, new, or reconstructed gas-fired glass-melting furnace you must not discharge or cause to be discharged into the atmosphere in excess of 6.0E–5 lb of chromium (Cr) compounds per ton glass pulled (0.06 lb per thousand tons glass pulled).

(2) *Rotary spin manufacturing lines.* On after the date the initial performance test is completed or required to be completed under § 63.7 of this part, whichever date is earlier,

(i) For each existing rotary spin (RS) manufacturing line you must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 0.19 lb of formaldehyde per ton glass pulled;

(B) 0.26 lb of phenol per ton glass pulled; and

(C) 0.83 lb of methanol per ton glass pulled.

(ii) For each new or reconstructed RS manufacturing line you must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 0.087 lb of formaldehyde per ton glass pulled;

(B) 0.063 lb of phenol per ton glass pulled; and

(C) 0.61 lb of methanol per ton glass pulled.

(3) *Flame attenuation manufacturing lines.* On and after the date the initial performance test is completed or required to be completed under § 63.7 of this part, whichever date is earlier,

(i) For each existing flame attenuation (FA) manufacturing line you must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 5.6 lb of formaldehyde per ton glass pulled;

(B) 1.4 lb of phenol per ton glass pulled; and

(C) 0.50 lb of methanol per ton glass pulled.

(ii) For each new or reconstructed FA manufacturing line you must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 3.3 lb of formaldehyde per ton glass pulled;

(B) 0.46 lb of phenol per ton glass pulled; and

(C) 0.50 lb of methanol per ton glass pulled.

* * * * *

■ 13. Section 63.1384 is amended by adding paragraphs (d) and (e) to read as follows:

§ 63.1384 Performance test requirements.

* * * * *

(d) Following the initial performance or compliance test to be conducted within 90 days of the promulgation date of this rule to demonstrate compliance with the chromium compounds emissions limit specified in § 63.1382(a)(1)(i), you must conduct an annual performance test for chromium compounds emissions from each glass-melting furnace (no later than 12 calendar months following the previous compliance test).

(1) You must conduct chromium compounds emissions performance tests according to § 63.1385 on an annual basis, except as specified in paragraphs (d)(2) through (4) of this section. Annual performance tests must be completed no more than 13 months after the previous performance test, except as specified in paragraphs (b) through (e) of this section.

(2) You can conduct performance tests less often for chromium compounds if your performance tests for the pollutant for at least 2 consecutive years show that your emissions are at or below 75 percent of the emission limit and if there are no changes in the operation of the affected source or air pollution control equipment that could increase emissions. In this case, you do not have to conduct a performance test for chromium compounds for the next 2 years. You must conduct a performance test during the third year and no more than 37 months after the previous performance test.

(3) If your gas-fired glass-melting furnace continues to meet the emission limit for chromium compounds, you may choose to conduct performance tests for the pollutant every third year if your emissions are at or below 75 percent of the emission limit and if there are no changes in the operation of the affected source or air pollution control equipment that could increase emissions, but each such performance test must be conducted no more than 37 months after the previous performance test.

(4) If a performance test shows chromium compounds emissions exceeded 75 percent of the emission limit, you must conduct annual performance tests for that pollutant until all performance tests over a consecutive 2-year period meet the required level of 75 percent of the emission limit.

(e) Following the initial performance or compliance test to demonstrate compliance with the PM, formaldehyde, phenol and methanol emissions limits specified in § 63.1382, you must conduct a performance test to demonstrate compliance with each of the applicable PM, formaldehyde, phenol and methanol emissions limits in § 63.1382 of this subpart at least once every 5 years.

■ 14. Section 63.1385 is amended by revising paragraphs (a)(5) and (6) and adding paragraphs (a)(11) through (15) to read as follows:

§ 63.1385 Test methods and procedures.

(a) * * *

(5) Method 5 (40 CFR part 60, appendix A) for the concentration of total PM. Each run must consist of a minimum run time of 2 hours and a minimum sample volume of 2 dry standard cubic meters (dscm). The probe and filter holder heating system may be set to provide a gas temperature no greater than 120 ±14°C (248 ±25 °F);

(6) Method 318 (appendix A of this subpart) for the concentration of formaldehyde, phenol, and methanol. Each test run must consist of a minimum of 10 spectra;

* * * * *

(11) Method 316 (40 CFR part 63, appendix A) for the concentration of formaldehyde. Each test run must consist of a minimum of 2 hours and 2 dry standard cubic meters (dscm) of sample volume;

(12) Method SW–846 0010 and Method SW–846 8760D (*http://www.epa.gov/osw/hazard/testmethods/sw846/*) for the concentration of phenol. Each test run must consist of a minimum of 3 hours;

(13) Method 8270D for the concentration of phenol. Each test run must consist of a minimum of 3 hours;

(14) Method 308 (40 CFR part 63, appendix A) for the concentration of

methanol. Each test run must consist of a minimum of 2 hours;

(15) Method 29 (40 CFR part 60, appendix A) for the concentration of chromium compounds. Each test run must consist of a minimum of 3 hours and 3 dscm of sample volume;

* * * * *

■ 15. Section 63.1386 is amended by revising paragraph (c) to read as follows:

§ 63.1386 Notification, recordkeeping, and reporting requirements.

* * * * *

(c) *Records and reports for a failure to meet a standard.* (1) In the event that an affected unit fails to meet a standard, record the number of failures since the prior notification of compliance status. For each failure record the date, time and duration of each failure.

(2) For each failure to meet a standard record and retain a list of the affected source or equipment, an estimate of the volume of each regulated pollutant emitted over the standard for which the source failed to meet the standard, and a description of the method used to estimate the emissions.

(3) Record actions taken to minimize emissions in accordance with § 63.1382, including corrective actions to restore process and air pollution control and monitoring equipment to its normal or usual manner of operation.

(4) If an affected unit fails to meet a standard, report such events in the notification of compliance status required by § 63.1386(a)(7). Report the number of failures to meet a standard since the prior notification. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected units or equipment, an estimate of the volume of each regulated pollutant emitted over the standard and a description of the method used to estimate the emissions.

* * * * *

■ 16. Section 63.1388 is revised to read as follows:

§ 63.1388 Startups and shutdowns.

(a) The provisions set forth in this subpart apply at all times.

(b) You must not shut down items of equipment that are required or utilized for compliance with the provisions of this subpart during times when emissions are being, or are otherwise required to be, routed to such items of equipment.

(c) Startup begins when the wool fiberglass glass-melting furnace has any raw materials added and reaches 50 percent of its typical operating temperature. Startup ends when molten glass begins to flow from the wool fiberglass glass-melting furnace.

(d) Shutdown begins when the heat sources to the glass-melting furnace are reduced to begin the glass-melting furnace shut down process. Shutdown ends when the glass-melting furnace is empty or the contents are sufficiently viscous to preclude glass flow from the glass-melting furnace.

(e) During periods of startups and shutdowns you may demonstrate compliance with the emission limits in § 63.1382 by keeping records showing that your furnace emissions were controlled using air pollution control devices operated at the parameters established by the most recent performance test that showed compliance with the standard.

■ 17. Table 1 to Subpart NNN of Part 63 revised to read as follows:

TABLE 1 TO SUBPART NNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART NNN

Citation	Requirement	Applies to subpart NNN	Explanation
63.1(a)(1)–(a)(4)	General Applicability	Yes.	
63.1(a)(5)		No	[Reserved].
63.1(a)(6)		Yes.	
63.1(a)(7)–(a)(9)		No	[Reserved].
63.1(a)(10)–(a)(12)		Yes.	
63.1(b)(1)	Initial Applicability Determination	Yes.	
63.1(b)(2)		No	[Reserved].
63.1(b)(3)		Yes.	
63.1(c)(1)–(c)(2)	Applicability After Standard Established.	Yes.	
63.1(c)(3)–(c)(4)		No	[Reserved].
63.1(c)(5)		Yes.	
63.1(d)		No	[Reserved].
63.1(e)	Applicability of Permit Program	Yes.	
63.2	Definitions	Yes.	
63.3	Units and Abbreviations	Yes.	
63.4(a)(1)–(a)(2)	Prohibited Activities	Yes.	
63.4(a)(3)–(a)(5)		No	[Reserved].
63.4(b)(1)–(b)(2)	Circumvention	Yes.	
63.4(c)	Fragmentation	Yes.	
63.5(a)(1)–(a)(2)	Construction/Reconstruction Applicability.	Yes.	
63.5(b)(1)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
63.5(b)(2)		No	[Reserved].
63.5(b)(3)–(b)(4)		Yes.	
63.5(b)(5)		No	[Reserved].
63.5(b)(6)		Yes.	
63.5(c)		No	[Reserved].
63.5(d)	Application for Approval of Construction or Reconstruction.	Yes.	
63.5(e)	Approval of Construction/Reconstruction.	Yes.	

TABLE 1 TO SUBPART NNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART NNN—Continued

Citation	Requirement	Applies to subpart NNN	Explanation
63.5(f)	Approval of Construction/Reconstruction Based on State Review.	Yes.	
63.6(a)	Compliance with Standards and Maintenance Applicability.	Yes.	
63.6(b)(1)–(b)(5)			
63.6(b)(6)		No	[Reserved].
63.6(b)(7)		Yes.	
63.6(c)(1)–(c)(2)	Compliance Dates for Existing Sources.	Yes	§ 63.1387 specifies compliance dates.
63.6(c)(3)–(c)(4)		No	[Reserved].
63.6(c)(5)		Yes.	
63.6(d)		No	[Reserved].
63.6(e)(1)(i)	General Duty to minimize emissions.	No	See § 63.11382(b) for general duty requirement.
63.6(e)(1)(ii)	Requirement to correct malfunctions as soon as possible.	No	§ 63.1382(b) specifies additional requirements.
63.6(e)(1)(iii)		Yes.	
63.6(e)(2)		No	[Reserved].
63.6(e)(3)	Startup, Shutdown Malfunction (SSM) Plan.	No	Startups and shutdowns addressed in § 63.1388.
63.6(f)(1)–f(3)	SSM exemption	No.	
63.6(g)	Alternative Nonopacity Emission Standard.	Yes.	
63.6(h)	SSM exemption	No.	
63.6(i)(1)–(i)(14)	Extension of Compliance	Yes	§ 63.1387 specfies the dates
63.6(i)(15)		No	[Reserved].
63.6(i)(16)		Yes.	
63.6(i)(j)	Exemption from Compliance	Yes.	
63.7(a)	Performance Test Requirements Applicability.	Yes.	
63.7(b)	Notification of Performance Test	Yes.	
63.7(c)	Quality Assurance Program	Yes.	
63.7(d)	Performance Testing Facilities	Yes.	
63.7(e)(1)	Performance testing	No	See § 63.1382(b).
63.7(e)(2)–(e)(4)		Yes.	
63.6(f)	Use of an alternative test method	Yes.	
63.7(g)(1)	Data Analysis, Recordkeeping, and Reporting.	Yes.	
63.7(g)(2)		No	[Reserved].
63.7(g)(3)		Yes.	
63.7(h)	Waiver of Performance Test	Yes.	
63.8(a)(1)–(a)(2)	Monitoring Requirements Applicability.	Yes.	
63.8(a)(3)		No	[Reserved].
63.8(a)(4)		Yes.	
63.8(b)	Conduct of Monitoring	Yes.	
63.8(c)(1)(i)	General duty to minimize emissions and CMS operation.	No	See § 63.1382(c) for general duty requirement.
63.8(c)(1)(iii)	Requirement to develop SSM Plan for CMS.	No.	
63.8(d)(3)	Written procedures for CMS	Yes, except for last sentence, which refers to SSM plan. SSM plans are not required.	
63.8(e)	Performance Evaluation of Continuous Monitoring Systems.	No	Subpart NNN does not require CMS performance evaluations.
63.8(f)(1)–(f)(5)	Alternative Monitoring Method	Yes.	
63.8(f)(6)	Alternative to RATA Test	No	Subpart NNN does not require CEMS.
63.8(g)(1)	Reduction of Monitoring Data	Yes.	
63.8(g)(2)		No	Subpart NNN does not require COMS or CEMS.
63.8(g)(3)–(g)(5)		Yes.	
63.9(a)	Notification Requirements Applicability.	Yes.	
63.9(b)(1)–(2)	Initial Notifications	Yes.	
63.9(b)(3)		No	[Reserved].
63.9(b)(4)–(b)(5)		Yes.	
63.9(c)	Request for Compliance Extension.	Yes.	

TABLE 1 TO SUBPART NNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART NNN—Continued

Citation	Requirement	Applies to subpart NNN	Explanation
63.9(d)	New Source Notification for Special Compliance Requirements.	Yes.	
63.9(e)	Notification of Performance Test	Yes.	
63.9(f)	Notification of VE/Opacity Test	No	Subpart NNN does not include VE/opacity standards.
63.9(g)	Additional CMS Notifications	No	Subpart NNN does not require CMS performance evaluation, COMS, or CEMS.
63.9(h)(1)–(h)(3)	Notification of Compliance Status	Yes.	
63.9(h)(4)		No	[Reserved].
63.9(h)(5)–(h)(6)		Yes.	
63.9(i)	Adjustment of Deadlines	Yes.	
63.9(j)	Change in Previous Information	Yes.	
63.10(a)	Recordkeeping/Reporting-Applicability.	Yes.	
63.10(b)(1)	General Recordkeeping Requirements.	Yes	§ 63.1386 includes additional requirements.
63.10(b)(2)(i)	Recordkeeping of occurrence and duration of startups and shutdowns.	No.	
63.10(b)(2)(ii)	Recordkeeping of malfunctions	No	See § 63.1386 (c)(1) through (3) for recordkeeping of occurrence and duration and actions taken during malfunction.
63.10(b)(2)(iii)	Maintenance records	Yes.	
63.10(b)(2)(iv)–(v)	Actions taken to minimize emissions during SSM.	No.	
63.10(b)(2)(vi)	Recordkeeping for CMS malfunctions.	Yes.	
63.10(b)(2)(vii)–(xiv)	Other CMS requirements	Yes.	
63.10(c)(1)	Additional CMS Recordkeeping	Yes.	
63.10(c)(2)–(c)(4)		No	[Reserved].
63.10(c)(5)		Yes.	
63.10(c)(6)		No	Subpart NNN does not require CMS performance specifications.
63.10(c)(7)–(c)(8)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Yes.	
63.10(c)(9)		No	[Reserved].
63.10(c)(10)–(c)(11)		No	See § 63.1386 for recordkeeping of malfunctions.
63.10(c)(12)–(c)(14)		No	Subpart NNN does not require a CMS quality control program.
63.10(c)(15)	Use of SSM Plan	No.	
63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements in § 63.1193.
63.10(d)(2)	Performance Test Results	Yes.	
63.10(d)(3)	Opacity or VE Observations	No	Subpart NNN does not include VE/opacity standards.
63.10(d)(4)	Progress Reports	Yes.	
63.10(d)(5)	SSM reports	No	See § 63.1386(c)(iii) for reporting of malfunctions.
63.10(e)(1)–(e)(2)	Additional CMS Reports	No	Subpart NNN does not require CEMS or CMS performance evaluations.
63.10(e)(3)	Excess Emissions/CMS Performance Reports.	Yes.	
63.10(e)(4)	COMS Data Reports	No	Subpart NNN does not require COMS.
3.10(f)	Recordkeeping/Reporting Waiver	Yes.	
63.11(a)	Control Device Requirements Applicability.	Yes.	
63.11(b)	Flares	No	Flares not applicable.
63.11(c)	Alternative Work Practice for Monitoring Equipment for Leaks.	Yes.	
63.11(d)	Alternative Work Practice Standard.	Yes.	
63.11(e)	Alternative Work Practice Requirements.	Yes.	

TABLE 1 TO SUBPART NNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART NNN—Continued

Citation	Requirement	Applies to subpart NNN	Explanation
3.12	State Authority and Delegations	Yes.	
63.13	Addresses	Yes.	
63.14	Incorporation by Reference	Yes.	
63.15	Availability of Information and Confidentiality.	Yes.	
63.16	Performance Track Provisions	Yes.	

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Part III

The President

Order of April 10, 2013—Sequestration Order for Fiscal Year 2014 Pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as Amended

Federal Register
Vol. 78, No. 72
Monday, April 15, 2013

Presidential Documents

Title 3—

The President

Order of April 10, 2013

Sequestration Order for Fiscal Year 2014 Pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as Amended

By the authority vested in me as President by the laws of the United States of America, and in accordance with section 251A of the Balanced Budget and Emergency Deficit Control Act (the ''Act''), as amended, 2 U.S.C. 901a, I hereby order that, on October 1, 2013, direct spending budgetary resources for fiscal year 2014 in each non-exempt budget account be reduced by the amount calculated by the Office of Management and Budget in its report to the Congress of April 10, 2013.

All sequestrations shall be made in strict accordance with the requirements of section 251A of the Act and the specifications of the Office of Management and Budget's report of April 10, 2013, prepared pursuant to section 251A(11) of the Act.

THE WHITE HOUSE,
Washington, April 10, 2013.

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