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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 27

[Doc. No. AMS–CN–12–0024]

RIN 0581–AD26

Revision of Regulations Defining Bona Fide Cotton Spot Markets

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is amending the regulation that specifies which states compose bona fide cotton spot markets in order to assure consistency with the revised Cotton Research and Promotion Act. Updated bona fide spot market definitions allow for published spot quotes to consider spot prices of cotton marketed in Kansas and Virginia. AMS is also amending references to the ''New York Cotton Exchange'' to read the ''Intercontinental Exchange.''

DATES: *Effective date:* May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Darryl Earnest, Deputy Administrator, Cotton & Tobacco Programs, AMS, USDA, 3275 Appling Road, Room 11, Memphis, TN 38133. Telephone (901) 384–3060, facsimile (901) 384–3021, or email *darryl.earnest@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act and Paperwork Reduction Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are an estimated 25,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201). Revisions to the regulations concerning bona fide spot market definitions are necessary to assure consistency with the revised Cotton Research and Promotion Act and to allow for published spot quotes to consider spot prices of cotton marketed in Kansas and Virginia. Changes in spot market definitions as stated will not significantly affect small businesses as defined in the RFA because:

(1) How spot prices are estimated are not expected to be impacted by this action;

(2) Business practices of the U.S. cotton industry are not expected to change as a result of this action;

(3) Costs associated with providing market news services will not be significantly changed by this action;

(4) Market news services are paid for by appropriated funds, therefore users are not charged fees for the provision of the services.

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501), the information collection requirements contained in the provisions amended by this rule have been previously approved by OMB and were assigned OMB control number 0581–0009, Cotton Classification and Market New Service.

Background

The Secretary of Agriculture is authorized under the United States Cotton Futures Act (7 U.S.C. 15b) to designate at least five bona fide spot markets from which cotton price information can be collected. A spot market—also called the ''cash market'' or ''physical market''—is a market where commodities are sold on the spot for cash at current market prices and delivered immediately. Designation of these bona fide spot markets and the determination of which counties and states compose each of these spot markets was most recently published in the **Federal Register** on August 4, 1988 (53 FR 29327). For each of these bona fide spot markets, the Cotton and Tobacco Programs of the Agricultural Marketing Service collects market price information under the United States Cotton Futures Act (7 U.S.C. 15b), the Cotton Statistics and Estimates Act (7 U.S.C. 473b) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)). This price information is then used to calculate price differences for cotton futures contracts.

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110–234, 122 Stat. 923, enacted May 22, 2008, H.R. 2419) amended Section 17(f) of the Cotton Research and Promotion Act (7 U.S.C. 2116(f)), designating Kansas, Virginia, and Florida as cotton producing states for purposes of the Cotton Research and Promotion Act. To achieve consistency with the revised Cotton Research and Promotion Act and to allow for published spot quotes to consider spot prices of cotton marketed in the aforementioned states, § 27.93 is amended to add all the counties of Virginia to the Southeastern spot market, and Kansas to the East Texas and Oklahoma spot market.

On September 14, 2006, New York Board of Trade—the parent company of the New York Cotton Exchange—agreed to become a unit of Intercontinental Exchange. This transaction was completed on January 12, 2007. To reflect this organizational change in the regulations, § 27.94 is amended such that references to the ''New York Cotton Exchange'' read as the ''Intercontinental Exchange.''

Summary of Comments

A proposed rule was published in the **Federal Register** on February 8, 2013,

with a comment period of February 8, 2013 through March 11, 2013 (78 FR 9330). No comments on the proposed regulatory amendments were received by AMS. The proposed rule may be viewed at *www.regulations.gov.*

List of Subjects in 7 CFR Part 27

Commodity futures, Cotton.

For the reasons set forth in the preamble, 7 CFR part 27 is amended as follows:

PART 27—[Amended]

■ 1. The authority citation for 7 CFR part 27 continues to read as follows:

Authority: 7 U.S.C. 15b, 7 U.S.C. 473b, 7 U.S.C. 1622(g).

■ 2. In § 27.93, definitions of the Southeastern market and the East Texas and Oklahoma market are revised to read as follows:

§ 27.93 Bona fide Spot Markets.

* * * * *

Southeastern

All counties in the states of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia and all counties in the state of Tennessee east of and including Stewart, Houston, Humphreys, Perry, Wayne and Hardin counties.

* * * * *

East Texas and Oklahoma

All counties in the states of Kansas and Oklahoma and the Texas counties east of and including Montague, Wise, Parker, Erath, Comanche, Mills, San Saba, Mason, Sutton, Edwards, Kinney, Maverick, Webb, Zapata, Star and Hidalgo counties.

* * * * *

■ 3. In § 27.94, paragraph (a) is revised to read as follows:

§ 27.94 Spot Markets for Contract Settlement Purposes.

* * * * *

(a) For cotton delivered in settlement of any No. 2 contract on the Intercontinental Exchange (ICE); Southeastern, North and South Delta, Eastern Texas and Oklahoma, West Texas, and Desert Southwest.

* * * * *

Dated: April 25, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–10114 Filed 4–29–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522 and 558

[Docket No. FDA–2013–N–0002]

New Animal Drugs; Dexmedetomidine; Lasalocid; Melengestrol; Monensin; and Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule, Technical Amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval actions for new animal drug applications and abbreviated new animal drug applications during March 2013. FDA is also informing the public of the availability of summaries the basis of approval and of environmental review documents, where applicable.

DATES: This rule is effective April 30, 2013.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9019, *george.haibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is amending the animal drug regulations to reflect approval actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during March 2013, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain these documents at the CVM FOIA Electronic Reading Room: *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CVM/CVMFOIAElectronicReadingRoom/default.htm.*

In addition, the animal drug regulations are being amended at 21 CFR 522.558 to add a new strength of dexmedetomidine hydrochloride injectable solution for use in dogs and cats. This change is being made to improve the accuracy of the regulations.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING MARCH 2013

NADA/ ANADA	Sponsor	New animal drug product name	Action	21 CFR section	FOIA summary	NEPA review
200–532	Huvepharma AD, 5th Floor, 3A Nikolay Haytov Str., 1113 Sophia, Bulgaria.	TYLOVET 100 (tylosin phosphate) and MGA (melegestrone acetate) Type A medicated articles.	Original approval as a generic copy of NADA 139–192.	558.342	yes	CE [1]
200–533	Huvepharma AD, 5th Floor, 3A Nikolay Haytov Str., 1113 Sophia, Bulgaria.	TYLOVET 100 (tylosin phosphate) and RUMENSIN (monensin) and DECCOX (decoquinate) Type A medicated articles.	Original approval as a generic copy of NADA 141–149.	558.195	yes	CE [1]

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING MARCH 2013—Continued

NADA/ ANADA	Sponsor	New animal drug product name	Action	21 CFR section	FOIA summary	NEPA review
200–535	Huvepharma AD, 5th Floor, 3A Nikolay Haytov Str., 1113 Sophia, Bulgaria.	TYLOVET 100 (tylosin phosphate) and BOVATEC (lasalocid) and MGA (melegestrone acetate) Type A medicated articles.	Original approval as a generic copy of NADA 138–992.	558.342	yes	CE [1]

[1] The Agency has determined under 21 CFR 25.33 that this action is categorically excluded (CE) from the requirement to submit an environmental assessment (EA) or an environmental impact statement (EIS) because it is of a type that does not individually or cumulatively have a significant effect on the human environment.

List of Subjects

21 CFR Part 522

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 522 and 558 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 522.558, revise paragraph (a) to read as follows:

§ 522.558 Dexmedetomidine.

(a) *Specifications.* Each milliliter of solution contains 0.5 or 1.0 milligrams dexmedetomidine hydrochloride.

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 4. In § 558.195, in the table, in paragraph (e)(2)(v), revise the last sentence in the ''Limitations'' column and revise the ''Sponsor'' column to read as follows:

§ 558.195 Decoquinate.

* * * * *

(e) * * *

(2) * * *

Decoquinate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
* * * * * * *				
(v) * * *	.....	.....	* * * Monensin as provided by No. 000986, and tylosin as provided by Nos. 000986 and 016592 in § 510.600(c) of this chapter.	016592, 046573
* * * * * * *				

* * * * *

■ 5. In § 558.342, in the table, in paragraphs (e)(1)(iv) and (e)(1)(ix), revise the last sentence in the ''Limitations'' column and revise the ''Sponsor'' column to read as follows:

§ 558.342 Melengestrol.

* * * * *

(e) * * *

(1) * * *

Melengestrol acetate in mg/ head/day	Combination in mg/head/ day	Indications for use	Limitations	Sponsor
* * * * * * *				
(iv) * * *	.....	.....	* * * Lasalocid provided by No. 046573, and tylosin provided by Nos. 000986 and 016592 in § 510.600(c) of this chapter.	000009, 000986, 016592
* * * * * * *				
(ix) * * *	.....	.....	Tylosin provided by Nos. 000986 and 016592 in § 510.600(c) of this chapter.	000009, 000986, 016592

* * * * *

Dated: April 25, 2013.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2013–10152 Filed 4–29–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 200, 207, and 232

[Docket No. FR–5465–F–03]

RIN–2502–AJ05

Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program—Strengthening Accountability and Regulatory Revisions Update Final Rule Amendment—Revision of Date of Applicability

AGENCY: Federal Housing Commissioner, Office of the Assistant Secretary for Housing, HUD.

ACTION: Final rule amendment.

SUMMARY: On September 7, 2012, HUD published a final rule that revised the regulations governing the insurance of healthcare facilities under section 232 of the National Housing Act (Section 232). HUD's Section 232 program insures mortgage loans to facilitate the construction, substantial rehabilitation, purchase, and refinancing of nursing homes, intermediate care facilities, board and care homes, and assisted-living facilities. The amendments made by the September 7, 2012, final rule updated the Section 232 regulations to reflect current policy and practices, improve accountability and strengthen risk management in the program. The final rule provided an applicability date of April 9, 2013, for certain of the updated requirements. This final rule amendment changes the applicability date to July 12, 2013, for the purpose of allowing more time to transition to the new requirements.

DATES: *Effective date:* May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Kelly Haines, Director, Office of Residential Care Facilities, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6264, Washington, DC 20410–8000; telephone number 202–708–0599 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On September 7, 2012, at 77 FR 55120, HUD published in the **Federal Register** a final rule that revised its Section 232 program regulations to bring the regulations up-to-date to reflect current policy and practices in healthcare facility transactions and to strengthen risk management and improve accountability in the program. The September 7, 2012, final rule followed a proposed rule published in the **Federal Register** on May 3, 2012, at 77 FR 26218, in which HUD submitted its proposed revisions for public comment. The final rule took effect on October 9, 2012. However, to allow time to transition to the updated requirements, the final rule established an applicability date of April 9, 2013 for certain of the requirements.

On May 3, 2012, at 77 FR 26304, HUD also published a notice that proposed revisions to documents used in the insurance of healthcare facilities, and solicited public comment for a period of 60 days. This notice was issued in accordance with the Paperwork Reduction Act of 1995, and was followed by a second notice, published on November 21, 2012, at 77 FR 69870, that solicited public comment for a period of 30 days. The Office of Management and Budget approved the Section 232 documents under the Paperwork Reduction Act in March 2013, and the approval was announced by notice published in the **Federal Register** on March 14, 2013, at 78 FR 16279.

Following issuance of the March 14, 2013, notice, lenders and other parties that would be involved in upcoming Section 232 program transactions stated that the delayed approval presented barriers to full compliance with some of the requirements in the revised Section 232 regulations that would become applicable on April 9, 2013. The affected parties involved in upcoming financing or refinancing of a loan to be insured under Section 232 advised that they have already expended substantial time and expense in preparing the transaction based on reasonable reliance on the previously applicable Section 232 documents.

II. This Final Rule

Given that the delayed approval of the Section 232 documents has caused difficulties for parties involved in upcoming Section 232 healthcare facility transactions to comply with the updated requirements in the Section 232 regulations because of the April 9, 2013, applicability date, this final rule changes the applicability date to July 12, 2013. An additional delayed applicability date of over 90 days following publication of this final rule should allow parties involved in Section 232 healthcare facility transactions to prepare for such transactions based on the new Section 232 regulations and related Section 232 documents.

III. Justification for Final Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with HUD's regulations on rulemaking at 24 CFR part 10. Part 10, however, provides in § 10.1 for exceptions from that general rule where HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is ''impracticable, unnecessary or contrary to the public interest.''

HUD finds that good cause exists to publish this rule for effect without first soliciting public comment because prior public comment would be contrary to the public interest. HUD's Section 232 program plays an important role in today's economy as the need for residential care facilities has increased and requests to FHA to provide mortgage insurance for such facilities also increased. By reducing the cost of capital needed by residential care facilities to finance the construction, renovation, acquisition, or refinancing of facilities, the Section 232 program helps to improve access to quality healthcare and decrease overall healthcare costs.

Affected parties involved in upcoming Section 232 transactions have advised that efforts to comply with the April 9, 2013, applicability date would result in a delay in completion of a Section 232 transaction and considerable increased expense due to delay. Given the need for quality and affordable care in many communities across the country, HUD recognizes that a delay in completion of a Section 232 transaction whether for acquisition or refinancing for a healthcare facility not only affects the parties involved in the transaction but the community in which the healthcare facility would be purchased, constructed, or refinanced. For this reason, HUD extends the applicability date in the September 7, 2012, final rule from April 9, 2013, to July 12, 2013.

IV. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory

flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. HUD's rulemaking for the Section 232 program, which commenced with a May 3, 2012, proposed rule and concluded with a September 7, 2012, final rule did not result in a significant economic impact on a substantial number of small entities, and the lack of such impact was addressed in the two prior published rules. Because this rule is issued as a final rule amendment, without prior public comment, the Regulatory Flexibility Act is not applicable.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made, in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) at issuance of the May 3, 2012, proposed rule. That finding remains applicable to this final rule amendment, and is available for public inspection as provided in the September 7, 2012, final rule.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either: (1) Imposes substantial direct compliance costs on state and local governments and is not required by statute, or (2) preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This rule does not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of UMRA.

List of Subjects in 24 CFR Part 232

Fire prevention, Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Reporting and recordkeeping requirements.

Accordingly, part 232 of title 24 of the Code of Federal Regulations is amended as follows:

PART 232—MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, BOARD AND CARE HOMES, AND ASSISTED LIVING FACILITIES

■ 1. The authority citation for 24 CFR part 232 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715w; 42 U.S.C. 3535(d).

§ 232.1 [Amended].

■ 2. In § 232.1, amend paragraph (b) by removing ''April 9, 2013'' and adding in its place ''July 12, 2013''.

Dated: April 24, 2013.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2013–10060 Filed 4–29–13; 8:45 am]

BILLING CODE 4210–67–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[EPA–R09–OAR–2011–0981; FRL–9806–3]

Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona, California, and Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is finalizing updates to the Code of Federal Regulations delegation tables to reflect the current delegation status of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants in Arizona, California, and Nevada.

DATES: This rule is effective on July 1, 2013 without further notice, unless EPA receives adverse comments by May 30, 2013. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0981, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Adrianne Borgia at (415) 972–3576, *borgia.adrianne@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we'', ''us,'' and ''our'' refer to EPA.

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I. Background

A. What is the purpose of this document?

Through this document, EPA is accomplishing the following objectives:

(1) Update the delegations tables in the Code of Federal Regulations, Title 40 (40 CFR), Parts 60 and 61, to provide an accurate listing of the delegated New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP); and

(2) Clarify those authorities that EPA retains and are not granted to state or local agencies as part of NSPS or NESHAP delegation.

Update of Tables in the CFR

Today's action will update the delegation tables in 40 CFR Parts 60 and 61, to allow easier access by the public to the status of delegations in various state or local jurisdictions.

The updated delegation tables will include the delegations approved in response to recent requests, as well as those previously granted. The tables are shown at the end of this document.

Recent requests for delegation that will be incorporated into the updated 40 CFR Parts 60 and 61 tables are identified below. Each individual submittal identifies the specific NSPS and NESHAP for which delegation was requested. The requests have already been approved by letter and simply need to be included in the CFR tables.

Agency	Date of request	Date of approval
Maricopa County Air Quality Department	March 11, 2009; March 5, 2010; April 5, 2010; October 7, 2010; and November 16, 2011.	May 27, 2009; June 23, 2010; November 4, 2010; and January 10, 2012.
Antelope Valley Air Quality Management District.	April 22, 2011	June 7, 2011.
Mojave Desert Air Quality Management District	May 10, 2011	June 14, 2011.
San Diego County Air Pollution Control District	April 30, 2009	June 1, 2009.
Santa Barbara County Air Pollution Control District.	February 15, 2011	March 7, 2011.
South Coast Air Quality Management District	July 3, 2009; June 25, 2010; and April 5, 2011.	August 27, 2009; July 14, 2010; and May 31, 2011.
Nevada Division of Environmental Protection	August 19, 2011; and July 20, 2012	September 27, 2011; and August 13, 2012.
Clark County Department of Air Quality and Environmental Management.	August 9, 2010; and May 14, 2012	September 2, 2010; and July 5, 2012.
Washoe County Health District, Air Quality Management Division.	January 15, 2009	July 20, 2009.

B. Who is authorized to delegate these authorities?

Sections 111(c)(1) and 112(l) of the Clean Air Act, as amended in 1990, authorize the Administrator to delegate his or her authority for implementing and enforcing standards in 40 CFR Parts 60 and 61.

C. What does delegation accomplish?

Delegation grants a state or local agency the primary authority to implement and enforce federal standards. All required notifications and reports should be sent to the delegated state or local agency, as appropriate, with a copy to EPA Region IX. Acceptance of delegation constitutes agreement by the state or local agency to follow 40 CFR Parts 60 and 61, and EPA's test methods and continuous monitoring procedures.

D. What authorities are not delegated by EPA?

In general, EPA does not delegate to state or local agencies the authority to make decisions that are likely to be nationally significant, or alter the stringency of the underlying standards. For a more detailed description of the authorities in 40 CFR Parts 60 and 61 that are retained by EPA, please see the proposed rule published on January 14, 2002 (67 FR 1676).

As additional assurance of national consistency, state and local agencies must send to EPA Region IX Enforcement Division's Air Section Chief a copy of any written decisions made pursuant to the following delegated authorities:

- Applicability determinations that state a source is not subject to a rule or requirement;
- approvals or determination of construction, reconstruction, or modification;
- minor or intermediate site-specific changes to test methods or monitoring requirements; or
- site-specific changes or waivers of performance testing requirements.

For decisions that require EPA review and approval (for example, major changes to monitoring requirements), EPA intends to make determinations in a timely manner.

In some cases, the standards themselves specify that specific provisions cannot be delegated. State and local agencies should review each individual standard for this information.

E. Does EPA keep some authority?

EPA retains independent authority to enforce the standards and regulations of 40 CFR Parts 60 and 61.

II. EPA Action

Today's document serves to notify the public that EPA is updating the 40 CFR Parts 60 and 61 tables for Arizona, California, and Nevada to codify recent delegations of NSPS and NESHAPS as authorized under Sections 111(c)(1) and 112(1)(l) of the Clean Air Act.

III. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve delegation requests that comply with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. Sections 7411(c) and 7412(l). Thus, in reviewing delegation submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. Section 3501 et seq.);

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

• does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. Section 1501 et seq.);

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

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

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

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

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

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

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

Under Section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see Section 307(b)(2)).

List of Subjects in 40 CFR Parts 60 and 61

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

—

Dated: April 12, 2013.

Deborah Jordan,

Director, Air Division, Region IX.

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

PART 60—[AMENDED]

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

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

Subpart A—General Provisions

■ 2. Section 60.4 is amended by revising the tables in paragraphs (d)(1), (d)(2)(vii), (d)(2)(viii), and (d)(4), and by revising paragraphs (d)(2)(i) and (d)(2)(v) to read as follows:

§ 60.4 Address.

* * * * *

(d) * * *

(1) * * *

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR ARIZONA

	Subpart	Air pollution control agency			
		Arizona DEQ	Maricopa County	Pima County	Pinal County
A	General Provisions	X	X	X	X
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971.	X	X	X	X
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978.	X	X	X	X
Db	Industrial-Commercial-Institutional Steam Generating Units.	X	X	X	X
Dc	Small Industrial-Commercial-Institutional Steam Generating Units.	X	X	X	X
E	Incinerators	X	X	X	X
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.	X	X	X	X
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994.	X	X	X	.....
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.	X	X	X	.....
F	Portland Cement Plants	X	X	X	X
G	Nitric Acid Plants	X	X	X	X

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR ARIZONA—Continued

	Subpart	Air pollution control agency			
		Arizona DEQ	Maricopa County	Pima County	Pinal County
Ga	Nitric Acid Plants For Which Construction, Reconstruction or Modification Commenced After October 14, 2011.	.....	.....	.....	.....
H	Sulfuric Acid Plant	X	X	X	X
I	Hot Mix Asphalt Facilities	X	X	X	X
J	Petroleum Refineries	X	X	X	X
Ja	Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.	.....	X	.....	.....
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	X	X	X	X
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	X	X	X	X
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	X	X	X	X
L	Secondary Lead Smelters	X	X	X	X
M	Secondary Brass and Bronze Production Plants	X	X	X	X
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	X	X	X	X
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	X	X	X	X
O	Sewage Treatment Plants	X	X	X	X
P	Primary Copper Smelters	X	X	X	X
Q	Primary Zinc Smelters	X	X	X	X
R	Primary Lead Smelters	X	X	X	X
S	Primary Aluminum Reduction Plants	X	X	X	X
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	X	X	X	X
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	X	X	X	X
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	X	X	X	X
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants.	X	X	X	X
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.	X	X	X	X
Y	Coal Preparation and Processing Plants	X	X	X	X
Z	Ferroalloy Production Facilities	X	X	X	X
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.	X	X	X	X
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.	X	X	X	X
BB	Kraft Pulp Mills	X	X	X	X
CC	Glass Manufacturing Plants	X	X	X	X
DD	Grain Elevators	X	X	X	X
EE	Surface Coating of Metal Furniture	X	X	X	X
FF	(Reserved)	.....	.....	.....	.....
GG	Stationary Gas Turbines	X	X	X	X
HH	Lime Manufacturing Plants	X	X	X	X
KK	Lead-Acid Battery Manufacturing Plants	X	X	X	X
LL	Metallic Mineral Processing Plants	X	X	X	X
MM	Automobile and Light Duty Trucks Surface Coating Operations.	X	X	X	X
NN	Phosphate Rock Plants	X	X	X	X
PP	Ammonium Sulfate Manufacture	X	X	X	X
QQ	Graphic Arts Industry: Publication Rotogravure Printing.	X	X	X	X
RR	Pressure Sensitive Tape and Label Surface Coating Operations.	X	X	X	X

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR ARIZONA—Continued

	Subpart	Air pollution control agency			
		Arizona DEQ	Maricopa County	Pima County	Pinal County
SS	Industrial Surface Coating: Large Appliances	X	X	X	X
TT	Metal Coil Surface Coating	X	X	X	X
UU	Asphalt Processing and Asphalt Roofing Manufacture.	X	X	X	X
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing.	X	X	X	X
VVa	Equipment Leaks of VOC in the Synthetic Organic Industry for Which Construction, Reconstruction, or Chemicals Manufacturing Modification Commenced After November 7, 2006.	X	X		
WW	Beverage Can Surface Coating Industry	X	X	X	X
XX	Bulk Gasoline Terminals	X	X	X	X
AAA	New Residential Wood Heaters	X	X	X	X
BBB	Rubber Tire Manufacturing Industry	X	X	X	X
CCC	(Reserved)				
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry.	X	X	X	X
EEE	(Reserved)				
FFF	Flexible Vinyl and Urethane Coating and Printing	X	X	X	X
GGG	Equipment Leaks of VOC in Petroleum Refineries	X	X	X	X
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.	X	X		
HHH	Synthetic Fiber Production Facilities	X	X	X	X
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.	X	X	X	X
JJJ	Petroleum Dry Cleaners	X	X	X	X
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.	X	X	X	X
LLL	Onshore Natural Gas Processing: SO_2 Emissions	X	X	X	X
MMM	(Reserved)				
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.	X	X	X	X
OOO	Nonmetallic Mineral Processing Plants	X	X	X	X
PPP	Wool Fiberglass Insulation Manufacturing Plants	X	X	X	X
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems.	X	X	X	X
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.	X	X		
SSS	Magnetic Tape Coating Facilities	X	X	X	X
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.	X	X	X	X
UUU	Calciners and Dryers in Mineral Industries	X	X	X	
VVV	Polymeric Coating of Supporting Substrates Facilities.	X	X	X	X
WWW	Municipal Solid Waste Landfills	X	X	X	
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commended After June 6, 2001.	X	X	X	
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.	X	X	X	
EEEE	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.	X	X		
GGGG	(Reserved)				
HHHH	(Reserved)				
IIII	Stationary Compression Ignition Internal Combustion Engines.	X	X		
JJJJ	Stationary Spark Ignition Internal Combustion Engines.		X		
KKKK	Stationary Combustion Turbines	X	X		

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR ARIZONA—Continued

	Subpart	Air pollution control agency			
		Arizona DEQ	Maricopa County	Pima County	Pinal County
LLLL	New Sewage Sludge Incineration Units				
OOOO	Crude Oil and Natural Gas Production, Transmission, and Distribution.				

(2) * * *

(i) Delegations for Amador County Air Pollution Control District, Antelope Valley Air Quality Management District, Bay Area Air Quality Management District, and Butte County Air Quality Management District are shown in the following table:

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR AMADOR COUNTY APCD, ANTELOPE VALLEY AQMD, BAY AREA AQMD, AND BUTTE COUNTY AQMD

	Subpart	Air pollution control agency			
		Amador County APCD	Antelope Valley AQMD	Bay Area AQMD	Butte County AQMD
A	General Provisions		X		
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971.		X	X	
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978.		X	X	
Db	Industrial-Commercial-Institutional Steam Generating Units		X	X	
Dc	Small Industrial-Commercial-Institutional Steam Generating Units.		X	X	
E	Incinerators		X	X	
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.		X	X	
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994.		X		
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.		X		
F	Portland Cement Plants		X	X	
G	Nitric Acid Plants		X	X	
Ga	Nitric Acid Plants For Which Construction, Reconstruction or Modification Commenced After October 14, 2011.				
H	Sulfuric Acid Plant		X	X	
I	Hot Mix Asphalt Facilities		X	X	
J	Petroleum Refineries		X	X	
Ja	Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.		X		
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.		X	X	
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.		X	X	
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.		X	X	
L	Secondary Lead Smelters		X	X	
M	Secondary Brass and Bronze Production Plants		X	X	
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.		X	X	
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.		X	X	
O	Sewage Treatment Plants		X	X	
P	Primary Copper Smelters		X	X	
Q	Primary Zinc Smelters		X	X	
R	Primary Lead Smelters		X	X	
S	Primary Aluminum Reduction Plants		X	X	
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.		X		
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants		X	X	
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants		X	X	
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants		X	X	

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR AMADOR COUNTY APCD, ANTELOPE VALLEY AQMD, BAY AREA AQMD, AND BUTTE COUNTY AQMD—Continued

	Subpart	Air pollution control agency			
		Amador County APCD	Antelope Valley AQMD	Bay Area AQMD	Butte County AQMD
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.		X	X	
Y	Coal Preparation and Processing Plants		X	X	
Z	Ferroalloy Production Facilities		X	X	
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.		X	X	
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.		X	X	
BB	Kraft Pulp Mills		X	X	
CC	Glass Manufacturing Plants		X	X	
DD	Grain Elevators		X	X	
EE	Surface Coating of Metal Furniture		X	X	
FF	(Reserved)				
GG	Stationary Gas Turbines		X	X	
HH	Lime Manufacturing Plants		X	X	
KK	Lead-Acid Battery Manufacturing Plants		X	X	
LL	Metallic Mineral Processing Plants		X	X	
MM	Automobile and Light Duty Trucks Surface Coating Operations.		X	X	
NN	Phosphate Rock Plants		X	X	
PP	Ammonium Sulfate Manufacture		X	X	
QQ	Graphic Arts Industry: Publication Rotogravure Printing		X	X	
RR	Pressure Sensitive Tape and Label Surface Coating Operations.		X	X	
SS	Industrial Surface Coating: Large Appliances		X	X	
TT	Metal Coil Surface Coating		X	X	
UU	Asphalt Processing and Asphalt Roofing Manufacture		X	X	
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing.		X	X	
VVa	Equipment Leaks of VOC in the Synthetic Organic Industry for Which Construction, Reconstruction, or Chemicals Manufacturing Modification Commenced After November 7, 2006.		X		
WW	Beverage Can Surface Coating Industry		X	X	
XX	Bulk Gasoline Terminals				
AAA	New Residential Wood Heaters		X	X	
BBB	Rubber Tire Manufacturing Industry		X	X	
CCC	(Reserved)				
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry.		X	X	
EEE	(Reserved)				
FFF	Flexible Vinyl and Urethane Coating and Printing		X	X	
GGG	Equipment Leaks of VOC in Petroleum Refineries		X	X	
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.		X		
HHH	Synthetic Fiber Production Facilities		X	X	
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.		X		
JJJ	Petroleum Dry Cleaners		X	X	
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.		X	X	
LLL	Onshore Natural Gas Processing: SO_2 Emissions		X		
MMM	(Reserved)				
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.		X	X	
OOO	Nonmetallic Mineral Processing Plants		X	X	
PPP	Wool Fiberglass Insulation Manufacturing Plants		X	X	
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems.		X		
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.		X		
SSS	Magnetic Tape Coating Facilities		X	X	
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.		X	X	

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR AMADOR COUNTY APCD, ANTELOPE VALLEY AQMD, BAY AREA AQMD, AND BUTTE COUNTY AQMD—Continued

	Subpart	Air pollution control agency			
		Amador County APCD	Antelope Valley AQMD	Bay Area AQMD	Butte County AQMD
UUU	Calciners and Dryers in Mineral Industries		X	X	
VVV	Polymeric Coating of Supporting Substrates Facilities		X	X	
WWW	Municipal Solid Waste Landfills		X		
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commended After June 6, 2001.		X		
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.		X		
EEEE	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.		X		
GGGG	(Reserved)				
HHHH	(Reserved)				
IIII	Stationary Compression Ignition Internal Combustion Engines		X		
JJJJ	Stationary Spark Ignition Internal Combustion Engines		X		
KKKK	Stationary Combustion Turbines		X		
LLLL	New Sewage Sludge Incineration Units				
OOOO	Crude Oil and Natural Gas Production, Transmission, and Distribution.				

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(v) Delegations for Modoc Air Pollution Control District, Mojave Desert Air Quality Management District, Monterey Bay Unified Air Pollution Control District and North Coast Unified Air Quality Management District are shown in the following table:

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR MODOC COUNTY APCD, MOJAVE DESERT AQMD, MONTEREY BAY UNIFIED APCD, AND NORTH COAST UNIFIED AQMD

	Subpart	Air pollution control agency			
		Modoc County APCD	Mojave Desert AQMD	Monterey Bay Unified APCD	North Coast Unified AQMD
A	General Provisions	X	X	X	X
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971.	X	X	X	X
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978.	X	X	X	X
Db	Industrial-Commercial-Institutional Steam Generating Units	X	X	X	X
Dc	Small Industrial-Commercial-Institutional Steam Generating Units.		X	X	
E	Incinerators	X	X	X	X
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.		X		
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994.		X		
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.		X		
F	Portland Cement Plants	X	X	X	X
G	Nitric Acid Plants	X	X	X	X
Ga	Nitric Acid Plants For Which Construction, Reconstruction or Modification Commenced After October 14, 2011.				
H	Sulfuric Acid Plant	X	X	X	X
I	Hot Mix Asphalt Facilities	X	X	X	X
J	Petroleum Refineries	X	X	X	X
Ja	Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.		X		
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	X	X	X	X
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	X	X	X	X

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR MODOC COUNTY APCD, MOJAVE DESERT AQMD, MONTEREY BAY UNIFIED APCD, AND NORTH COAST UNIFIED AQMD—Continued

	Subpart	Air pollution control agency			
		Modoc County APCD	Mojave Desert AQMD	Monterey Bay Unified APCD	North Coast Unified AQMD
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	X	X	X	X
L	Secondary Lead Smelters	X	X	X	X
M	Secondary Brass and Bronze Production Plants	X	X	X	X
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	X	X	X	X
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	X	X	X	X
O	Sewage Treatment Plants	X	X	X	X
P	Primary Copper Smelters	X	X	X	X
Q	Primary Zinc Smelters	X	X	X	X
R	Primary Lead Smelters	X	X	X	X
S	Primary Aluminum Reduction Plants	X	X	X	X
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	X	X	X	X
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	X	X	X	X
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	X	X	X	X
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	X	X	X	X
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.	X	X	X	X
Y	Coal Preparation and Processing Plants	X	X	X	X
Z	Ferroalloy Production Facilities	X	X	X	X
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.	X	X	X	X
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.	X	X	X	X
BB	Kraft Pulp Mills	X	X	X	X
CC	Glass Manufacturing Plants	X	X	X	X
DD	Grain Elevators	X	X	X	X
EE	Surface Coating of Metal Furniture	X	X	X	X
FF	(Reserved)				
GG	Stationary Gas Turbines	X	X	X	X
HH	Lime Manufacturing Plants	X	X	X	X
KK	Lead-Acid Battery Manufacturing Plants	X	X	X	X
LL	Metallic Mineral Processing Plants	X	X	X	X
MM	Automobile and Light Duty Trucks Surface Coating Operations.	X	X	X	X
NN	Phosphate Rock Plants	X	X	X	X
PP	Ammonium Sulfate Manufacture	X	X	X	X
QQ	Graphic Arts Industry: Publication Rotogravure Printing	X	X	X	X
RR	Pressure Sensitive Tape and Label Surface Coating Operations.	X	X	X	X
SS	Industrial Surface Coating: Large Appliances	X	X	X	X
TT	Metal Coil Surface Coating	X	X	X	X
UU	Asphalt Processing and Asphalt Roofing Manufacture	X	X	X	X
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing.	X	X	X	X
VVa	Equipment Leaks of VOC in the Synthetic Organic Industry for Which Construction, Reconstruction, or Chemicals Manufacturing Modification Commenced After November 7, 2006.		X		
WW	Beverage Can Surface Coating Industry	X	X	X	X
XX	Bulk Gasoline Terminals				
AAA	New Residential Wood Heaters	X	X	X	X
BBB	Rubber Tire Manufacturing Industry	X	X	X	X
CCC	(Reserved)				
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry.	X	X	X	
EEE	(Reserved)				
FFF	Flexible Vinyl and Urethane Coating and Printing	X	X	X	X
GGG	Equipment Leaks of VOC in Petroleum Refineries	X	X	X	X
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.		X		
HHH	Synthetic Fiber Production Facilities	X	X	X	X

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR MODOC COUNTY APCD, MOJAVE DESERT AQMD, MONTEREY BAY UNIFIED APCD, AND NORTH COAST UNIFIED AQMD—Continued

	Subpart	Air pollution control agency			
		Modoc County APCD	Mojave Desert AQMD	Monterey Bay Unified APCD	North Coast Unified AQMD
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.		X		
JJJ	Petroleum Dry Cleaners	X	X	X	X
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.	X	X	X	X
LLL	Onshore Natural Gas Processing: SO_2 Emissions	X	X	X	X
MMM	(Reserved)				
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.	X	X	X	
OOO	Nonmetallic Mineral Processing Plants	X	X	X	X
PPP	Wool Fiberglass Insulation Manufacturing Plants	X	X	X	X
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems.	X	X	X	X
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.		X		
SSS	Magnetic Tape Coating Facilities	X	X	X	X
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.	X	X	X	X
UUU	Calciners and Dryers in Mineral Industries		X	X	
VVV	Polymeric Coating of Supporting Substrates Facilities		X	X	X
WWW	Municipal Solid Waste Landfills		X		
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commended After June 6, 2001.		X		
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.		X		
EEEE	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.		X		
GGGG	(Reserved)				
HHHH	(Reserved)				
IIII	Stationary Compression Ignition Internal Combustion Engines		X		
JJJJ	Stationary Spark Ignition Internal Combustion Engines		X		
KKKK	Stationary Combustion Turbines		X		
LLLL	New Sewage Sludge Incineration Units				
OOOO	Crude Oil and Natural Gas Production, Transmission, and Distribution.				

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DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR SAN DIEGO COUNTY APCD, SAN JOAQUIN VALLEY UNIFIED APCD, SAN LUIS OBISPO COUNTY APCD, AND SANTA BARBARA COUNTY APCD

	Subpart	Air pollution control agency			
		San Diego County APCD	San Joaquin Valley Unified APCD	San Luis Obispo County APCD	Santa Barbara County APCD
A	General Provisions	X	X	X	X
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971.	X	X	X	X
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978.	X	X	X	X
Db	Industrial-Commercial-Institutional Steam Generating Units	X	X	X	X
Dc	Small Industrial-Commercial-Institutional Steam Generating Units.	X	X	X	X
E	Incinerators	X	X	X	X

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR SAN DIEGO COUNTY APCD, SAN JOAQUIN VALLEY UNIFIED APCD, SAN LUIS OBISPO COUNTY APCD, AND SANTA BARBARA COUNTY APCD—Continued

	Subpart	Air pollution control agency			
		San Diego County APCD	San Joaquin Valley Unified APCD	San Luis Obispo County APCD	Santa Barbara County APCD
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.	X	X	X	.....
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994.	X	X	.....	X
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.	X	.....	.....	X
F	Portland Cement Plants	X	X	X	.....
G	Nitric Acid Plants	X	X	X	.....
Ga	Nitric Acid Plants For Which Construction, Reconstruction or Modification Commenced After October 14, 2011.	.....	.....	.....	.....
H	Sulfuric Acid Plant	X	X	X	.....
I	Hot Mix Asphalt Facilities	X	X	X	X
J	Petroleum Refineries	X	X	X	X
Ja	Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.	.....	.....	.....	X
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	X	X	X	X
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	X	X	X	X
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	X	X	X	X
L	Secondary Lead Smelters	X	X	X	X
M	Secondary Brass and Bronze Production Plants	X	X	X	X
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	X	X	X	.....
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	X	X	X	.....
O	Sewage Treatment Plants	X	X	X	X
P	Primary Copper Smelters	X	X	X	.....
Q	Primary Zinc Smelters	X	X	X	.....
R	Primary Lead Smelters	X	X	X	.....
S	Primary Aluminum Reduction Plants	X	X	X	.....
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	X	X	X	.....
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	X	X	X	.....
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	X	X	X	.....
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	X	X	X	.....
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.	X	X	X	.....
Y	Coal Preparation and Processing Plants	X	X	X	.....
Z	Ferroalloy Production Facilities	X	X	X	.....
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.	X	X	X	.....
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.	X	X	X	.....
BB	Kraft Pulp Mills	X	X	X	.....
CC	Glass Manufacturing Plants	X	X	X	X
DD	Grain Elevators	X	X	X	X
EE	Surface Coating of Metal Furniture	X	X	X	.....
FF	(Reserved)	.....	.....	.....	.....
GG	Stationary Gas Turbines	X	X	X	X
HH	Lime Manufacturing Plants	X	X	X	.....
KK	Lead-Acid Battery Manufacturing Plants	X	X	X	.....
LL	Metallic Mineral Processing Plants	X	X	X	.....
MM	Automobile and Light Duty Trucks Surface Coating Operations.	X	X	X	.....
NN	Phosphate Rock Plants	X	X	X	.....
PP	Ammonium Sulfate Manufacture	X	X	X	.....
QQ	Graphic Arts Industry: Publication Rotogravure Printing	X	X	X	.....
RR	Pressure Sensitive Tape and Label Surface Coating Operations.	X	X	X	.....
SS	Industrial Surface Coating: Large Appliances	X	X	X	.....
TT	Metal Coil Surface Coating	X	X	X	.....

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR SAN DIEGO COUNTY APCD, SAN JOAQUIN VALLEY UNIFIED APCD, SAN LUIS OBISPO COUNTY APCD, AND SANTA BARBARA COUNTY APCD—Continued

	Subpart	Air pollution control agency			
		San Diego County APCD	San Joaquin Valley Unified APCD	San Luis Obispo County APCD	Santa Barbara County APCD
UU	Asphalt Processing and Asphalt Roofing Manufacture	X	X	X	
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing.	X	X	X	
VVa	Equipment Leaks of VOC in the Synthetic Organic Industry for Which Construction, Reconstruction, or Chemicals Manufacturing Modification Commenced After November 7, 2006.				X
WW	Beverage Can Surface Coating Industry	X	X	X	
XX	Bulk Gasoline Terminals				
AAA	New Residential Wood Heaters	X	X	X	X
BBB	Rubber Tire Manufacturing Industry	X	X	X	
CCC	(Reserved)				
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry.	X	X		
EEE	(Reserved)				
FFF	Flexible Vinyl and Urethane Coating and Printing	X	X	X	
GGG	Equipment Leaks of VOC in Petroleum Refineries	X	X	X	
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.				X
HHH	Synthetic Fiber Production Facilities	X	X	X	
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.	X	X		
JJJ	Petroleum Dry Cleaners	X	X	X	
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.	X	X	X	
LLL	Onshore Natural Gas Processing: SO_2 Emissions	X	X	X	
MMM	(Reserved)				
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.	X	X		
OOO	Nonmetallic Mineral Processing Plants	X	X	X	X
PPP	Wool Fiberglass Insulation Manufacturing Plants	X	X	X	
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems.	X	X	X	
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.	X	X	X	
SSS	Magnetic Tape Coating Facilities	X	X	X	
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.	X	X	X	
UUU	Calciners and Dryers in Mineral Industries	X	X	X	X
VVV	Polymeric Coating of Supporting Substrates Facilities	X	X	X	X
WWW	Municipal Solid Waste Landfills	X	X	X	X
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commended After June 6, 2001.	X			X
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.	X			X
EEEE	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.	X			X
GGGG	(Reserved)				
HHHH	(Reserved)				
IIII	Stationary Compression Ignition Internal Combustion Engines				X
JJJJ	Stationary Spark Ignition Internal Combustion Engines				X
KKKK	Stationary Combustion Turbines	X			X
LLLL	New Sewage Sludge Incineration Units				
OOOO	Crude Oil and Natural Gas Production, Transmission, and Distribution.				

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(viii) * * *

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR SHASTA COUNTY AQMD, SISKIYOU COUNTY APCD, SOUTH COAST AQMD, AND TEHAMA COUNTY APCD

	Subpart	Air pollution control agency			
		Shasta County AQMD	Siskiyou County APCD	South Coast AQMD	Tehama County APCD
A	General Provisions	X	X	X	
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971.	X		X	
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978.			X	
Db	Industrial-Commercial-Institutional Steam Generating Units			X	
Dc	Small Industrial-Commercial-Institutional Steam Generating Units.			X	
E	Incinerators	X		X	
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.			X	
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994.			X	
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.			X	
F	Portland Cement Plants	X		X	
G	Nitric Acid Plants	X		X	
Ga	Nitric Acid Plants For Which Construction, Reconstruction or Modification Commenced After October 14, 2011.				
H	Sulfuric Acid Plant	X		X	
I	Hot Mix Asphalt Facilities	X		X	
J	Petroleum Refineries	X		X	
Ja	Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.			X	
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	X		X	
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.			X	
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.			X	
L	Secondary Lead Smelters	X		X	
M	Secondary Brass and Bronze Production Plants	X		X	
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	X		X	
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.			X	
O	Sewage Treatment Plants	X		X	
P	Primary Copper Smelters	X		X	
Q	Primary Zinc Smelters	X		X	
R	Primary Lead Smelters	X		X	
S	Primary Aluminum Reduction Plants	X		X	
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	X		X	
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	X		X	
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	X		X	
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	X		X	
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.	X		X	
Y	Coal Preparation and Processing Plants	X		X	
Z	Ferroalloy Production Facilities	X		X	
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.	X		X	
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.			X	
BB	Kraft Pulp Mills	X		X	
CC	Glass Manufacturing Plants			X	
DD	Grain Elevators	X		X	
EE	Surface Coating of Metal Furniture			X	
FF	(Reserved)				
GG	Stationary Gas Turbines			X	
HH	Lime Manufacturing Plants	X		X	

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR SHASTA COUNTY AQMD, SISKIYOU COUNTY APCD, SOUTH COAST AQMD, AND TEHAMA COUNTY APCD—Continued

	Subpart	Air pollution control agency			
		Shasta County AQMD	Siskiyou County APCD	South Coast AQMD	Tehama County APCD
KK	Lead-Acid Battery Manufacturing Plants			X	
LL	Metallic Mineral Processing Plants			X	
MM	Automobile and Light Duty Trucks Surface Coating Operations.			X	
NN	Phosphate Rock Plants			X	
PP	Ammonium Sulfate Manufacture			X	
QQ	Graphic Arts Industry: Publication Rotogravure Printing			X	
RR	Pressure Sensitive Tape and Label Surface Coating Operations.			X	
SS	Industrial Surface Coating: Large Appliances			X	
TT	Metal Coil Surface Coating			X	
UU	Asphalt Processing and Asphalt Roofing Manufacture			X	
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing.			X	
VVa	Equipment Leaks of VOC in the Synthetic Organic Industry for Which Construction, Reconstruction, or Chemicals Manufacturing Modification Commenced After November 7, 2006.			X	
WW	Beverage Can Surface Coating Industry			X	
XX	Bulk Gasoline Terminals				
AAA	New Residential Wood Heaters		X	X	
BBB	Rubber Tire Manufacturing Industry		X	X	
CCC	(Reserved)				
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry.			X	
EEE	(Reserved)				
FFF	Flexible Vinyl and Urethane Coating and Printing			X	
GGG	Equipment Leaks of VOC in Petroleum Refineries			X	
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.			X	
HHH	Synthetic Fiber Production Facilities			X	
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.			X	
JJJ	Petroleum Dry Cleaners			X	
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.			X	
LLL	Onshore Natural Gas Processing: SO_2 Emissions			X	
MMM	(Reserved)				
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.			X	
OOO	Nonmetallic Mineral Processing Plants			X	
PPP	Wool Fiberglass Insulation Manufacturing Plants			X	
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems.		X	X	
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.			X	
SSS	Magnetic Tape Coating Facilities		X	X	
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.		X	X	
UUU	Calciners and Dryers in Mineral Industries			X	
VVV	Polymeric Coating of Supporting Substrates Facilities			X	
WWW	Municipal Solid Waste Landfills			X	
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commended After June 6, 2001.	X	X	X	
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.			X	
EEEE	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.			X	

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR SHASTA COUNTY AQMD, SISKIYOU COUNTY APCD, SOUTH COAST AQMD, AND TEHAMA COUNTY APCD—Continued

	Subpart	Air pollution control agency			
		Shasta County AQMD	Siskiyou County APCD	South Coast AQMD	Tehama County APCD
GGGG	(Reserved)				
HHHH	(Reserved)				
IIII	Stationary Compression Ignition Internal Combustion Engines			X	
JJJJ	Stationary Spark Ignition Internal Combustion Engines			X	
KKKK	Stationary Combustion Turbines			X	
LLLL	New Sewage Sludge Incineration Units				
OOOO	Crude Oil and Natural Gas Production, Transmission, and Distribution.				

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DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR NEVADA

	Subpart	Air pollution control agency		
		Nevada DEP	Clark County	Washoe County
A	General Provisions	X	X	X
D	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971	X	X	X
Da	Electric Utility Steam Generating Units Constructed After September 18, 1978	X	X	
Db	Industrial-Commercial-Institutional Steam Generating Units	X	X	
Dc	Small Industrial-Commercial-Institutional Steam Generating Units	X	X	
E	Incinerators	X	X	X
Ea	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.	X	X	
Eb	Large Municipal Waste Combustors Constructed After September 20, 1994	X	X	
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.	X	X	
F	Portland Cement Plants	X	X	X
G	Nitric Acid Plants	X	X	
Ga	Nitric Acid Plants For Which Construction, Reconstruction or Modification Commenced After October 14, 2011.			
H	Sulfuric Acid Plant	X	X	
I	Hot Mix Asphalt Facilities	X	X	X
J	Petroleum Refineries	X	X	
Ja	Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.			
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	X	X	X
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	X	X	X
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	X	X	
L	Secondary Lead Smelters	X	X	X
M	Secondary Brass and Bronze Production Plants	X	X	
N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	X	X	
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	X	X	
O	Sewage Treatment Plants	X	X	X
P	Primary Copper Smelters	X	X	X
Q	Primary Zinc Smelters	X	X	X
R	Primary Lead Smelters	X	X	X
S	Primary Aluminum Reduction Plants	X	X	
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	X	X	
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	X	X	
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	X	X	
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	X	X	
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.	X	X	
Y	Coal Preparation and Processing Plants	X	X	X
Z	Ferroalloy Production Facilities	X	X	
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.	X	X	

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR NEVADA—Continued

	Subpart	Air pollution control agency		
		Nevada DEP	Clark County	Washoe County
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.	X	X	
BB	Kraft Pulp Mills	X	X	
CC	Glass Manufacturing Plants	X	X	
DD	Grain Elevators	X	X	X
EE	Surface Coating of Metal Furniture	X	X	X
FF	(Reserved)			
GG	Stationary Gas Turbines	X	X	X
HH	Lime Manufacturing Plants	X	X	X
KK	Lead-Acid Battery Manufacturing Plants	X	X	X
LL	Metallic Mineral Processing Plants	X	X	X
MM	Automobile and Light Duty Trucks Surface Coating Operations	X	X	X
NN	Phosphate Rock Plants	X	X	X
PP	Ammonium Sulfate Manufacture	X	X	
QQ	Graphic Arts Industry: Publication Rotogravure Printing	X	X	X
RR	Pressure Sensitive Tape and Label Surface Coating Operations	X	X	
SS	Industrial Surface Coating: Large Appliances	X	X	X
TT	Metal Coil Surface Coating	X	X	X
UU	Asphalt Processing and Asphalt Roofing Manufacture	X	X	X
VV	Equipment Leaks of VOC in the Synthetic Organic Industry Chemicals Manufacturing.	X	X	X
VVa	Equipment Leaks of VOC in the Synthetic Organic Industry for Which Construction, Reconstruction, or Chemicals Manufacturing Modification Commenced After November 7, 2006.	X	X	
WW	Beverage Can Surface Coating Industry	X	X	
XX	Bulk Gasoline Terminals	X	X	
AAA	New Residential Wood Heaters		X	
BBB	Rubber Tire Manufacturing Industry	X	X	
CCC	(Reserved)			
DDD	Volatile Organic Compounds (VOC) Emissions from the Polymer Manufacturing Industry.	X	X	
EEE	(Reserved)			
FFF	Flexible Vinyl and Urethane Coating and Printing	X	X	
GGG	Equipment Leaks of VOC in Petroleum Refineries	X	X	
GGGa	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.	X	X	
HHH	Synthetic Fiber Production Facilities	X	X	
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.	X	X	
JJJ	Petroleum Dry Cleaners	X	X	X
KKK	Equipment Leaks of VOC From Onshore Natural Gas Processing Plants	X	X	
LLL	Onshore Natural Gas Processing: SO_2 Emissions	X	X	
MMM	(Reserved)			
NNN	Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.	X	X	
OOO	Nonmetallic Mineral Processing Plants	X	X	
PPP	Wool Fiberglass Insulation Manufacturing Plants	X	X	
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems	X	X	
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.	X	X	
SSS	Magnetic Tape Coating Facilities	X	X	
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.	X	X	X
UUU	Calciners and Dryers in Mineral Industries	X	X	X
VVV	Polymeric Coating of Supporting Substrates Facilities	X	X	X
WWW	Municipal Solid Waste Landfills	X	X	X
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commended After June 6, 2001.	X	X	X
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.	X	X	X
EEEE	Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.	X	X	X
GGGG	(Reserved)			
HHHH	(Reserved)			
IIII	Stationary Compression Ignition Internal Combustion Engines	X	X	X
JJJJ	Stationary Spark Ignition Internal Combustion Engines	X	X	X

DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR NEVADA—Continued

	Subpart	Air pollution control agency		
		Nevada DEP	Clark County	Washoe County
KKKK	Stationary Combustion Turbines	X	X	X
LLLL	New Sewage Sludge Incineration Units		X	
OOOO	Crude Oil and Natural Gas Production, Transmission, and Distribution			

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PART 61—[AMENDED]

■ 1. The authority citation for part 61 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 61.04 is amended by revising the table in paragraph (c)(9)(i), and by revising the introductory paragraphs and tables in (c)(9)(ii)(A), (c)(9)(ii)(E), and (c)(9)(iv) to read as follows:

§ 61.04 Address.

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(c) * * *

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(9) * * *

(i) * * *

DELEGATION STATUS FOR NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR ARIZONA

	Subpart	Air pollution control agency			
		Arizona DEQ	Maricopa County	Pima County	Pinal County
A	General Provisions	X	X	X	X
B	Radon Emissions From Underground Uranium Mines				
C	Beryllium	X	X	X	X
D	Beryllium Rocket Motor Firing	X	X	X	X
E	Mercury	X	X	X	X
F	Vinyl Chloride	X	X	X	X
G	(Reserved)				
H	Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.				
I	Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.				
J	Equipment Leaks (Fugitive Emission Sources) of Benzene	X	X	X	X
K	Radionuclide Emissions From Elemental Phosphorus Plants				
L	Benzene Emissions from Coke By-Product Recovery Plants	X	X	X	X
M	Asbestos	X	X	X	X
N	Inorganic Arsenic Emissions From Glass Manufacturing Plants.	X	X	X	
O	Inorganic Arsenic Emissions From Primary Copper Smelters	X	X	X	
P	Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities.	X	X		
Q	Radon Emissions From Department of Energy Facilities				
R	Radon Emissions From Phosphogypsum Stacks				
S	(Reserved)				
T	Radon Emissions From the Disposal of Uranium Mill Tailings				
U	(Reserved)				
V	Equipment Leaks (Fugitive Emission Sources)	X	X	X	X
W	Radon Emissions From Operating Mill Tailings				
X	(Reserved)				
Y	Benzene Emissions From Benzene Storage Vessels	X	X	X	X
Z–AA	(Reserved)				
BB	Benzene Emissions From Benzene Transfer Operations	X	X	X	X
CC–EE	(Reserved)				
FF	Benzene Waste Operations	X	X	X	X

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(ii) * * *

(A) Delegations for Amador County Air Pollution Control District, Antelope Valley Air Quality Management District, Bay Area Air Quality Management District, and Butte County Air Quality Management District are shown in the following table:

DELEGATION STATUS FOR NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR AMADOR COUNTY APCD, ANTELOPE VALLEY AQMD, BAY AREA AQMD, AND BUTTE COUNTY AQMD

	Subpart	Air pollution control agency			
		Amador County APCD	Antelope Valley AQMD	Bay Area AQMD	Butte County AQMD
A	General Provisions		X	X	
B	Radon Emissions From Underground Uranium Mines				
C	Beryllium		X	X	
D	Beryllium Rocket Motor Firing		X	X	
E	Mercury		X	X	
F	Vinyl Chloride		X	X	
G	(Reserved)				
H	Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.				
I	Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.				
J	Equipment Leaks (Fugitive Emission Sources) of Benzene		X		
K	Radionuclide Emissions From Elemental Phosphorus Plants				
L	Benzene Emissions from Coke By-Product Recovery Plants		X	X	
M	Asbestos		X	X	
N	Inorganic Arsenic Emissions From Glass Manufacturing Plants.		X		
O	Inorganic Arsenic Emissions From Primary Copper Smelters		X		
P	Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities.		X		
Q	Radon Emissions From Department of Energy Facilities				
R	Radon Emissions From Phosphogypsum Stacks				
S	(Reserved)				
T	Radon Emissions From the Disposal of Uranium Mill Tailings				
U	(Reserved)				
V	Equipment Leaks (Fugitive Emission Sources)		X		
W	Radon Emissions From Operating Mill Tailings				
X	(Reserved)				
Y	Benzene Emissions From Benzene Storage Vessels		X	X	
Z–AA	(Reserved)				
BB	Benzene Emissions From Benzene Transfer Operations		X	X	
CC–EE	(Reserved)				
FF	Benzene Waste Operations		X	X	

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(E) Delegations for Modoc Air Pollution Control District, Mojave Desert Air Quality Management District, Monterey Bay Unified Air Pollution Control District, and North Coast Unified Air Quality Management District are shown in the following table:

DELEGATION STATUS FOR NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR MODOC COUNTY APCD, MOJAVE DESERT AQMD, MONTEREY BAY UNIFIED APCD, AND NORTH COAST UNIFIED AQMD

	Subpart	Air pollution control agency			
		Modoc County APCD	Mojave Desert AQMD	Monterey Bay Unified APCD	North Coast Unified AQMD
A	General Provisions	X	X	X	X
B	Radon Emissions From Underground Uranium Mines				
C	Beryllium	X	X	X	X
D	Beryllium Rocket Motor Firing	X	X	X	X
E	Mercury	X	X	X	X
F	Vinyl Chloride	X	X	X	X
G	(Reserved)				
H	Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.				
I	Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.				
J	Equipment Leaks (Fugitive Emission Sources) of Benzene	X	X	X	X
K	Radionuclide Emissions From Elemental Phosphorus Plants				
L	Benzene Emissions from Coke By-Product Recovery Plants		X	X	X
M	Asbestos	X	X	X	X
N	Inorganic Arsenic Emissions From Glass Manufacturing Plants.		X	X	
O	Inorganic Arsenic Emissions From Primary Copper Smelters	X	X	X	

DELEGATION STATUS FOR NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR MODOC COUNTY APCD, MOJAVE DESERT AQMD, MONTEREY BAY UNIFIED APCD, AND NORTH COAST UNIFIED AQMD—Continued

	Subpart	Air pollution control agency			
		Modoc County APCD	Mojave Desert AQMD	Monterey Bay Unified APCD	North Coast Unified AQMD
P	Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities.	X	X	X	
Q	Radon Emissions From Department of Energy Facilities				
R	Radon Emissions From Phosphogypsum Stacks				
S	(Reserved)				
T	Radon Emissions From the Disposal of Uranium Mill Tailings				
U	(Reserved)				
V	Equipment Leaks (Fugitive Emission Sources)	X	X	X	X
W	Radon Emissions From Operating Mill Tailings				
X	(Reserved)				
Y	Benzene Emissions From Benzene Storage Vessels		X	X	X
Z–AA	(Reserved)				
BB	Benzene Emissions From Benzene Transfer Operations		X	X	
CC–EE	(Reserved)				
FF	Benzene Waste Operations		X	X	

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(iv) Nevada. The following table identifies delegations for Nevada:

DELEGATION STATUS FOR NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR NEVADA

	Subpart	Air pollution control agency		
		Nevada DEP	Clark County	Washoe County
A	General Provisions	X	X	
B	Radon Emissions From Underground Uranium Mines			
C	Beryllium	X	X	X
D	Beryllium Rocket Motor Firing	X	X	
E	Mercury	X	X	
F	Vinyl Chloride	X	X	
G	(Reserved)			
H	Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.	X		
I	Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.	X		
J	Equipment Leaks (Fugitive Emission Sources) of Benzene	X	X	
K	Radionuclide Emissions From Elemental Phosphorus Plants	X		
L	Benzene Emissions from Coke By-Product Recovery Plants	X	X	
M	Asbestos		X	X
N	Inorganic Arsenic Emissions From Glass Manufacturing Plants	X	X	
O	Inorganic Arsenic Emissions From Primary Copper Smelters	X	X	
P	Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities.	X	X	
Q	Radon Emissions From Department of Energy Facilities			
R	Radon Emissions From Phosphogypsum Stacks			
S	(Reserved)			
T	Radon Emissions From the Disposal of Uranium Mill Tailings			
U	(Reserved)			
V	Equipment Leaks (Fugitive Emission Sources)	X	X	
W	Radon Emissions From Operating Mill Tailings			
X	(Reserved)			
Y	Benzene Emissions From Benzene Storage Vessels	X	X	
Z–AA	(Reserved)			
BB	Benzene Emissions From Benzene Transfer Operations	X	X	
CC–EE	(Reserved)			
FF	Benzene Waste Operations	X	X	

* * * * *

[FR Doc. 2013–10180 Filed 4–29–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2090 and 2800

[LLWO301000.L13400000]

RIN 1004–AE19

Segregation of Lands—Renewable Energy

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is amending its regulations to add provisions allowing the BLM to temporarily segregate from the operation of the public land laws, by publication of a **Federal Register** notice, public lands included in a pending wind or solar energy generation right-of-way (ROW) application, and public lands that the BLM identifies for potential future wind or solar energy generation right-of-way applications under applicable legal requirements. The purpose of such segregation is to promote the orderly administration of the public lands. Lands segregated under this rule will not be subject to appropriation under the public land laws, including location under the Mining Law of 1872 (Mining Law), for up to two years from the date of publication of notice under this rule, subject to valid existing rights, but would remain open under the Mineral Leasing Act of 1920 (MLA) and the Materials Act of 1947 (Materials Act).

DATES: This rule is effective May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Ray Brady at (202) 912–7312 for information relating to the BLM's renewable energy program or the substance of this final rule or Ian Senio at (202) 912–7440 for information relating to the rulemaking process generally. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, seven days a week to contact the above individuals.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Public Comments
III. Discussion of the Final Rule
IV. Procedural Matters

I. Background

On April 26, 2011 (76 FR 23230), the BLM published a proposed rule to amend the regulations found in 43 CFR subpart 2091, Segregation and Opening of Lands, and 43 CFR part 2800, Rights-of-Way Under the Federal Land Policy and Management Act (43 U.S.C. 1701 *et seq.*) (FLPMA), to allow for the temporary segregation of public lands from the operation of the public land laws, including the Mining Law, within the application area of a pending solar or wind renewable energy generation project, or for public lands identified by the BLM under the ROW regulations for potential future wind or solar energy generation projects. Such segregations would be for a period of up to two years, subject to valid existing rights, but the affected public lands would remain open under the MLA and the Materials Act. Concurrently with the proposed rule, the BLM published an interim temporary final rule (ITFR) (76 FR 23198) that was substantively identical to the proposed rule except that the ITFR expires two years after its publication, or after the completion of the notice and comment rulemaking process for the proposed rule, whichever occurs first. As published, the ITFR is effective April 26, 2011 through April 26, 2013. Today's action will replace the ITFR with this final rule on May 30, 2013.

The purpose of the proposed rule, the ITFR, and today's final rule is to allow for the orderly administration of the public lands associated with the BLM's consideration of renewable energy ROWs. As explained below, the BLM seeks to avoid the delays and uncertainty that could result from encumbrances placed on lands after a wind or solar energy generation ROW application has been filed or after the BLM has identified an area for such applications, but before the BLM is able to make a decision on any such ROW. While such situations are not common, they can be disruptive to the processing of a wind or solar energy ROW application. Today's action eliminates the potential for these conflicts and brings a higher level of certainty to the BLM's management of the lands in question. The BLM requested public comments on the proposed and ITFR rulemakings during a 60-day comment period. Those comment periods closed on June 27, 2011. You can find the discussion of comments and the BLM's responses in the Discussion of Public Comments section of this rule.

Segregations under this rule take effect immediately upon the BLM's publication of a notice in the **Federal Register** announcing the segregation. The rule provides for a segregation period (1) of up to two years, (2) until the BLM makes a final decision on the ROW application, or (3) until the BLM publishes a notice terminating the segregation, whichever occurs first. Under this rule, a BLM State Director may extend the segregation period for up to an additional two years by issuing a **Federal Register** notice explaining the reasons for such extension. The State Director may extend a segregation period for a ROW application only once, for a total segregation of no longer than four years. The rule does not authorize the BLM to continue the segregation after a final decision on a ROW has been made. Segregations under this rule do not affect valid existing rights in mining claims located before any such segregation, and this rule does not allow the BLM to segregate lands covered by ROW applications for purposes other than wind or solar energy generation. Finally, not all wind or solar ROW applications would lead to a segregation under this rule, as the BLM may reject some applications and others may not require segregation because conflicts between uses are not anticipated.

Segregations have been held to be ''reasonably related'' to the BLM's broad authority to issue rules related to ''the orderly administration of the public land laws,'' *see Byron* v. *United States,* 259 F. 371, 376 (9th Cir. 1919); *Hopkins* v. *United States,* 414 F. 2d 464, 472 (9th Cir. 1969), because they allow the BLM to protect an applicant for an interest in such lands from ''the assertion by others of rights to the lands while the applicant is prevented from taking any steps to protect'' its interests because it has to wait for the BLM to act on its application. *Marian Q. Kaiser,* 65 I.D. 485 (Nov. 25, 1958). It is for this purpose that existing regulations at 43 CFR subpart 2091 provide the BLM with the discretion to segregate lands that are proposed for various types of land disposals, such as land sales, land exchanges, and transfers of public land to local governments and other entities under the Recreation and Public Purposes Act of 1926. These regulatory provisions allowing segregations were put in place over the years to prevent resource conflicts, including conflicts arising from the location of new mining claims that could create encumbrances on the title of public lands identified for transfer out of Federal ownership under the applicable authorities during the BLM's consideration of such transfers prior to their consummation. Segregations under this final rule will serve a similar purpose.

This rule is necessitated by the Administration's priority efforts to facilitate and promote the development of renewable energy on public lands and the potential for the location of mining claims to impede the BLM's ability to carry out its congressional and Executive mandates. In Section 211 of the Energy Policy Act of 2005 (119 Stat. 660, Aug. 8, 2005) (EPAct), Congress declared that before 2015, the Secretary of the Interior should seek to have approved non-hydropower renewable energy projects on public lands with a capacity of at least 10,000 megawatts (MW) of electricity.

After passage of the EPAct, then Secretary of the Interior Dirk Kempthorne issued several orders emphasizing the importance of renewable energy development on public lands. On January 16, 2009, then Secretary Kempthorne issued Secretarial Order 3283, ''Enhancing Renewable Energy Development on the Public Lands,'' which states that its purpose is to ''facilitate the Department's efforts to achieve the goal Congress established in Section 211 of the Energy Policy Act of 2005 to approve non-hydropower renewable energy projects on the public lands with a generation capacity of at least 10,000 megawatts of electricity by 2015.'' The Order also declared that ''the development of renewable energy resources on the public lands will increase domestic energy production, provide alternatives to traditional energy resources, and enhance the energy security of the United States.''

Shortly thereafter, then Secretary Ken Salazar issued Secretarial Order 3285, ''Renewable Energy Development by the Department of the Interior'' (Mar. 11, 2009), as amended by Order 3285A1 (Feb. 22, 2010), which reemphasized the development of renewable energy as a priority for the Department of the Interior (Department). This Order states: ''Encouraging the production, development, and delivery of renewable energy is one of the Department's highest priorities. Agencies and bureaus within the Department will work collaboratively with each other, and with other Federal agencies, departments, states, local communities, and private landowners to encourage the timely and responsible development of renewable energy and associated transmission while protecting and enhancing the Nation's water, wildlife, and other natural resources.''

Separate from these specific directives related to renewable energy, FLPMA directs the BLM to manage the public lands for multiple uses, which means giving consideration to a combination of balanced and diverse resource uses that account for long-term needs of future generations for renewable and non-renewable resources, such as recreation, range, timber, minerals, watershed, wildlife, fish, and natural, scenic, scientific, and historic values. In some instances, various uses may present conflicts. For example, a mining claim located within a proposed ROW for a utility-scale solar energy generation facility could impede the BLM's ability to process the ROW application because under the Surface Resources Act (30 U.S.C. 601 *et seq.*), the Federal Government's (or its grantee's) use of the surface cannot endanger or materially interfere with a mining claim. However, FLPMA provides the BLM with broad authority and discretion to allow some uses to the exclusion of others. This final rule is consistent with FLPMA's multiple use mandate because it helps reduce the potential for resource use conflicts.

The BLM previously lacked regulations specifically authorizing segregation in order to maintain the status quo on lands during the period between when it first publicly announced the receipt of a wind or solar energy generation ROW application or identified an area for such applications, and when it made a final decision on a wind or solar energy ROW. As a result, and unless there was another withdrawal or segregation, the public lands subject to or identified for such applications remained open to appropriation under the public land laws, including location and entry under the Mining Law. This situation creates the potential for resource use conflicts. In comparison, the BLM does not permit new encumbrances on lands proposed for exchange or sale after the exchange or sale is publicly announced, but before it is completed.

For example, over the past five years, the BLM has processed 21 solar and wind energy development ROW applications (13 solar and 8 wind). New mining claims were located on the public lands described in two of these applications after they were publicly announced, but prior to any final decision by the BLM. Similarly, over the past two years, based on mining claim filings with the BLM, 437 new mining claims were located within wind energy ROW application areas in Arizona, California, Idaho, Nevada, Oregon, Utah, and Wyoming after those areas, consisting of approximately 20.6 million acres, were identified by the BLM in the 2005 Final Programmatic Environmental Impact Statement for Wind Energy Development (Wind PEIS) (70 FR 36651). Also, 216 new mining claims were located within solar energy ROW application areas after those areas were identified as Solar Energy Zones in the 2012 Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Solar PEIS) (77 FR 44267). In the BLM's experience, some of these mining claims are likely to be valid and/or filed without consideration of the pending ROW application, but others are likely to be speculative and not located for mining purposes. The latter are likely filed for no purpose other than to provide a means for the mining claimant to compel payment from the ROW applicant or grantee in exchange for relinquishing the mining claim. While it is relatively easy and inexpensive to locate a mining claim because a mining claim location requires no prior approval from the BLM, it can be difficult, time-consuming, and costly to extinguish a claim.

The location of a new mining claim during the BLM's review of a ROW application could interfere with the administration of the public lands because it could, on a case-by-case basis, result in applicants' modifying their proposals for their use and occupancy of the public lands. This is because under the Surface Resources Act a ROW grantee cannot materially interfere with prospecting, mining, or processing operations, or reasonably incidental use on a mining claim. Therefore, a ROW applicant may choose to modify its application in response to subsequently-located mining claims or relocate its proposed surface use to avoid potential conflicts with the claims. Such modifications or relocations could increase the BLM's processing time and costs for the ROW application if those changes require the BLM to undertake any additional or supplemental analyses under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*). For these reasons, leaving areas covered by a ROW application (which can take over a year to process) or areas identified for such an application, open to mining claim location creates uncertainty that could complicate the financing for energy project developers and institutions that finance such development, which ultimately interferes with the BLM's administration of the public lands.

By allowing the BLM to temporarily segregate public lands subject to a wind or solar energy generation facility ROW application or identified for such applications, this final rule provides the BLM with the necessary regulatory authority to minimize conflicts between new mining claims and future wind or solar energy generation facility ROW

applications before the BLM has taken action on those applications. This rule also facilitates the BLM's implementation of the congressional and executive mandates and direction to prioritize the development of renewable energy resources on public lands. The temporary segregation provided for under this rule is sufficient to achieve these objectives because after the BLM authorizes a ROW, any new mining claims in the area covered by the ROW would be subject to the authorized ROW use, and the mining claimant would know the location and nature of the authorized use before staking a new claim.

II. Discussion of Public Comments

The BLM received nine comments on the proposed rule. Four comments came from mining associations and opposed the rule; three comments came from power associations or companies and supported the rule, and the State of Alaska sent comments from two different program offices, neither of which supported the rule as proposed and suggested changes. Below is a discussion of the significant issues raised by commenters.

Intent of the rule. One commenter stated that the BLM is placing a higher value on solar and wind uses than on other uses of the public land in violation of FLPMA. This is incorrect. FLPMA provides the BLM with the discretion to manage public lands for multiple uses. The solar and wind energy generation ROWs that are the subject of this rule fit squarely within FLPMA's multiple use mandate. Moreover, the BLM's emphasis on such projects is consistent with applicable statutes, directives and policy. The EPAct directs the BLM to expedite energy related projects on public lands. Executive Order 13212 directs the BLM to accelerate the completion of projects that will increase the production of energy. Secretarial Order 3285A1 establishes renewable energy development as a priority for the Department. Therefore, the BLM did not revise the rule in response to this comment.

Another commenter stated that the rule presumes the existence of land use conflicts where none may exist. This is incorrect. The rule does not presume conflicts exist, but rather the purpose of the rule is to prevent land use conflicts from arising. If there is no potential for conflict, the segregation authority available under this rule will not be exercised. The commenter points out that the BLM has other tools to address nuisance mining claims located after the filing of a ROW application (i.e., those located for the sole purpose of extracting something from the ROW applicant). The commenter contends that existing regulations permit BLM to address such claims through validity examinations, which would permit BLM to declare a claim invalid under certain circumstances. However, validity examinations take considerable time and expense and could delay important energy projects if they were the tool used to address all of the claims located after a proposed wind or solar energy ROW application is publicly announced by the BLM, but before the BLM is able to complete its review and take action on that application. The purpose of segregations under this rule is to allow the BLM to maintain the status quo while it processes a ROW application, in order to try to avoid delays in energy development that has been prioritized by both Congress and the Department.

Finally, one commenter proposed amending section 2091.3–1(e)(1), as proposed by the BLM, to read as follows:

> In addition, the Bureau of Land Management may also segregate public lands that it identifies, in conjunction with the preparation or revision of a resource management plan or other planning process, for potential rights of way for electrical generation from wind or solar sources. The identification of such land will involve consultation with the public and opportunity for public comment.

The comment suggests that this would clarify the rule by showing that:

(1) The intent of the rule is narrow;

(2) Public participation is part of the process; and

(3) Planning is part of the process.

While the BLM agrees with these three points, the BLM made no changes in the final rule in response to this comment. As drafted, the rule is narrow; it applies only to public lands either covered by a ROW application or lands that the BLM specifically identifies for such applications. In addition, the suggested revisions are already part of the BLM's planning regulations (43 CFR subpart 1610) and thus would be duplicative if added to today's final rule. Public lands available for wind and solar energy generation are identified through the BLM's land use planning process, which includes a robust public participation process.

Excessive impact of the rule. Several commenters stated that the proposed rule would authorize BLM managers to segregate land even if there is no known interest in developing renewable energy. The commenters cite the statement ''or public lands identified by the BLM for a pending or future wind or solar energy ROW authorization'' (76 FR 23232) as establishing this potential for arbitrary segregations. The scenario outlined by these commenters is contrary to the language of the rule, which limits segregations to those circumstances where there is an express interest in such development (e.g., when there is a site-specific solar or wind energy ROW application pending), or where the BLM has identified an area as having the potential for such applications (e.g., when the BLM initiates a competitive process for solar or wind development on particular lands). For this reason, the final rule has not been revised in response to these comments.

One commenter asserted that the rule is an over-reaction to a few bad actors. As explained below, the final rule is narrow. It only limits the location of mining claims after the segregation under this rule is announced and does not affect previously located claims. Moreover, segregations under this rule are not automatic; the BLM will only effect segregations on a case-by-case basis when it determines segregation to be necessary for the orderly administration of the public lands.

One commenter stated that the BLM implies that it will use significant resources in its planning process for wind and solar to support ''sweeping withdrawals using wind and solar as an excuse.'' The BLM does not intend to conduct sweeping withdrawals related to wind and solar energy ROW grants. First, the BLM's withdrawal authority and regulations are not affected by this rule. Second, as explained above in response to the comment regarding extending the segregations, the temporary segregations authorized by the rule achieve the BLM's objectives related to the orderly processing of such applications, thereby making withdrawals unnecessary. History indicates that the BLM has not proposed sweeping withdrawals. Also, as noted above, the BLM will exercise its authority under this rule on a case-by-case basis. For example, if the BLM determines that the potential for conflict associated with a particular ROW is low, then the BLM will not segregate the land. Moreover, the 2005 Wind PEIS and the 2012 Solar PEIS already contain a comprehensive analysis of areas with potential for wind or solar energy development, contrary to the commenter's suggestion that significant additional planning resources will need to be devoted to such efforts in the near term.

Another commenter voiced a concern that the segregations would take place without any opportunity for public input and that the rule should require the BLM to explain, in writing, why

there is a need for a segregation. As explained in the proposed rule and the ITFR, the purpose of the temporary segregations under the rule is narrow. Segregations are intended to maintain the status quo after a wind or solar energy ROW application has been filed or the BLM has identified an area as appropriate for such applications. The status quo can only be maintained if the segregations are effective immediately; otherwise, actions could be taken that interfere with the underlying purposes of the segregation, the orderly administration of the public lands. This is why all of the BLM's existing segregation authorities make the segregation effective immediately (i.e., none are subject to public comment).

Finally, one commenter pointed out that solar panel fields will prevent other land uses and that this would conflict with the FLPMA's mandate to manage public lands for multiple use. The commenter goes on to say that the proposed rule improperly singles out locatable minerals. The BLM agrees that solar panels may prevent some uses of the same piece of land during the same period of time, but the BLM has discretion as to what activities it allows on any parcel of land at any particular time. FLPMA's multiple use mandate does not require all uses to be permitted on every acre. Thus, the final rule does not impermissibly single out locatable minerals; it simply gives the BLM the ability to temporarily segregate lands identified for or covered by a wind or solar energy ROW application from the operation of the Mining Law because the location of a mining claim does not require BLM approval and could interfere with the BLM's processing of such ROW application. The final rule was not revised as a result of this comment.

Length of Segregations. One commenter stated that segregations under the rule will become permanent. It cited the BLM-managed withdrawals in Alaska, which the Alaska Native Claims Settlement Act authorized, as well as other closures to mineral entry pending designation of conservation system units. The situation for these long term closures is unique to Alaska pursuant to other statutory and regulatory authority. The segregations permitted by this rule, on the other hand, are temporary; lands would not be closed to the location of mining claims beyond the maximum timeframes established in this rule. The two-year timeframe, with a possible one time extension of up to two years, under this rule is consistent with other segregation authorities.

Another commenter believes the four-year limit for a segregation is too short. It cited its own application which is currently the subject of an environmental impact statement (EIS) having a current schedule lasting four years and two months. The commenter asked that the final rule extend the time period to three years and allow an additional three-year extension. It based its timeframe on the BLM's Wind Energy Development Policy (IM 2009–043), which establishes an initial three-year time period for energy site testing and monitoring. The commenter goes on to say that the segregations should continue for the term of the ROW grant if the BLM approves the project. In addition, it urges the BLM to not approve discretionary mineral activities on public lands overlain by a renewable energy ROW and to continue the segregation so as to prohibit entry under the Mining Law after the ROW grant is issued.

The BLM believes that the two-year timeframe, with the possibility of a one-time extension, for segregations under this rule provides sufficient time for the agency to make decisions on most applications. With respect to the commenter's suggestion that the rule allow for segregations to continue after the ROW grant is issued, the BLM notes two responses. First, after the BLM issues a solar or wind energy ROW grant, the ROW grant holder has a priority right over any subsequently located mining claim(s), which makes continuing the segregation during the term of a ROW grant unnecessary. With respect to discretionary mineral activities under the MLA or Materials Act, after issuance of a wind or solar ROW grant, the BLM would not authorize such activities for lands covered by such a ROW grant unless the activities will not have an adverse impact on the pre-existing ROW grant. Second, segregations are by definition temporary. The continuation of the segregation urged by the commenter would be tantamount to a withdrawal, which is beyond the scope of this rule and subject to other legal authorities and requirements.

Authority. One commenter stated that the BLM lacks the authority to issue the rule. The BLM disagrees. FLPMA (43 U.S.C. 1740) states ''[t]he Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act.'' This section grants the Secretary broad regulatory powers to administer the public lands. As explained above, the orderly administration of the public lands includes the authority to segregate lands in order to avoid resource use conflicts. The commenter also stated that FLPMA does not allow segregation for the BLM's convenience. However, as explained above, the purpose of this rule is not administrative convenience, but rather to maintain the status quo and avoid land use conflicts that would restrict the efficient use of the public lands while the BLM is considering a wind or solar energy ROW application, but before it actually makes a decision on a grant. This is because, as explained above, the staking of a mining claim after the location of a wind or solar energy facility application is announced, but before a decision is made on the application, potentially interferes with or delays the BLM's evaluation of the proposed surface use. By preventing such conflicts, the rule facilitates the BLM's administration of the public lands. Moreover, after the temporary segregation period concludes under this rule, the covered lands would be open again to location under the Mining Law.

Make a quick decision. Another commenter stated that the rule should require the BLM to decide ''immediately upon receiving an application'' whether to segregate the land under application. In the commenter's view, this would prevent speculative mining claims. A provision in the rule stating that the BLM would make an immediate decision regarding segregation would also eliminate what the commenter believes is a lack of clarity in the proposed rule as to when, or if, the BLM would segregate lands after a renewable energy ROW application has been filed. The commenter acknowledged that the BLM might not segregate lands covered by an application if it considers the potential for conflicts with new mining claims to be small. As explained above, the purpose of the rule is not to segregate all lands subject to a wind or solar energy ROW application, but rather to temporarily segregate the lands covered by such applications when the BLM determines that it is necessary for the orderly administration of the public lands. The completed Wind and Solar PEISs give the BLM a good indication of whether and where the BLM needs to segregate lands when it receives a wind or solar energy ROW application. For many projects the BLM may very well determine that no segregation is necessary. For example, segregations associated with a solar or wind energy application would not be necessary in areas with relatively low mineral development potential. That said, given the analyses contained in the Wind PEIS and Solar PEIS and other information available, the BLM should be able to

identify areas where there is the potential for conflicts between solar and wind energy development and mining claims, mineral leases or sales, or other land disposals determine that a segregation is necessary, and issue the corresponding segregation notice quickly. The BLM has provided additional guidance to our field offices on the use of the segregation authority in the ITFR, and that guidance will be carried forward to implement this final rule.

Narrow the rule. One comment asked the BLM to narrow the rule to prevent ''anti-mining groups and others'' from filing renewable ROW applications over existing mining claims. The final rule was not revised as a result of this comment because such filings would have no impact. Valid existing mining claims could not be affected by segregations under the rule, as they would pre-date the wind or solar ROW application and any associated segregation. Moreover, the BLM's policies require wind and solar energy generation ROW applicants to show that their application represents a serious proposal before the BLM accepts the application, let alone consider segregating the land covered by it. Consistent with past practice and as currently outlined in Instruction Memorandum (IM) 2011–061 the BLM considers a number of criteria before processing an application, which include a requirement that proponents present a detailed plan of development for any proposed Project. Satisfaction of these requirements is a prerequisite to the BLM's acceptance of an application for processing, and by extension practically provides a threshold as to when the BLM will initiate segregation for a particular application. As a result, segregations would only occur for projects supported by substantial applications, thus the hypothetical applications identified by the commenter would be unlikely to meet BLM's criteria for acceptance, let alone be considered for segregations. In fact, since the effective date of the ITFR, the BLM has segregated only three areas with pending solar energy ROW applications and four areas with pending wind energy applications.

Another commenter asked the BLM to narrow the rule so that segregations are allowed only when mining claims are located after the application. Specifically, this group asked that there be no segregation for claims ''that were located prior to the submission of a[n] application * * *.'' In other words, the group requests that where mining claims had been filed prior to the filing of a ROW renewable energy application that segregations not be allowed. No changes to the final rule were necessary as a result of this comment because, as explained above, segregations under this rule would not affect valid mining claims located prior to the publication of a segregation notice in the **Federal Register**. Practically, this means that valid mining claims located prior to the submission of a wind or solar energy generation ROW application for a particular area or the identification of such area by the BLM for a ROW application would not be affected by segregation under this rule.

One commenter suggested that the BLM narrow the scope of the rule by using stipulations rather than segregations to prevent the filing of mining claims. As explained above, segregations under this rule would not affect valid existing mining claims. Moreover, the commenter did not identify a mechanism by which the BLM could impose stipulations that would address potential resource use conflicts created by mining claims that are located after a wind or solar energy application is announced, as the location of such claims occurs without BLM approval. The same commenter also views this rule as inconsistent with the BLM's 2006 Energy and Non-energy Mineral Policy. However, the 2006 policy simply expresses a preference that lands remain open to the location of mining claims unless actions closing lands are clearly justified.[1] The final rule is consistent with this preference.

Impact on some small-scale miners. One commenter stated that the cost of validity examinations would create a burden on small-scale miners. This rule does not affect valid existing mining claims or those claims located prior to the publication of a segregation notice under this rule, nor does it modify the surface management regulations or change the circumstances under which validity examinations are required.

To the extent the commenter is referring to the circumstances where a new Plan of Operations or Notice for a prior mining claim in a segregated area is filed with the BLM during the two-year segregation period, the BLM has the discretion under the surface management regulations (43 CFR 3809.100(a)) to require the preparation of a mineral examination report before it processes the Plan of Operations or accepts the filed Notice. With respect to any particular Plan of Operation or Notice, the BLM would separately determine, on a case-by-case basis and consistent with the requirements of the surface management regulations, whether to require a validity determination for such Plan or Notice. If the BLM requires a validity examination, the operator is responsible for the cost of the examination and report. However, knowing this it possible that operators would choose not to file a Notice or Plan of Operations during the segregation period for existing claims in segregated areas in order to avoid facing a validity examination, which in fact appears to be what has happened: For FYs 2009 and 2010, 19 Plans of Operations (10 in solar application areas and 9 in wind application areas) and 50 Notices (12 in solar application areas and 38 in wind application areas) were filed with the BLM. No Plans of Operation or Notices were filed in FYs 2011 and 2012, after the ITFR was implemented. Moreover, the evaluation of a Plan of Operations or Notice for a mining claim filed before a segregation takes place would be no different from the evaluation of such a claim where a segregation did not exist. Therefore, the BLM has not modified the final rule in response to this comment.

Working collaboratively. One commenter suggested that instead of segregations, the BLM require parties to work collaboratively. The BLM agrees that in many cases this is a preferred and effective approach. If existing mining claims fall within the area of a proposed renewable energy project, the BLM intends to pursue collaboration among the parties to resolve any resource use conflicts. At the same time, this final rule provides a valuable tool for reducing the potential for resource use conflicts that could occur after the BLM announces the receipt of a wind or solar energy application, but before the BLM completes its processing of that application, and thereby promotes collaboration.

Alaska-specific issues. Commenters indicated concern with the way the rule would address State filings and withdrawals under the Alaska National Interest Lands Conservation Act (ANILCA). This rule does not create problems with respect to State filings and withdrawals under ANILCA. First, the rule permits segregations under certain circumstances, which simply provides a tool for the BLM's orderly administration of the public lands that can be invoked on a case-by-case basis in connection with wind or solar energy development. The authority provided by this rule would not affect or amend existing withdrawals or withdrawal

[1] **Note:** The 2006 Mineral Policy was superseded by the 2008 Bureau of Land Management Energy and Mineral Policy, signed by BLM Director Caswell. This rule is also consistent with the 2008 policy's expressed preference that the lands be open to mining claim filings.

authorities in Alaska or elsewhere. Second, and to the extent the commenter was also referring to lands selected under the Alaska Native Claims Settlement Act (ANCSA), the BLM does not anticipate that BLM lands selected for conveyance in Alaska are likely to be included in any renewable energy ROW applications. Part of the process of identifying appropriate locations for wind or solar projects includes an assessment of the land status of a project site under consideration. Therefore, theoretically, while there could be a solar or wind energy ROW application on lands previously selected where the selection has yet to be approved for conveyance, the BLM believes this is unlikely to occur. Put another way, the fact that a parcel had been selected under ANCSA could call into question the appropriateness of a proposed site for wind or solar energy development. Moreover, as noted above, segregations under this rule are not automatic and the authority will only be invoked when circumstances dictate as outlined above. Furthermore, the segregation of land under this rule would only be for a two-year period, with the potential for a one-time two-year extension. Finally, the BLM will follow ANILCA Section 906(k)(1), which requires state concurrence for any ROW filings made on lands selected by the State as part of the review process.

Two commenters pointed out that ANILCA withdrawals exceeding 5,000 acres require congressional approval within a year. One of the commenters added that segregation is the equivalent of a withdrawal and requires the same congressional action as a withdrawal. These assertions are incorrect. Segregations under this rule are not withdrawals. Temporary segregations are different from withdrawals in that segregations prevent certain uses of public lands for a short period of time, not to exceed four years for any type of segregation, while withdrawals are generally for longer terms (generally 20 years) and must be approved by an Assistant Secretary or a higher ranked position within the Department.

III. Discussion of the Final Rule

This rule revises 43 CFR 2091.3–1 and 2804.25 by adding language that allows the BLM to segregate lands if the BLM determines it is necessary for the orderly administration of the public lands. This authority to segregate lands is limited to lands included in a pending or future wind or solar energy ROW application, or public lands the BLM identifies for such applications. If segregated under this rule, such lands, during the limited segregation period, will not be subject to appropriation under the public land laws, including location under the Mining Law, but would remain open under the MLA and the Materials Act, subject to valid existing rights.

The final rule does not differ from the proposed rule or the ITFR in any substantive way. Some language in the final rule has been revised to shorten sentences to make the rule easier to read and understand and to cite statutes already discussed in the proposal and ITFR. Because today's rule replaces the ITFR, the ITFR's provisions limiting segregations to two years (see sections 2091.3–1(e)(3) and 2804.25(e)(3)) are no longer necessary and have been removed from the final rule. See the discussion below of the authority for a BLM State Director to extend a segregation, with sufficient justification, for an additional period not to exceed two years.

Segregations under this rule end after two years (unless extended for up to two additional years) and the lands automatically reopen to appropriation under the public land laws, including the mining laws. Segregations under this rule may end sooner if, prior to the end of the two-year period:

(1) The BLM issues a decision on the wind or solar energy ROW application associated with the segregation; or

(2) The BLM publishes a **Federal Register** notice terminating the segregation.

(3) This final rule allows a BLM State Director to extend the segregation for up to an additional two years if a BLM State Director determines and documents in writing, prior to the expiration of the segregation, that an extension of the segregation is necessary for the orderly administration of the public lands. If the State Director determines that an extension is necessary, the BLM will publish an extension notice in the **Federal Register**. The extension of the segregation would not be for more than two years. The maximum total segregation period under the rule may not exceed four years.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This rule is not a significant regulatory action [2] and is not subject to review by the Office of Management and Budget under Executive Order 12866. The rule provides the BLM with regulatory authority to segregate public lands included within a pending or future wind or solar energy generation ROW application, or public lands identified by the BLM for a potential future wind or solar energy generation ROW authorization, from appropriation under the public land laws, including location under the Mining Law, but not the MLA or the Materials Act, if the BLM determines that segregation is necessary for the orderly administration of the public lands. To assess the potential economic impacts, the BLM made some assumptions concerning when and how often this segregation authority may be exercised. The purpose of any segregation would be to facilitate the orderly administration of the public lands by avoiding potential resource use conflicts between renewable energy developments and mining claims located after the lands for such development have been identified.

Wind—Wind energy ROW site-testing and development applications are widely distributed across many western states. Based on the BLM's recent experience processing wind energy ROW applications, it is anticipated that approximately 25 percent of the lands with current wind energy ROW applications will reach the processing stage where a Notice of Intent (NOI) is issued. Most of the public lands with pending wind energy ROW applications are currently managed for multiple resource use, including being open to mineral entry under the Mining Law. In fiscal years (FY) 2009 and 2010, more than 400 new mining claims were located within wind energy ROW application areas in Arizona, California, Idaho, Nevada, Oregon, Utah, and Wyoming. There were about 50 claimants or an average of about eight claims per claimant. Without trying to identify specific locations of new mining claims located within those application areas, based on the economic analysis prepared in 2011 for the proposed rule, the BLM assumed a quarter of those new mining claims, or over 100 new mining claims, would be prevented from being located within wind application areas that would be segregated under this rule and that approximately 300 new claims would be filed. However, since implementing the ITFR to segregate lands where the BLM

[2] " 'Significant regulatory action' means 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…; (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 (4) Raise novel legal and policy issues arising out of legal mandates, the President's priorities, or… this Executive Order.'' Exec. Order No. 12866, 58 FR 51738 (Oct. 4, 1993).

has reached the NOI stage of the applications for wind energy ROW authorizations, only 13 new mining claims have been filed in three states on the non-segregated areas with wind energy application areas.

The actual number of claimants affected will likely be less than the number of claims filed, because a single claimant typically files and holds multiple mining claims. Of the new mining claims filed within the wind energy ROW application areas in FYs 2009 through 2012, there was an average of about eight mining claims per claimant. Assuming that there was nothing unique about the number of claims and distribution of claims per claimant for those years, the BLM estimates that 14 entities would be potentially precluded from filing new mining claims on lands that would be segregated in the future within the identified wind energy ROW application areas under this rule. For these entities, the economic impacts of the segregation are the delay in when they could locate their mining claims and a potential delay in the development of such claims because such development would be subject to any ROW grants issued during the temporary segregation period. However, a meaningful estimate of the value of such delays is difficult to quantify given the available data as it depends on commercial viability of any individual claim. Also, the location of a mining claim is an early step in a long process that may or may not ultimately result in revenue generating activity for the claimant.

The other situation in which entities might be affected by the segregation provision is if a new Plan of Operations or Notice for a prior mining claim is filed with the BLM during a two-year segregation. In such a situation, the BLM has the discretion under the Surface Management Regulations (43 CFR subpart 3809) to require the preparation of a mineral examination report before it processes the Plan of Operations or accepts the filed Notice. If required, the operator is responsible for paying the cost of the examination and report. However, the evaluation of a plan of operations or notice for a mining claim filed before a segregation takes place would be no different than the evaluation of such a claim where a segregation did not exist.

In 2009 and 2010, nine Plans of Operations and 38 Notices were filed with the BLM on claims located within wind ROW application areas. No plans or notices were filed in 2011 or 2012. Assuming; (1) a quarter of those filings were on lands segregated under this rule, (2) the number of Plan and Notice filings received between FYs 2009 and 2012 is representative of the number of filings that might occur in the future on segregated lands, and (3) the BLM required mineral examination reports to determine claim validity on all Plans and Notices filed on lands that may be segregated, the BLM estimates that two entities might be affected by this rule over a two-year period.[3] However, it is also possible that operators would choose not to file a Notice or Plan of Operations during the segregation period in order to avoid facing a validity examination. Should the BLM require the preparation of mineral examination reports while the lands are segregated to determine mining claim validity, the entity filing the Plan or Notice would be responsible for the cost of making that validity determination. Understanding that every mineral examination report is unique and the costs vary accordingly, the BLM assumes an average cost of $100,000 to conduct the examination and prepare the report. Based on the number of Plans and Notices filed within the wind energy right-of-way application areas in FY 2009 and 2010, and the number of entities anticipated to be affected, the BLM estimates the total cost of this provision would be about $100,000 per year.

Solar—Like wind, most of the public lands with pending solar energy ROW applications are currently managed for multiple resource use, including mineral entry under the Mining Law. Where the BLM segregates lands from mineral entry, claimants would not be allowed to locate any new mining claims during the segregation period. Over the past two years, 26 new mining claims were located within solar energy ROW application areas that were not segregated by the ITFR. For the prior two years (2009 and 2010), over 200 new mining claims were filed. Based on the BLM's recent experience processing solar energy ROW applications, the BLM anticipates that approximately 25 percent of the lands with current solar energy ROW applications would reach the processing stage where an NOI is issued and therefore the BLM could segregate the areas. Without trying to identify which ROWs would be granted or the specific locations of new mining claims within those application areas, the BLM assumes based on the economic analysis prepared in connection with this rule that a quarter of those new mining claims, or about 50 new mining claims, would be prevented from being located within solar ROW application areas that could be segregated under this rule and that approximately 150 new claims would be located in the non-segregated solar energy application areas.

The actual number of claimants affected will likely be less than 50 because a single claimant typically locates and holds multiple mining claims. Of the existing mining claims located within solar energy ROW application areas, there was an average of about eight mining claims per claimant. Assuming that there was nothing unique about the number and distribution of claims per claimant, the BLM estimates six to seven entities would potentially be precluded from locating new mining claims on lands segregated within the identified solar energy ROW application areas under the rule change. For these entities, the economic impacts of the segregation would be the delay in when they could locate their mining claim and a potential delay in the development of such claim because such development would be subject to any ROW grants issued during the temporary segregation period. However, a meaningful estimate of the value of such delays is difficult to quantify given the available data as it depends on the commercial viability of any individual claim and the fact that the location of a mining claim is an early step in a long process that may or may not ultimately result in revenue generating activity for the claimant.

As with wind, the other situation in which entities might be affected by these segregation provisions is when a new Plan of Operations or Notice for an existing mining claim is filed with the BLM during a two-year segregation for a solar project. In such a situation, the BLM has the discretion under the Surface Management Regulations (43 CFR subpart 3809) to require a mineral examination report before it approves the Plan of Operations or accepts the filed Notice. If required, the operator is responsible to pay the cost of the examination and report. However, the evaluation of a plan of operations or notice for a mining claim filed before a segregation takes place would be no different than the evaluation of such a claim where a segregation did not exist.

For FYs 2009 and 2010, 10 Plans of Operations and 12 Notices were filed with the BLM for existing claims within solar ROW application areas. No Plans of Operation or Notices were filed in FYs 2011 and 2012. Assuming: (1) A quarter of those filings in 2009 and 2010

[3] With respect to any particular Plan of Operation or Notice that might be filed in areas segregated under the rule, the BLM would separately determine, on a case-by-case basis and consistent with the requirements of 43 CFR 3809.100(a), whether to require a validity determination for such Plan or Notice.

were on lands now segregated under this rule; (2) the number of Plan and Notice filings received in FYs 2009 through 2012 is representative of the number of filings that might occur on lands that may be segregated; and (3) the BLM required mineral examination reports to determine claim validity on all Plans and Notices filed within segregated lands, the BLM estimates one entity might be affected by this rule.[4] However, it is also possible that operators would choose not to file a notice or plan of operations during the segregation period in order to avoid facing a validity examination. Should the BLM require a mineral examination while the lands are segregated to determine mining claim validity, the entity filing the Plan or Notice would be responsible for the cost of making that validity determination. As above, the BLM assumes an average cost of $100,000 to conduct the examination and prepare the report. Based on the number of Plans and Notices filed within the solar energy ROW application areas in the past four years, and the number of entities anticipated to be affected, the BLM estimates the total cost of this provision would average about $50,000 per year.

It is not possible to estimate the number of future ROWs for wind or solar energy developments that could be filed on areas identified as having potential for either of these sources of energy. This is because there are many variables that could have an impact on such filings. Such variables include: the quantity and sustainability of wind at any one site, the intensity and quantity of available sunlight, the capability of obtaining financing for either wind or solar energy projects, the proximity of transmission facilities that could be used to carry the power generated from a specific wind or solar energy project, and the topography of the property involved. The number of mining claims would also be based on speculation as to the mineral potential of a given area, access to markets, potential for profitability, and a host of other geologic factors, such as type of mineral, depth of the mineral beneath the surface, quantity and quality of the mineral, and other such considerations. We used an analysis of activity in 2009 and 2010 to predict the amount of activity that would occur or be prevented in 2011 and 2012. The actual activity in 2011 and 2012, when the ITFR was in effect, was much less than predicted. However, we consider our use of the 2009 and 2010 data to be a reasonable basis for the economic impacts of this rule.

Based on this analysis, the BLM concludes that this rule does not have an annual effect of $100 million or more on the economy. It does not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule does not alter the budgetary effects of entitlements, grants, user fees or loan programs, or the rights or obligations of their recipients; nor does it raise novel legal or policy issues.

National Environmental Policy Act

The BLM has determined that this rule is administrative in nature and involves only procedural changes addressing segregation requirements. Temporary segregations under this rule would result in no new surface disturbing activities and, therefore, would have no effect on ecological or cultural resources. Potential effects from the wind and/or solar ROWs associated with such segregations would be analyzed as part of the site-specific NEPA analysis for those activities. In promulgating this rule, the government is conducting routine and continuing government business of an administrative nature. As result, it is categorically excluded from environmental review under section 102(2)(C) of NEPA, pursuant to 43 CFR 46.205 and 46.210(f), (i). The rule does not meet any of the extraordinary circumstances criteria for categorical exclusions listed at 43 CFR 46.215. Under Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department, the term ''categorical exclusion'' means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which has been found to have no such effect on procedures adopted by a Federal agency and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

Regulatory Flexibility Act

The Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, (5 U.S.C. 601–612), to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The RFA requires agencies to analyze the economic impact of regulations to determine the extent to which there is anticipated to be a significant economic impact on a substantial number of small entities. The BLM anticipates that this rule could potentially affect a few entities that might otherwise have located new mining claims on public lands covered by a wind or solar energy facility ROW applications either currently pending or filed in the future. Based on the economic analysis prepared for this rule, the BLM further anticipates that most of these entities would be small entities as defined by the Small Business Administration; however, as explained in this preamble and in the proposed rule, the BLM does not expect the potential impact to be significant. Therefore, the BLM has determined under the RFA that this rule will not have a significant economic impact on a substantial number of small entities. A copy of the analysis that supports this determination is available at the office listed under the **ADDRESSES** section of this preamble.

Small Business Regulatory Enforcement Fairness Act

For the same reasons as discussed under the Executive Order 12866, Regulatory Planning and Review section of this preamble, this rule is not a ''major rule'' as defined at 5 U.S.C. 804(2). That is, it will not have an annual effect on the economy of $100 million or more; it will not result in major cost or price increases for consumers, industries, government agencies, or regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule will not impose an unfunded mandate on State, local, or tribal governments, in the aggregate, or the private sector of $100 million or more per year; nor will it have a significant or unique effect on State, local, or tribal governments. The rule will not impose requirements on any of these entities. Therefore, the BLM does not need to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

[4] With respect to any particular Plan of Operation or Notice that might be filed in areas segregated under the rule, the BLM would separately determine, on a case-by-case basis and consistent with the requirements of 43 CFR 3809.100(a), whether to require a validity determination for such Plan or Notice.

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

This rule is not a government action that interferes with constitutionally protected property rights. This rule sets out a process which could be used to temporarily segregate, by publication of a notice in the **Federal Register**, public lands included within a pending or future solar or wind energy generation ROW application, or public lands identified by the BLM for a potential future wind or solar energy generation ROW authorization. Such segregations would remove those public lands from the operation of the public land laws, including the location of new mining claims under the Mining Law, but not the MLA or the Materials Act, for a period of up to two years. The rule allows a BLM State Director to extend the segregation for up to an additional two-year period based on a written finding that such extension is necessary to promote the orderly administration of the public lands. Because any segregation under this rule would be subject to valid existing rights, it does not interfere with constitutionally protected property rights. Therefore, the Department has determined that this rule does not have significant takings implications and does not require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The rule will not have a substantial direct effect on the states, or the relationship between the national government and the states, or on the distribution of power and responsibilities among the levels of government. It will not apply to states or local governments or state or local government entities. Therefore, in accordance with Executive Order 13132, the BLM has determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that this rule does not include policies that have tribal implications. This rule applies exclusively to lands administered by the BLM. It is not applicable to and has no bearing on trust or Indian lands or resources, or on lands for which title is held in fee status by Indian tribes, or on lands held in trust for the benefit of tribes or individual Indians that are managed by the Bureau of Indian Affairs.

Information Quality Act

In developing this final rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Public Law 106–554).

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, the BLM has determined that this rule is not likely to have a significant adverse effect on energy supply, distribution, or use, including a shortfall in supply, price increase, or increased use of foreign supplies. The BLM's authority to segregate lands under this rule is of a temporary nature for the purpose of encouraging the orderly administration of public lands, including the generation of electricity from wind and solar resources on the public lands. Any increase in energy production as a result of this rule from wind or solar sources is not easily quantified, but the rule is expected to relieve obstacles and hindrances to energy development on public lands.

Executive Order 13352—Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that this rule will not impede the facilitation of cooperative conservation. The rule takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodates local participation in the Federal decision-making process; and provides that the programs, projects, and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

The rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995.

Author

The principal author of this rule is Jeff Holdren, Realty Specialist, Division of Lands and Realty, assisted by the Division of Regulatory Affairs, Washington Office, Bureau of Land Management, Department of the Interior, and the Office of the Solicitor, Department of the Interior.

List of Subjects

43 CFR Part 2090

Airports; Alaska; Coal; Grazing lands; Indian lands; Public lands; Public lands—classification; Public lands—mineral resources; Public lands—withdrawal; Seashores.

43 CFR Part 2800

Communications; Electric power; Highways and roads; Penalties; Pipelines; Public lands—rights-of-way; Reporting and recordkeeping requirements.

For the reasons stated in the preamble and under the authorities stated below, the BLM proposes to amend 43 CFR parts 2090 and 2800 as follows:

Subchapter B—Land Resource Management (2000)

PART 2090—SPECIAL LAWS AND RULES

■ 1. The authority citation for part 2090 continues to read as follows:

Authority 43 U.S.C. 1740.

Subpart 2091—Segregation and Opening of Lands

■ 2. Amend § 2091.3–1 by adding paragraph (e) to read as follows:

§ 2091.3–1 Segregation.

* * * * *

(e)(1) The Bureau of Land Management may segregate, if it finds it necessary for the orderly administration of the public lands, lands included in a right-of-way application under 43 CFR subpart 2804 for the generation of electrical energy from wind or solar sources. In addition, the Bureau of Land Management may also segregate lands that it identifies for potential rights-of-way for electricity generation from wind or solar sources when initiating a competitive process for solar or wind development on particular lands. Upon segregation, such lands will not be subject to appropriation under the public land laws, including location under the Mining Law of 1872, (30 U.S.C. 22 *et seq.*), but would remain open under the Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*) or the Materials Act of 1947 (30 U.S.C. 601 *et*

seq.). The BLM will effect a segregation by publishing a **Federal Register** notice that includes a description of the lands being segregated. The BLM may effect segregation in this way for both pending and new right-of-way applications.

(2) The effective date of segregation is the date of publication of the notice in the **Federal Register**. The segregation terminates consistent with subpart 2091.3–2 and the lands automatically open on the date that is the earliest of the following:

(i) When the BLM issues a decision granting, granting with modifications, or denying the application for a right-of-way;

(ii) Automatically at the end of the segregation period stated in the **Federal Register** notice initiating the segregation, or

(iii) Upon publication of a **Federal Register** notice terminating the segregation and opening the lands in question.

(3) The segregation period may not exceed 2 years from the date of publication in the **Federal Register** of the notice initiating the segregation, unless the State Director determines and documents in writing, prior to the expiration of the segregation period, that an extension is necessary for the orderly administration of the public lands. If the State Director determines an extension is necessary, the Bureau of Land Management will extend the segregation for up to 2 years by publishing a notice in the **Federal Register**, prior to the expiration of the initial segregation period. Segregations under this part may only be extended once and the total segregation period may not exceed 4 years.

PART 2800—RIGHTS-OF-WAY UNDER THE FEDERAL LAND POLICY MANAGEMENT ACT

■ 3. The authority citation for part 2800 continues to read as follows:

Authority: 43 U.S.C. 1733, 1740, 1763, and 1764.

Subpart 2804—Applying for FLPMA Grants

■ 4. Amend § 2804.25 by adding paragraph (e) to read as follows:

§ 2804.25 How will BLM process my application?

* * * * *

(e)(1) The BLM may segregate, if it finds it necessary for the orderly administration of the public lands, lands included in a right-of-way application under 43 CFR subpart 2804 for the generation of electrical energy from wind or solar sources. In addition, the Bureau of Land Management may also segregate lands that it identifies for potential rights-of-way for electricity generation from wind or solar sources when initiating a competitive process for solar or wind development on particular lands. Upon segregation, such lands would not be subject to appropriation under the public land laws, including location under the Mining Law of 1872 (30 U.S.C. 22 *et seq.*), but would remain open under the Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*) or the Materials Act of 1947 (30 U.S.C. 601 *et seq.*). The BLM would effect a segregation by publishing a **Federal Register** notice that includes a description of the lands being segregated. The BLM may effect segregation in this way for both pending and new right-of-way applications.

(2) The effective date of segregation is the date of publication of the notice in the **Federal Register**. Consistent with 43 CFR 2091–3.2, the segregation terminates and the lands automatically open on the date that is the earliest of the following:

(i) When the BLM issues a decision granting, granting with modifications, or denying the application for a right-of-way;

(ii) Automatically at the end of the segregation period stated in the **Federal Register** notice initiating the segregation; or

(iii) Upon publication of a **Federal Register** notice terminating the segregation and opening the lands.

(3) The segregation period may not exceed 2 years from the date of publication in the **Federal Register** of the notice initiating the segregation, unless the State Director determines and documents in writing, prior to the expiration of the segregation period, that an extension is necessary for the orderly administration of the public lands. If the State Director determines an extension is necessary, the BLM will extend the segregation for up to 2 years by publishing a notice in the **Federal Register**, prior to the expiration of the initial segregation period. Segregations under this part may only be extended once and the total segregation period may not exceed 4 years.

Dated: April 23, 2013.

Tommy P. Beaudreau,

Acting Assistant Secretary of the Interior, Land and Minerals Management.

[FR Doc. 2013–10087 Filed 4–29–13; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

Docket No. 120919471–2584–01]

RIN 0648–BC59

Temporary Rule To Extend the Increase of the Commercial Annual Catch Limit for South Atlantic Yellowtail Snapper

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

ACTION: Temporary rule; emergency measures extended.

SUMMARY: NMFS issues this temporary rule to extend the effectiveness of the increase of the commercial annual catch limit (ACL) for yellowtail snapper implemented by a temporary rule published by NMFS on November 7, 2012. The commercial ACL for yellowtail snapper of 1,596,510 lb (724,165 kg), round weight, will be extended for up to an additional 186 days, until permanent measures are implemented, as requested by the South Atlantic Fishery Management Council (Council). The intent of this temporary rule is to ensure the commercial ACL for yellowtail snapper is based on the best scientific information available and to help achieve optimum yield (OY) for the yellowtail snapper resource.

DATES: The effective period for the temporary rule published at 77 FR 66744, November 7, 2012, is extended from May 6, 2013, through November 28, 2013, unless NMFS publishes a superseding document in the **Federal Register**.

ADDRESSES: Electronic copies of documents supporting this temporary rule may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm.*

FOR FURTHER INFORMATION CONTACT: Kate Michie, Southeast Regional Office, NMFS, telephone: 727–824–5305, email: *Kate.Michie@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the snapper-grouper fishery, which includes yellowtail snapper, off the southern Atlantic states under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the

authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Section 305(c) of the Magnuson-Stevens Act (16 U.S.C. 1855(c)) provides the legal authority for the promulgation of emergency regulations.

Background

At its September 2012 meeting, the Council requested that NMFS promulgate emergency regulations to increase the commercial ACL for yellowtail snapper based on the results of the May 2012 stock assessment conducted by the Florida Fish and Wildlife Conservation Commission's Fish and Wildlife Research Institute (FWRI) which indicated yellowtail snapper are not overfished or experiencing overfishing. Results of the stock assessment suggested that the acceptable biological catch (ABC) could increase, which could allow an increase in the commercial ACL resulting in positive social and economic benefits to commercial fishermen and dealers. The assessment was reviewed by the Council's Scientific and Statistical Committee (SSC) on October 10, 2012. Based on the stock assessment conducted by the FWRI, the Council's request and the SSC's ABC recommendation, and the current commercial sector's allocation, NMFS promulgated a temporary rule on November 7, 2012, to increase the commercial ACL for yellowtail snapper from 1,142,589 lb (518,270 kg) to 1,596,510 lb (724,165 kg), round weight (77 FR 66744). The temporary rule was implemented in time to avoid triggering the commercial accountability measure (AM) in 2012, which would have unnecessarily prohibited commercial harvest and possession of yellowtail snapper in the South Atlantic. The temporary rule was determined to be necessary to preserve a significant economic opportunity that otherwise might be foregone and to help achieve OY for the fishery.

The temporary rule published on November 7, 2012, will expire on May 6, 2013. The Council has developed Regulatory Amendment 15 to the FMP to implement the increased commercial ACL for yellowtail snapper on a permanent basis. However, this regulatory amendment, if implemented, will not be effective before the 180-day temporary rule expires. Therefore, the Council requested an extension of the temporary rule at its March 2013 Council meeting, to continue the increase of the commercial ACL for yellowtail snapper while the rulemaking for Regulatory Amendment 15 is completed. This temporary rule extension will ensure that the commercial ACL for yellowtail snapper is based on the best scientific information available and will help to achieve OY for yellowtail snapper while avoiding an unnecessary closure for the commercial sector.

Comments and Responses

Section 305(c)(3)(B) of the Magnuson-Stevens Act authorizes the extension of an emergency regulation for up to 186 days, provided that the public has had an opportunity to comment on the initial emergency regulation and the Council is actively preparing a plan amendment or proposed regulations to address the emergency on a permanent basis. NMFS solicited public comment on the November 7, 2012, temporary rule, and received one comment from a fisheries association that supported the temporary rule, development of Regulatory Amendment 15, and the extension of the temporary rule. No other comments were received.

Classification

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Act, 16 U.S.C. 1855(c). The Regional Administrator, Southeast Region, NMFS, has determined that the extension of this temporary rule is necessary to preserve a significant economic opportunity for the commercial yellowtail snapper component of the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws. The Council developed Regulatory Amendment 15 to the FMP to establish the increase in the commercial ACL for yellowtail snapper on a permanent basis and has submitted the amendment to NMFS.

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

This temporary rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and comment.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this temporary rule extension. Providing prior notice and opportunity for public comment would be contrary to the public interest. Failure to extend the increase in the commercial ACL for yellowtail snapper would result in the commercial ACL not being based on the best scientific information available, which would be contrary to National Standard 2 of the Magnuson-Stevens Act. Failure to extend the temporary rule may also result in the commercial sector being unnecessarily prohibited from harvesting and possessing yellowtail snapper in 2013 due to a closure, which would create adverse economic impacts for those dependent upon the commercial harvest of yellowtail snapper, especially in the Florida Keys. Extension of the temporary rule would allow for continued commercial harvest under the increased commercial ACL while the emergency regulations are being addressed on a permanent basis through Regulatory Amendment 15 to the FMP. This extension will give fishermen the opportunity to achieve OY for yellowtail snapper, in accordance with National Standard 1 of the Magnuson-Stevens Act.

For the reasons listed above, the AA also finds good cause to waive the 30-day delay in effectiveness of the action under 5 U.S.C. 553(d)(3).

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

Dated: April 24, 2013.

Alan D. Risenhoover,

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

[FR Doc. 2013–10153 Filed 4–29–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 121126649–3347–02]

RIN 0648–BC79

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Monkfish Fishery; Emergency Action

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

ACTION: Emergency temporary rule; interim measures; request for comments.

SUMMARY: NMFS implements a temporary emergency action that suspends existing monkfish possession limits for vessels issued both a Federal limited access Northeast multispecies permit and a limited access monkfish Category C or D permit that are fishing under a monkfish day-at-sea in the monkfish Northern Fishery Management

Area. This action is necessary to help mitigate expected adverse economic and social harm resulting from substantial reductions to the 2013 annual catch limits for several stocks managed under the Northeast Multispecies Fishery Management Plan. The intent is to provide additional fishing opportunities to vessels affected by reductions to groundfish catch limits, without resulting in overfishing monkfish within the Northern or Southern Fishery Management Areas.

DATES: This rule is effective at 0001 hr on May 1, 2013, through October 27, 2013. Comments must be received by May 30, 2013.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2012–0240, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0240,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930–2276. Mark the outside of the envelope: ''Comments on Monkfish Emergency Action.''
- *Fax:* (978) 281–9135; Attn: Douglas Christel.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which consists of the Initial Regulatory Flexibility Analysis (IRFA), public comments and responses, and the summary of impacts and alternatives contained in the Classification section of the preamble of this final rule. Copies of the supporting biological, economic, and social impact analysis for this action are contained in the environmental assessment (EA) prepared for this rule, and may be found at the following Internet address: *http://www.nero.noaa.gov/regs/2013/February/13monkerea.pdf.* Copies of the small entity compliance guide are available from the Regional Administrator, NMFS, Northeast Regional Office, at the address noted above.

FOR FURTHER INFORMATION CONTACT: Douglas Christel, Fishery Policy Analyst, (978) 281–9141, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

NMFS developed a proposed rule to implement emergency measures in the monkfish fishery based on a request for emergency action by the New England Fishery Management Council (NEFMC). The proposed rule published in the **Federal Register** on February 25, 2013 (78 FR 12708). Public comments were accepted through March 12, 2013. A full discussion of the background and justification for emergency measures was presented in the preamble to the proposed rule and the EA prepared for this action (see **ADDRESSES**), and is not repeated here. In summary, the combined effect of several issues facing the Northeast multispecies (groundfish) fishery for fishing year (FY) 2013, including substantial reductions in annual catch limits (ACLs) for several stocks, present recently discovered circumstances that would likely cause serious management problems and result in substantial economic and social harm for the groundfish and monkfish fisheries and associated communities. Consistent with section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and NMFS guidelines for the use of emergency actions, as discussed in the proposed rule, this interim final rule implements emergency measures that provide additional fishing opportunities to help mitigate expected substantial adverse economic and social harm resulting from reduced groundfish ACLs in FY 2013, without significantly increasing the risk of overfishing monkfish.

Approved Management Measures

The following describes the measures implemented by this interim final rule. NMFS may renew, modify, or extend these measures after October 27, 2013 for up to an additional 185 days (i.e., through the end of FY 2013 on April 30, 2014) through notice consistent with the Administrative Procedure Act. If NMFS does not renew or modify these measures, the Northern Fishery Management Area (NFMA) monkfish possession limits implemented by Framework Adjustment (FW) 7 to the Monkfish Fishery Management Plan (FMP) on October 26, 2011 (76 FR 66192), would remain in effect for the rest of FY 2013.

1. Monkfish Possession Limits in the NFMA

This emergency action suspends existing monkfish possession limits for vessels issued a Federal limited access monkfish Category C or D permit (i.e., those also issued a Federal limited access NE multispecies permit) that are fishing under a monkfish day-at-sea (DAS) in the NFMA during FY 2013. A vessel operator that starts a trip under a groundfish DAS and then declares that he/she is fishing under a monkfish DAS prior to returning to port is also exempted from the monkfish possession limits. Existing monkfish possession limits for vessels issued a limited access monkfish Category A or B permit and fishing under only a monkfish DAS; vessels issued a limited access monkfish Category C or D permit fishing that are not fishing under a monkfish DAS; or vessels issued an open access monkfish Category E permit (i.e., vessels that catch monkfish while targeting other fisheries) remain the same, as specified in Table 1. In addition, the overfishing level, acceptable biological catch level, ACL, ACT, and TAL remain 19,557 mt, 7,592 mt, 6,567 mt, and 5,854 mt, respectively, as implemented in either Amendment 5 (May 25, 2011; 76 FR 30265) or FW 7 to the Monkfish FMP.

TABLE 1—MONKFISH POSSESSION LIMITS IN THE NFMA FOR 2013

Groundfish sector participation status	DAS type	Monkfish permit category	Possession limit (tail weight)
Non-sector Vessels (Monkfish-only or Common Pool Groundfish Vessels).	No DAS	A, B, or E	Up to 5% of total weight of fish onboard; or 50 lb (23 kg) per day, up to 150 lb (68 kg) per trip based on gear used.
	Monk	A	1,250 lb (567 kg)/DAS.
		B	600 lb (272 kg)/DAS.
	NE Mults A DAS only	E	Up to 25% of total weight of fish onboard, not to exceed 300 lb (136 kg).
		C or D	Up to 25% of total weight of fish onboard, not to exceed 300 lb (136 kg).
	NE Mults A & Monk DAS	C or D	Unlimited.
Sector	Non-DAS	E, C, or D	Up to 5% of total weight of fish onboard; or 50 lb (23 kg) per day, up to 150 lb (68 kg) per trip based on gear used.
	NE Mults A DAS only	E	Up to 25% of total weight of fish onboard, not to exceed 300 lb (136 kg).
		C or D	Up to 25% of total weight of fish onboard, not to exceed 300 lb (136 kg).
	NE Mults A & Monk DAS	C or D	Unlimited.

These measures differ from those requested by the NEFMC in two ways. First, the suspension of existing monkfish possession limits applies to both groundfish sector and common pool vessels instead of just sector vessels. Suspending monkfish possession limits for both groundfish sector and common pool vessels is necessary to ensure that the emergency measures fairly and equitably allocate fishing privileges among relevant affected entities (i.e., those affected by substantial reductions in the FY 2013 groundfish ACLs), consistent with National Standard 4 of the Magnuson-Stevens Act and the intended purpose and need for this action. Second, this action exempts only monkfish Category C or D vessels fishing under a monkfish DAS in the NFMA from the existing monkfish possession limits. This is different than the measures originally requested by the NEFMC and proposed for this action in that it would not exempt monkfish Category C or D vessels fishing under a groundfish DAS in the NFMA from the existing monkfish possession limits. We made this latter change in response to public comments to ensure that potential effort shifts do not result in unanticipated adverse impacts to the Southern Fishery Management Area (SFMA) monkfish resource or associated fishing communities.

Upon further consideration, we concluded that the originally proposed emergency measures could substantially increase the effective effort on monkfish by inadvertently and unintentionally creating incentives for vessels to fish for monkfish using readily available groundfish DAS in the NFMA, and then using their allocated monkfish DAS to fish for monkfish in the SFMA. Under current regulations, a vessel may land more than the incidental amount of monkfish only if fishing under a groundfish or monkfish DAS. Because sectors are not required to use a groundfish DAS when fishing for groundfish stocks, groundfish DAS are readily available, and can be easily acquired for little cost, particularly in the NFMA. In conjunction with the fact that a majority of monkfish Category C and D vessels are participating in sectors during recent FYs, the proposed measures could create incentives for such vessels to acquire and use a large supply of groundfish DAS to catch unlimited amounts of monkfish without using a monkfish DAS in the NFMA. Such vessels could then save their monkfish DAS to fish in areas of the SFMA where groundfish DAS are not required to be used. Thus, fishing effort on monkfish could be substantially increased in both the NFMA and SFMA under the proposed measures. This is substantially different than past fishing practices, and could possibly result in monkfish landings that exceed the SFMA monkfish total allowable landings (TAL) amount during FY 2013. Because the Monkfish FMP is jointly managed by the NEFMC and the Mid-Atlantic Fishery Management Council (MAFMC), the final measures implemented by this interim final rule reflect a compromise between the interests expressed by each Council by providing for greater opportunities to land monkfish in the NFMA, as advocated by the NEFMC, and helping minimize the potential effort shifts into the SFMA, as suggested by the MAFMC.

We expect these final measures to more closely achieve, but not exceed, the FY 2013 TAL for monkfish in the NFMA, resulting in monkfish landings of approximately 5,336 mt during FY 2013, or 91 percent of the FY 2013 monkfish TAL in the NFMA. This represents an increase of 401,873 lb (182,286 kg) of monkfish landings compared to landings expected under the current possession limits.

2. Regional Administrator Authority To Reinstate Existing Monkfish Possession Limits

This action authorizes the Regional Administrator to reinstate existing monkfish possession limits for limited access monkfish Category C and D vessels fishing under a monkfish DAS in the NFMA at any time through October 27, 2013 if available data indicate that the NFMA monkfish TAL or ACT may be exceeded during FY 2013. If such trip limits are reinstated, monkfish Category C and D vessels fishing in the NFMA under a monkfish DAS would be subject to monkfish possession limits of 1,250 lb (567 kg) tail weight and 600 lb (272 kg) tail weight per DAS, respectively, for the remainder of FY 2013. This discretion is necessary to ensure that unexpected changes in fishing behavior in response to this emergency action do not cause monkfish landings or catch, when discards are included, to exceed the FY 2013 NFMA monkfish TAL or annual catch target (ACT), respectively, and result in overfishing for NFMA monkfish. Any reinstatement of monkfish possession limits in the NFMA would be implemented consistent with the Administrative Procedure Act.

Comments and Responses

Twenty-five comments were received during the comment period on the proposed rule for emergency action from 14 individuals, 5 commercial fishing organizations, 2 state resource management agencies (Massachusetts Division of Marine Fisheries (DMF) and the Maine Department of Marine Resources), 1 seafood processor group, 1 conservation organization, 1 fish dealer, and the MAFMC. One other comment was submitted via fax, but was unreadable because much of the middle of the comment was obscured by a black streak, leaving only the margins of the comment readable. Only comments that were applicable to the proposed measures, including the analyses used to support these measures, are addressed in this preamble. Overall, 15 commenters supported the proposed action, while 8 opposed it (the MAFMC and 2 vessel owners strongly opposed this action), with 2 other commenters not expressing a particular position on the proposed action.

Comment 1: Four commenters, including the MA DMF and two commercial fishing groups, suggest that the proposed action would not adversely affect the NFMA monkfish stock. Several other commenters highlighted that monkfish landings from the NFMA have been well below the NFMA ACL for several years, suggesting that the stock could accommodate additional landings without exceeding the FY 2013 TAL. The ME DMR agreed with our assertion in the EA that additional effort is adequately constrained by existing management measures in either the monkfish or groundfish fisheries. One commercial fishing group offered that there are fewer groundfish vessels operating in the NFMA following several years of severe restrictions of groundfish effort and reductions in ACLs, suggesting that this would reduce the likelihood that the proposed action would harm the monkfish resource. One dealer noted that NFMA monkfish is a robust resource that is not overfished or subject to overfishing, while another observed that there are sufficient buffers between the ACT and the allowable biological catch (ABC) level to prevent the proposed measures from harming the stock.

Response: We recognize that the most recent monkfish stock assessment characterizes NFMA monkfish stock as currently not overfished or subject to overfishing, and that the fishery has not fully harvested the NFMA monkfish TAL in recent years. We also agree that there are sufficient buffers to prevent overfishing even if the FY 2013 TAL is fully harvested. As analyzed in the EA prepared to support this action, neither the proposed action, nor the measures implemented by this final rule (identified as Alternative 1 in the EA), would likely result in landings exceeding the FY 2013 NFMA monkfish TAL based on recent fishing operations and other existing constraints in either the groundfish or monkfish fisheries. While fishing behavior during FY 2013 may be different than that observed in recent years, this interim final rule provides the Regional Administrator with the authority to reinstate existing monkfish possession limits at any time during FY 2013 if available data suggest that landings would exceed the FY 2013 NMFA monkfish TAL before the end of the FY. We will monitor monkfish landings throughout FY 2013, and will reinstate existing monkfish possession limits if available data suggest that the FY 2013 NFMA monkfish TAL would be exceeded before the end of the FY. Thus, although we decided it was necessary to not apply the suspension of monkfish possession limits to monkfish Category C and D vessels fishing under a groundfish DAS in the NFMA during FY 2013, as further explained in the next comment, we agree that neither the proposed action, nor the measures implemented by this interim final rule, would adversely affect the NFMA monkfish stock or result in overfishing throughout the duration of this action.

Comment 2: Several commenters, including the MA DMF and ME DMR, were concerned that the proposed action may result in redirected effort, or a shift in fishing patterns. Commenters were concerned not only about impacts to monkfish within the NFMA, but also about impacts to SFMA monkfish. The MAFMC, one commercial fishing group, one seafood processing group, and one vessel owner suggested that the proposed measures may result in significant directed effort on monkfish in the NFMA that could deplete the stock or cause it to become overfished. That vessel owner suggested that sector vessels will fish close to the NFMA/SFMA boundary to harvest monkfish while minimizing groundfish bycatch, but that such activity would result in substantial impacts to the monkfish resource in the SFMA based on the likelihood that monkfish is only one biological stock instead of two. The MAFMC and two other vessel owners agreed, with the MAFMC asserting that overfishing monkfish in the NFMA would negatively affect the SFMA stock, while one vessel owner stated that the proposed action would destabilize the SFMA monkfish fishery. One commercial fishing group and another vessel owner stated that the proposed measures should not inadvertently increase effort in the SFMA. One individual questioned whether vessels that generally fish in the SFMA would move into the NFMA to fish for monkfish, and one commercial fishery group asked how NMFS would monitor and enforce area declarations, since vessels do not have to permanently declare into either area.

Response: We are also concerned about the potential for this action to change fishing patterns during FY 2013 in both the NFMA and the SFMA. That is why we proposed to give the Regional Administrator the authority to reinstate existing monkfish possession limits if available data suggest that the FY 2013 NFMA monkfish TAL may be exceeded. We contend that this would limit any overage of the TAL and, thus, overfishing, given that the TAL was set based on the best available scientific information, and that there is sufficient buffer between the TAL and the overfishing level to prevent overfishing from occurring on this stock, as specified by the NEFMC's Scientific and Statistical Committee (SSC) recommendations in 2010 as part of FW 7 to the Monkfish FMP.

Upon further consideration of public comment, we agree that the proposed action could provide incentives for vessels to change fishing behavior and shift effort in a manner that could increase the risk of overfishing monkfish in the SFMA. In particular, we concluded that the proposed action could encourage vessels to use cheap and readily-available groundfish DAS (particularly for sector vessels) to target monkfish in the NMFA, and save their allocated monkfish DAS to later target monkfish in the SFMA. To prevent this from occurring, this interim final rule exempts only monkfish Category C or D vessels using a monkfish DAS in the NFMA from the monkfish possession limits. Thus, fewer monkfish DAS are expected to be available to fish for monkfish in the SFMA as a result of the change in this final rule, because the monkfish DAS would be used to land more monkfish in the NFMA. This would reduce the potential for vessels to shift monkfish effort into the SFMA compared to the proposed action. Thus, measures implemented by this interim final rule provide greater control over resulting monkfish landings during FY 2013, and are likely to be more effective than the proposed measures at reducing the risk that either the NFMA or SFMA monkfish TALs will be exceeded during

FY 2013 due to unanticipated effort shifts.

Existing regulations enable vessels to use monkfish DAS in both the NFMA and the SFMA during the same fishing year. These interim final measures provide incentives to use those DAS in the NFMA during FY 2013 by requiring monkfish Category C and D vessels to use monkfish to be exempt from current monkfish possession limits in the NFMA. In contrast, the proposed measures provided no incentive to use monkfish DAS in the NFMA, and as noted above, may actually provide incentives for vessels to use readily available groundfish DAS to target monkfish in the NFMA and save all of their monkfish DAS to fish for monkfish in the SFMA as a means to maximize revenue from monkfish fishing opportunities during FY 2013. To have granted the Regional Administrator discretion to revise the monkfish possession limits in the SFMA in a manner similar to the authority to reinstate existing monkfish possession limits in the NFMA through this interim final rule would go beyond the purpose and need specified for this action. The purpose of this emergency action is to mitigate adverse impacts on groundfish vessels operating in the NFMA, and not to potentially create adverse impacts on the SFMA monkfish fishery because of effort shifts that otherwise would not have occurred. With the changes in measures implemented by this interim final rule, the risk that such impacts would occur has been reduced. Accordingly, the final measures reflect a compromise between the interests expressed by each Council by providing for greater opportunities to land monkfish in the NFMA, as advocated by the NEFMC, and helping minimize the potential effort shifts and into the SFMA and resulting impacts to the SFMA monkfish fishery, advocated by the MAFMC.

We believe that existing regulations adequately address monitoring and enforcement concerns raised by the commenters. Any vessel that fishes any part of a trip in the SFMA will continue to be subject to the SFMA monkfish possession limits, with any monkfish DAS used on such a trip counting against the 28 monkfish DAS limit that each vessel may use in the SFMA during FY 2013. Current monkfish regulations only require vessel operators to declare whether the vessel will fish any part of a particular trip in the SFMA via the vessel monitoring system (VMS) or interactive voice response (IVR) or call-in system. Alternatively, a vessel can obtain a letter of authorization, stating that the vessel will fish in the NFMA for a specified period of time.

We will continue to monitor and enforce vessel activity using existing area-declaration requirements, including VMS and IVR declarations, landings by areas reported on vessel trip reports (VTRs, or logbooks) and dealer reports, and other available data. Because all monkfish Category C and D vessels are also issued limited access NE multispecies permits, such vessels are required to submit VTRs on a weekly basis. In addition, because most monkfish Category C and D vessels are participating in groundfish sectors, we will also have weekly sector catch reports to document vessel activity and associated landings. Finally, since all groundfish vessels must use VMS, hourly positional data and intended vessel activity declarations will be available on a real-time basis for each trip. Collectively, these data sources provide the information necessary to characterize vessel operations and assist in monitoring monkfish landings during FY 2013.

Comment 3: Two vessel owners were concerned that the proposed measures would put additional pressure on other stocks in both New England and in the Mid-Atlantic, while one commercial fishing group did not want the proposed measures to deplete another species.

Response: To the extent possible, we have attempted to minimize the potential for effort shifts to increase fishing pressure on monkfish or other stocks throughout the Northeast, as noted in the response to Comment 2. Vessels will still be subject to existing regulations in other fisheries, including effort controls such as DAS, possession limits, minimum mesh size requirements, and hard quotas and area closures, to ensure that ACLs are not exceeded and that overfishing does not occur on any species, as required by the Magnuson-Stevens Act. Therefore, the measures implemented by this interim final rule, in addition to existing measures in other fisheries, should ensure that other species are not depleted.

Comment 4: Four commenters, including the MA DMF, an environmental group, one commercial fishing group, and one vessel owner were concerned that vessels may use additional gillnet gear and soak their nets longer, which could increase interactions with protected resources and trigger additional management measures that could adversely impact the monkfish fishery, particularly in the SFMA. Although one commercial fishing group supported the conclusions of the analysis of impacts on protected species summarized in the EA prepared for this action, the environmental group disagreed, suggesting that the analysis in the EA may have minimized the impacts on marine mammals. The environmental group contends that it is uncertain whether existing groundfish measures will prevent effort increases in the monkfish fishery. In addition, it contends that vessels often do not comply with pinger requirements to deter harbor porpoise bycatch, and that the North Atlantic right whale biological opinion specifically prohibits any takes of North Atlantic right whales, even for emergency actions implemented for only 1 year. This group also notes that humpback whales are often entangled by gillnet gear, and suggested that the permitted level of mortality on humpback whales as a result of interactions with fishing gear may have already been met or exceeded, and may warrant re-consultation under the Endangered Species Act (ESA).

Response: As highlighted in the EA prepared for this action, gillnet gear is responsible for only a small amount (16–30 percent since 2000) of monkfish landings in the NFMA in recent years. Further, groundfish and monkfish gillnet vessels are still subject to net limits and DAS allocations, and cannot greatly expand gillnet effort during FY 2013. Although we acknowledge that gillnet use and soak duration may increase to some degree, because no additional information was provided to change that perspective, we still contend that it is unlikely that gillnet gear will become a substantially greater source of monkfish landings in the NFMA as a result of this action.

Vessels using gillnet gear are subject to existing regulations developed to minimize interactions with protected species, especially marine mammals, including time and area closures for gillnets, and requirements to use pingers and weak links on gillnet gear. Existing measures attempt to proactively control fishing effort, and implement reactive measures should take (interactions with fishing gear) or mortality targets be exceeded. When complied with, these measures can be effective in reducing interactions with marine mammals. If they are not complied with, additional management measures may be necessary to prevent excessive takes of such species, as required by the ESA. Reduced groundfish ACLs during FY 2013, reductions in the number of active monkfish and groundfish vessels during recent years, and the ability of the Regional Administrator to reinstate monkfish possession limits as part of this action may limit the potential increase in fishing effort by some

vessels during FY 2013. These measures, in conjunction with a series of recent groundfish management actions that have reduced the overall fishing effort in the NFMA, make it unlikely that gillnet effort or interactions marine mammals under either the proposed action or measures implemented by this interim final rule will increase beyond levels observed in recent years. Thus, we contend that this interim final rule will have a negligible impact on protected species during FY 2013, and should not trigger any additional restrictions, provided vessels comply with existing regulations.

The information on humpback whale takes cited by the environmental group includes news articles, personal communication, and a draft marine mammal stock assessment report. While the final stock assessment report was released on April 3, 2013, that report includes takes from multiple sources in multiple fisheries, including those outside the GOM and in Canadian waters, and are neither specific to the monkfish fishery nor the proposed emergency action. No additional scientific information that would more clearly illustrate the potential impact of the proposed action on marine mammals in general, or harbor porpoises or humpback whales specifically, was provided by the group in its comment. When developing management measures, we must rely on the best available scientific information, as required by National Standard 2 of the Magnuson-Stevens Act, and cannot rely upon draft reports, news articles, personal communications, or information that is not germane to the proposed action as the basis for such measures. The information used to analyze the impact of the proposed action represents the best scientific information available at this time. Staff in the NMFS Northeast Regional Office and the Northeast Fisheries Science Center (with expertise on marine mammal interactions) reviewed this analysis, and supported its conclusions. Therefore, we disagree that the EA prepared for this action inappropriately minimized the likely impact on marine mammals, or that re-consultation under the ESA is necessary for humpback whales at this time. We will continue to monitor the takes of marine mammals, and will take any action required under the ESA once available scientific information warrants such action.

Comment 5: Three vessel owners and one environmental group noted that the current measures do not seem to be constraining current NFMA vessels, yet the yearly TAL is still not being caught. They suggest that this is caused by a lack of available monkfish in the NFMA, and question the need to eliminate existing monkfish possession limits under this emergency action. The vessel owners also question the accuracy of the latest monkfish stock assessment, while two owners drew comparisons to recent groundfish stock assessments that seemed to reverse the optimistic conclusions of the previous stock assessment. The MAFMC, the seafood processing group, and one other vessel owner agreed, highlighting the uncertainty of the latest monkfish stock assessment as a reason not to implement this emergency action. Two other vessel owners and one dealer disagreed, stating that the NFMA monkfish stock is healthy and not overfished or subject to overfishing, with one commercial fishing group stating that the one-stock hypothesis is equivocal, with recent recruitment patterns still supporting the two-stock hypothesis. Two vessel owners recommended that NMFS delay the implementation of the emergency action until the next monkfish stock assessment can be completed.

Response: We recognize that most monkfish vessels do not use their full allocation of monkfish DAS in the NFMA, and that existing monkfish possession limits are not limiting for a majority of vessels operating in the NFMA. However, the EA notes that there is evidence that existing monkfish possession limits are restrictive for some vessels (see Figures 8, 9, and 12 in the EA supporting this action). Analysis of the alternatives considered for this action suggests that suspending existing possession limits would reduce discards, increase landings without exceeding the FY 2013 NFMA monkfish TAL, and provide additional fishing revenue to affected vessels consistent with the objectives of the Monkfish FMP and the Magnuson-Stevens Act. Thus, this action is expected to help mitigate adverse impacts in the groundfish fishery.

The latest monkfish stock assessment review (Stock Assessment Workshop (SAW) 50 in 2010) continued to treat monkfish as two separate stocks, reflecting the distinct monkfish management units. However, the assessment noted that information on growth, maturity, and genetics provide some preliminary evidence that the monkfish resource is a unit stock. Recent tagging studies have shown monkfish movement from the NFMA to the SFMA, although a lack of return movement to the NFMA may be an artifact of the timing and location of tag releases. The assessment, however, highlighted the fact that recruitment patterns remain different between the two areas (one of the reasons offered for treating the stocks separately in earlier assessments). Due to indications that the northern and southern stocks may not be distinct, a model was run that treated monkfish as one stock. However, that model was not reviewed or accepted by the Stock Assessment Review Committee (SARC). The SSC reviewed SAW 50 and accepted it as the best available scientific information regarding monkfish stocks. Accordingly, we will continue to assess monkfish as two separate stocks until further scientific information concludes otherwise.

SAW 50 states that ''catch rates may not reflect patterns of abundance,'' because catch rates are influenced by changes to management measures, and that changes in data collections and uncertainty in defining a targeted versus an incidental monkfish trip make evaluating trends in catch rates difficult. Thus, catch per unit effort was not used in the model runs for SAW 50. The report for SAW 50 highlights the fact that catch rates on trips with fishery observers declined in the NFMA during 2003–2007, as the strong 1999 year class passed through the fishery. It also acknowledged that there was a lot of uncertainty with the status of monkfish, including a retrospective pattern that underestimated fishing mortality and overestimated biomass. Nonetheless, the SARC concluded that SAW 50 represents the best available scientific information and that NFMA monkfish was not overfished nor subject to overfishing as of FY 2009. This conclusion was confirmed for FY 2013 by the SSC's review of SAW 50 during the development of NFMA monkfish ACL recommendations as part of FW 7.

The measures implemented by this interim final rule are based on the best available scientific information from SAW 50, as required by National Standard 2 of the Magnuson-Stevens Act. The most recent monkfish stock assessment occurred on April 8–9, 2013, with final results expected sometime in May. Because the results of this next stock assessment will be available after the start of the FY, it would delay any benefits associated with this action, and would prevent affected vessels from benefitting from additional fishing opportunities and potential sources of additional revenue necessary to help mitigate the impacts of reduced groundfish ACLs. Such a delay would be contrary to the purpose and need for this action. Accordingly, we will review the results of the next monkfish assessment when determining whether to reinstate existing monkfish possession limits or continue this

emergency action for the remainder of FY 2013.

Comment 6: Thirteen commenters indicated that the proposed action provides alternative fishing opportunities that will help augment groundfish fishing income for vessels adversely impacted by groundfish quota reductions during FY 2013. One dealer commented that groundfish vessels need additional fishing opportunities to remain viable and to support local processors and associated infrastructure. One industry group suggested that we must improve the sustainable utilization of monkfish in the NFMA due to the significant overlap of vessel participation between the monkfish and groundfish fisheries, while another group noted that the proposed action provides greater flexibility in planning trips.

Response: We agree that the proposed action would provide additional fishing opportunities and potential fishing revenue for affected groundfish vessels to help mitigate the impacts of recent effort reductions on the groundfish fishery and associated communities as much as possible. Although the measures implemented by this interim final rule would not provide as much operational flexibility or potential fishing revenue as the proposed action in order to address potential effort shifts into the SFMA, our analysis confirms that affected vessels would still benefit from this final action, and would likely realize upwards of $490,000 in additional fishing revenue from monkfish landings alone, compared to operating under the current monkfish possession limits. By allowing the monkfish fishery to fully harvest, but not exceed the FY 2013 NFMA monkfish TAL, this action attempts to better provide for the optimum utilization of the monkfish resource and the continued participation of vessels and associated fishing communities in the fishery, while minimizing the risks of adversely affecting the fishery due to unexpected shifts in fishing effort during FY 2013.

Comment 7: Two dealers asserted that the proposed action would ensure a steady supply of fresh fish to consumers, helping to preserve the availability of fresh wild-caught fish to customers given that reductions in groundfish ACLs will reduce the supply of fresh fish to markets.

Response: We agree that both the proposed action and the measures implemented by this interim final rule will increase the fishery's ability to provide a steady year-round supply of fresh monkfish to the market that could help compensate for reduced availability of groundfish in 2013.

Comment 8: Two individuals, the ME DMR, and one commercial fishing group stated that the proposed action would convert monkfish discards into landings, and reduce discards overall. One commenter suggested that the monkfish fishery should consider implementing 100-percent retention in the future to reduce discards even further.

Response: We agree that the proposed action and the measures implemented by this interim final rule may reduce discards by converting them into landings. Both the NEFMC and MAFMC could consider full retention requirements in a future action.

Comment 9: One commercial fishing group noted that the proposed action mirrors regulations that were in effect for the NFMA during the first few years following the implementation of the FMP. The group noted that, during those years, the monkfish target TAC amounts for the NFMA were not exceeded.

Response: We agree that the proposed action is similar to previous measures during FYs 2000–2006 when there were no monkfish possession limits in the NFMA. However, during that time, NFMA monkfish target TACs and landings were substantially higher than the FY 2013 NFMA monkfish TAL (5,854 mt), with landings ranging from 14,853 mt in FY 2001 to 6,677 mt in FY 2006. Therefore, although the target TACs were not exceeded during FYs 2000–2006, the target TACs were substantially higher than the FY 2013 TAL, and NFMA monkfish landings were always in excess of the FY 2013 TAL during this period. This highlights that the capacity to fully harvest the FY 2013 NFMA monkfish TAL existed in the fishery during recent years when there were no possession limits in the NFMA for vessels fishing under a monkfish or groundfish DAS. This also emphasizes the need for us to carefully monitor NFMA monkfish landings during FY 2013 to ensure that the FY 2013 NFMA monkfish TAL is not exceeded, and to reinstate monkfish possession limits if available data indicate that the TAL could be exceeded before the end of the FY, as necessary.

Comment 10: One vessel owner stated that the NFMA fishery is mostly an incidental catch fishery, with another vessel owner noting that the current monkfish possession limits are insufficient to justify directed fishing for monkfish in the NFMA. This latter commenter suggested that the proposed action would allow him the fishing opportunities he needs to justify building the nets necessary to target monkfish. A commercial fishing group agreed, asserting that this emergency action would not address the underlying issue that current monkfish effort controls are preventing the fishery from achieving optimum yield (OY). That group suggested that measures necessary to ensure the fishery can regularly achieve OY must be comprehensively addressed in Amendment 6 to the Monkfish FMP.

Response: For various reasons, a majority of monkfish landed from the NFMA are landed as a result of incidental catch in the groundfish fishery, not as a result of directed fishing for monkfish. We agree that eliminating the monkfish possession limits as part of this interim final rule may entice individual vessel operators to more actively target monkfish, as intended, which will help them to come close to OY for this fishery. The NEFMC and MAFMC are actively considering replacing existing effort controls with alternative quota-based measures in the NFMA as part of Amendment 6 to the FMP.

Comment 11: The MA DMF asked what trigger will be used to reinstate trip limits in the NFMA, and which trip limits will be reinstated. They were unsure whether existing possession limits would be reinstated, or if NMFS would implement something different.

Response: If available data suggest the NFMA monkfish TAL will be exceeded before the end of FY 2013, we will reinstate existing NFMA monkfish possession limits (1,250 lb (567 kg) tail weight and 600 lb (272 kg) tail weight per DAS) for the remainder of FY 2013. We will project monkfish landings throughout FY 2013 to ensure that the reinstatement will prevent the FY 2013 TAL from being exceeded.

Comment 12: Several commenters were concerned that the proposed action would only apply to monkfish Category C and D permit holders, rather than all limited access monkfish permits, with one commercial fishing group suggesting that the proposed action was inconsistent with National Standard 4 of the Magnuson-Stevens Act. Two vessel owners suggested that NMFS should eliminate monkfish possession limits for all permit holders, with one owner stating that it is inappropriate to relax landing limits for those that operate on a groundfish DAS, and that the proposed action disenfranchises monkfish Category A and B vessels. One vessel owner was concerned that the proposed action would increase landings and depress prices for those vessels that are not exempt from the existing monkfish

possession limits and cannot benefit from the emergency action.

Response: As noted in the proposed rule for this action, we believe that an emergency exists in the groundfish fishery, and that emergency action is necessary to help mitigate adverse economic and social impacts resulting from substantial reductions in groundfish ACLs in FY 2013. No such emergency exists for vessels issued a monkfish Category A or B permit. They are not directly affected by reductions in groundfish ACLs in FY 2013. In contrast, vessels issued a monkfish Category C or D permit are directly affected by such reductions, and can benefit from additional opportunity to harvest monkfish. Therefore, it is not consistent with the intent of this action to increase possession limits for monkfish Category A or B vessels who are unaffected by the reductions in FY 2013 groundfish ACLs.

Emergency actions must adhere to the Magnuson-Stevens Act and its National Standards. The National Standard 4 guidelines at § 600.325 state that allocations of fishing privileges must be fair and equitable, and reasonably calculated to promote conservation. Regarding fairness and equity, the guidelines state that such an allocation should be ''rationally connected to the achievement of OY or with the furtherance of a legitimate FMP objective.'' The guidelines allow that an allocation may impose a hardship on one group if it is outweighed by the total benefits to another group. This emergency action attempts to achieve OY in the NFMA by increasing the likelihood that the FY 2013 NFMA monkfish TAL will be fully harvested. This action will provide additional fishing opportunities and associated landings and fishing revenue for Category C and D monkfish vessels impacted by reductions in groundfish ACLs. In doing so, this action addresses Objective 2 of the FMP in that it attempts to optimize yield and maximize economic benefits to a particular fishing sector. Thus, there is a direct and rational connection between this action and an objective of the FMP. Category A and B vessels will continue to be able to participate in both the directed and incidental monkfish fishery in the NFMA during FY 2013, but will not be able to land monkfish in excess of existing possession limits, as currently prescribed. While such vessels would not benefit from the opportunity to land monkfish in excess of existing possession limits, no predictable hardship is being imposed, as this is consistent with measures in effect since FY 2011. One commenter contended that Category A and B vessels could face reduced prices for monkfish they are able to land if large amounts of monkfish are landed in a short period of time and demand is insufficient to accommodate the supply at that time. However, this could occur in any FY. Further, as discussed more thoroughly in the EA prepared for this action, ex-vessel prices vary for a number of reasons, including the amount landed, the size of fish landed, and product type landed (whole, headed, tails, etc.). Therefore, it is very difficult to estimate the scale of any potential hardship that may befall Category A and B vessels due to additional monkfish landings as a result of this action. Overall, however, it is expected that there will be benefits to Category C and D vessels, and no predictable adverse impacts to Category A and B vessels during the duration of the emergency measures. Thus, the measures implemented by this interim final rule are consistent with National Standard 4.

Comment 13: One commercial fishing group was concerned that emergency measures were not discussed at the Monkfish Oversight Committee/Advisory Panel meeting in December 2012, and that the monkfish industry members attending that meeting were not aware that the NEFMC had requested emergency action in the NFMA. This group recommended that the proposed emergency action should be considered by the Monkfish Oversight Committee and analyzed by both the NEFMC and MAFMC before any recommendation for emergency action.

Response: Although the Monkfish FMP is jointly managed by both the NEFMC and MAFMC, neither Council is obligated to consult with the other regarding requests for emergency action. We briefed the MAFMC on the NEFMC request for emergency action during the Regional Administrator report at the MAFMC's December 2012 and February 2013 meetings. In addition, we provided an opportunity for the public to comment on the proposed emergency action. In this interim final rule, we have attempted to address concerns raised by the MAFMC and vessel owners operating out of Mid-Atlantic states during the public comment period by revising measures implemented by this interim final rule to reduce the potential for effort to be redirected into the SFMA. Therefore, the fishing industry and the public have had ample opportunity to comment on the proposed rule. In fact, concerns raised by the public have been addressed by modifying some measures in this interim final rule.

Comment 14: One commercial fishing group suggested that the proposed action allows Category C and D monkfish vessels to leave a sector, lease unlimited monkfish DAS, and operate as a common pool vessel without any constraints.

Response: We disagree. While a vessel can elect to withdraw from a groundfish sector until April 30 of each year, that vessel would then become a common pool vessel for the following FY, and would be subject to the existing groundfish common pool measures, including lower groundfish DAS allocations than sector vessels, restrictive possession limits, gear requirements, and trimester TACs and associated area/gear closures. Thus, such vessels are subject to constraints that are designed to prevent the groundfish ACLs from being exceeded. Nothing in the proposed action or this interim final rule allows for the leasing of monkfish DAS.

Comment 15: One commercial fishing group asked how NMFS could justify the proposed emergency action when its own analysis suggests that the current possession limits would result in nearly the entire FY 2013 monkfish NFMA TAL, or at least 88 percent of the TAL, being caught during FY 2013.

Response: The commenter is correct that monkfish landings could be expected to reach 88 percent of the FY 2013 NFMA monkfish TAL under current possession limits based on projections of recent fishing activity in the EA supporting this action. However, that leaves 702 mt (1.5 million lb) of NFMA monkfish TAL uncaught during FY 2013. That is not achieving OY in the fishery. Projections of both the proposed action and the measures implemented by this interim final rule suggest that an additional 176–234 mt (388,000–515,000 lb) of monkfish could be landed during FY 2013. This would help to better achieve OY in the fishery and help mitigate the expected economic and social impacts of reduced groundfish ACLs during FY 2013, as intended, consistent with the Monkfish FMP and the Magnuson-Stevens Act.

Comment 16: One commercial fishing group recommended that NMFS should keep existing monkfish possession limits the same, but increase the number of monkfish DAS allocated to vessels from 40 to 60, and implement a monkfish running clock provision to allow vessels to land monkfish beyond existing possession limits and increase their monkfish DAS charge accordingly. This group also recommended that NMFS allow monkfish Category E vessels to land monkfish up to 50 percent of the total weight of fish on

board. One vessel owner suggested that no additional monkfish DAS should be made available as part of this action. Finally, another commercial fishing group recommended that NMFS establish a modified trip limit based on an analysis of past fishery performance that is designed to reach, but not exceed, the FY 2013 NFMA monkfish TAL.

Response: During the development of Amendment 5 to the Monkfish FMP, the Councils considered an option that would have retained NFMA monkfish possession limits at existing levels at the time (1,250 lb (567 kg) per DAS for Category A and C vessels and 470 lb (213 kg) per DAS for Category B and D vessels), but would increase allocated DAS to 58 monkfish DAS. That resulted in projected landings of 9,574 mt, representing an overage of the FY 2013 NFMA monkfish TAL of 3,720 mt (63 percent). This option, therefore, is likely to result in excessive monkfish landings during FY 2013. Further, by increasing monkfish DAS, it is likely that the group's suggestion would increase bycatch of groundfish stocks, potentially increasing the likelihood that groundfish ACLs would be exceeded during FY 2013. Accordingly, it was not considered further. No additional analysis of the group's suggestion to also increase the amount of monkfish that could be landed by Category E vessels was conducted, because such a measure would only increase monkfish landings beyond that projected if vessels were allocated 58 monkfish DAS in the NFMA. The Councils could consider such suggestions in the next management action, which is expected to set monkfish ACLs and TALs for FYs 2014–2016. Therefore, this interim final rule does not allocate additional monkfish DAS, as recommended by one commenter. Consistent with the recommendation of another commercial fishing group, this interim final rule does establish a modified trip limit (i.e., unlimited for Category C and D vessels) that is based on an analysis of past fishery performance that is designed to reach, but not exceed, the FY 2013 NFMA monkfish TAL.

Comment 17: Given the uncertainty in vessel behavior during FY 2013, several commenters, including the ME DMR, one industry group, and two vessel owners, were concerned about monitoring vessel behavior and monkfish landings. One commercial fishing group, one dealer, and one vessel owner recommended that NMFS can monitor monkfish landings in real time through sector catch reports. One commercial fishing group suggested that NMFS should post a weekly landings update so that everyone can know if the fishery is approaching a trigger that would reinstate existing trip limits. One vessel operator suggested that NMFS should reinstate trip limits when 70 percent of the NFMA monkfish TAL is caught. Another vessel owner stated that it is important to review landings after 180 days to see how close landings are to the TAL before renewing the emergency action for another 186 days, stating that he did not want to see TAL exceeded, triggering reactive accountability measure (AM) in 2015. One commercial fishing group asked how any TAL overage would be applied, and if any overage would be deducted from the TAL/ACT for both areas, or just one area.

Response: We agree that sufficient monitoring of fishing operations is essential during FY 2013 to detect whether fishing patterns and landing rates have changed as early as possible. If fishing operations change in a manner that would suggest the FY 2013 NFMA monkfish TAL may be exceeded before the end of the FY, reinstatement of existing monkfish possession limits may be warranted. We believe that measures in place, including weekly VTRs, sector reports, and VMS positional data and vessel activity declarations, are sufficient to monitor monkfish landings in a timely manner in order to trigger reinstatement of existing trip limits. We will use all data available to monitor monkfish landings and fishing behavior, and have set up a monitoring plan to respond accordingly. Based on the regulations implemented under Amendment 5, any overage of the monkfish ACL, not TAL, in a particular management area would be deducted on a pound-for-pound basis from the ACT of the area in which the ACL was exceeded 2 years following the overage. This would enable the Councils to develop appropriate measures (DAS allocations and trip limits) to ensure that reduced ACT is not exceeded.

Request for Additional Comments

This final rule implements measures that differ from those originally proposed for this emergency action. We have determined that the modifications fall within the scope of possible measures contemplated by this emergency action in that the modification merely withdraws the suspension of an existing measure. This possible action was analyzed as Alternative 1 in the EA developed for this action. Nevertheless, NMFS is soliciting additional public comment on these final measures, including the modification. NMFS is especially interested in receiving comments regarding what effect these measures may have on fishing behavior. Additional comments will be accepted through May 30, 2013.

Changes From the Proposed Rule

NMFS has made two changes to the proposed rule, including changes as a result of public comment. These changes are listed below in the order that they appear in the regulations.

In § 648.94, the proposed suspension of paragraph (b)(3)(i) has been withdrawn, and the proposed addition of paragraph (b)(3)(iv) has been removed because monkfish Category C and D vessels are not exempt from existing monkfish possession limits when fishing under a groundfish DAS in the NFMA as part of this action.

Classification

The NMFS Assistant Administrator has determined that the emergency measures implemented by this interim final rule are consistent with the Monkfish FMP, provisions of the Magnuson-Stevens Act, agency guidelines on emergency rules, and other applicable law. NMFS, in making a final determination, has taken into account the data, views, and comments received during the public comment period.

Because this rule relieves a restriction by suspending the current monkfish possession restrictions for vessels fishing under a monkfish DAS in the NFMA, it is not subject to the 30-day delayed effectiveness provision of the Administrative Procedure Act pursuant to 5 U.S.C. 553(d)(1). Vessels issued a Federal limited access monkfish Category C or D permit fishing in the NFMA under a monkfish DAS would otherwise be subject to a monkfish possession limit of 1,250 lb (567 kg) or 600 lb (272 kg) tail weight per DAS fished, respectively (see Table 1). If monkfish catch exceeds these limits, a vessel must either discard monkfish, or retain legal-sized fish and remain at sea until sufficient time has elapsed to account for the amount of monkfish retained. This action suspends those possession limits to encourage greater monkfish landings and associated fishing revenue as a means to help alleviate the substantial economic and social impacts expected from substantially reduced groundfish ACLs in FY 2013. Accordingly, implementing this action following a 30-day delayed effectiveness would be contrary to the public interest, because it would unnecessarily delay the public's ability to take advantage of unlimited monkfish possession limits and associated economic benefits of higher monkfish

landings, thereby undermining the intent of the rule. A swift implementation of this final action minimizes the chances of negative economic impacts resulting from the reduced groundfish ACLs for some stocks during FY 2013. Thus, there is also good cause under 5 U.S.C. 553(d)(3) to waive the delay in effectiveness for this action.

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

This interim final rule does not contain policies with Federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

Final Regulatory Flexibility Analysis (FRFA)

An EA was prepared for this action that analyzed the environmental impacts of the measures being implemented, as well as alternatives to such measures. The measures originally proposed for this action are described as Alternative 2 in the EA prepared for this action, while the measures implemented by this action are described as Alternative 1 in the EA. This EA was revised since the publication of the proposed rule to incorporate updated information regarding the population estimates for Atlantic sturgeon, and to reclassify the preferred alternative for this action as Alternative 1. A copy of the Finding of No Significant Impact for the EA prepared for this action is available from the Regional Administrator (see **ADDRESSES**).

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), NMFS prepared this FRFA in support of the measures implemented by this interim final rule. The FRFA incorporates the IRFA that was published in the proposed rule for this action, relevant portions of the EA and preamble to this rule, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments. A summary of the economic impacts of the measures implemented by this interim final rule is included below to reflect that the measures implemented by this final action are those classified as the impacts of Alternative 1 in the IRFA that were not fully described in the proposed rule for this action. A description of the action, why it is being considered, its objectives, and its legal basis are contained in the preamble to the proposed and this interim final rule and in the background, purpose, and need discussion (Section 2.0) of the EA prepared for this action, and are not repeated here. A copy of this analysis is available from the Regional Administrator (see **ADDRESSES**).

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

Comment: As noted in Comment 12, several commenters were concerned that the proposed action would only apply to monkfish Category C and D permit holders, rather than to all limited access monkfish permits, while one vessel owner suggested that the proposed action could depress prices for those vessels not able to land additional monkfish under this action.

Response: Exempting all monkfish limited access permits from the existing monkfish possession limits is not consistent with the purpose and need for this action, as monkfish Category A and B vessels are not directly affected by reductions in groundfish ACLs in FY 2013. In contrast, vessels issued a monkfish Category C or D permit are directly affected by groundfish ACL reductions during FY 2013, and can benefit from additional opportunity to harvest monkfish to help mitigate expected substantial economic and social impacts from reduced groundfish ACLs. Therefore, it is not consistent with the intent of this action to increase possession limits for monkfish Category A or B.

We agree that it is possible that measures implemented by this interim final rule could decrease ex-vessel prices if sufficient volumes are landed in a short period of time and market demand is insufficient to accommodate the supply of monkfish. However, this is possible under current regulations as well. This interim final rule revises the proposed measures by only allowing Category C or D monkfish vessels fishing under a monkfish DAS to be exempt from existing monkfish possession limits in the NFMA. While this is expected to result in increased monkfish landings compared to existing measures, it is expected that less monkfish would be landed than under the proposed action. Therefore, this may help assuage concerns that this action would depress monkfish prices, but would not eliminate the potential for market prices to decrease during FY 2013.

Description and Estimate of the Number of Small Entities to Which the Interim Final Rule Would Apply

Similar to the measures included in the proposed rule, the measures implemented by this interim final rule affect any vessel issued a valid Federal limited access monkfish Category C or D permit that fishes under a monkfish DAS in the NFMA. As of December 7, 2012, 2,212 vessels were issued a Federal monkfish permit, of which 558 were issued limited access monkfish Category C or D permits during FY 2012. However, not all of these vessels will likely fish in the NFMA during FY 2013. During FY 2008, 400 Category C or D vessels fished in the NFMA out of a total of 690 vessels that were issued a limited access monkfish Category C or D permit (58 percent). During FY 2011, a total of 189 monkfish Category C or D vessels fished exclusively in the NFMA, or in both the NFMA and SFMA during the same trip, out of 586 permits issued (32 percent). Therefore, it is expected that between 200–400 vessels would be affected by this action. The average size and horsepower of vessels affected by this action is 60 ft (18 m) and 540 horsepower. Because over 80 percent of NFMA monkfish landings in recent years were landed by trawl vessels, trawl vessels would be most affected by this action. For a more detailed description of the affected entities, refer to the EA prepared for this action (see **ADDRESSES**).

The Small Business Administration (SBA) defines a small business as one that is: Independently owned and operated; not dominant in its field of operation; and has annual receipts not in excess of $4.0 million in the case of commercial harvesting entities. In the proposed rule for this action, the IRFA stated that all vessels affected by this action are considered small vessels. Additional analysis prepared in support of FW 48 to the NE Multispecies FMP (March 25, 2013; 78 FR 18188) provided additional information regarding the size and affiliation of vessels issued a NE multispecies permit, including vessels issued a limited access monkfish Category C and D permit that are affected by this action. Calendar year 2011 serves as the baseline year for this analysis because calendar year 2012 data are not yet available in a fully audited form. There were 396 permited vessels that landed monkfish during calendar year 2011. By grouping unique combinations of persons who own each permit into distinct ownership groups, there were 303 distinct ownership entities identified during 2011. Mean gross sales by each of these distinct ownership groups were then summed for all affiliated permits to determine if the collective permits owned by each distinct ownership group exceeded the SBA threshold for defining large

entities. This results in 277 small entities, and 26 large entities during 2011, using SBA guidelines. Because this interim final rule does not impose any costs on affected entities, there are no disproportionate impacts between small and large entities associated with this action.

Economic Impacts of the Final Action

Realized revenues from the final action are estimated to be approximately $14.4 million from monkfish landings alone by all vessels during FY 2013 based on a projection of monkfish landings and using the average monkfish price observed to date during FY 2012 ($1.22 per lb ($2.69 per kg) live weight equivalent). That projection estimated that monkfish landings would reach 11,764,639 lb (5,336 mt) under the final action (Alternative 1 in the EA). Compared to the No Action Alternative, the final action would increase monkfish landings by nearly 402,000 lb (182,000 kg), but would result in nearly 140,000 lb (63,500 kg) less monkfish landings than the proposed measures (Alternative 2 in the EA). The final action would increase monkfish fishing revenue by $490,000 compared to the No Action Alternative, but would result in nearly $170,000 less monkfish fishing revenue compared to the original proposed measures. Additional fishing revenue would also be expected based on landings of other species.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of This Interim Final Rule

This action does not contain any new recordkeeping or reporting requirements, and does not impose any additional costs to affected vessels.

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

During the development of this emergency action, NMFS considered and fully analyzed three principal alternatives, including the No Action Alternative, the measures implemented by this interim final rule (Alternative 1), and measures specified in the proposed rule for this action (Alternative 2). The No Action Alternative would have retained the existing monkfish possession limits, while Alternative 2 would have suspended monkfish possession limits for vessels issued a Federal limited access monkfish Category C or D permit when fishing under either a monkfish or a groundfish DAS in the NFMA. NMFS also considered, but did not fully analyze, several additional alternatives that were rejected because they were beyond the scope of the purpose and need for this action. The No Action Alternative was not selected because the existing possession limits would not increase monkfish landings and help mitigate the adverse social and economic impacts of the reduced 2013 groundfish ACLs consistent with the purpose and need for this action. For a more complete description of the alternatives considered, refer to the EA prepared for this action (see **ADDRESSES**).

Both Alternatives 1 and 2 would likely result in increased fishing revenue compared to the existing monkfish possession limits, but different potential impacts on the monkfish resource. Based on public comments and further consideration by NMFS, Alternative 2 would likely create incentives to substantially increase monkfish effort by allowing vessels to use available groundfish DAS to fish for groundfish and monkfish in the NFMA, and save their monkfish DAS to fish for monkfish in the SFMA during FY 2013. Because current monkfish effort controls are based on recently observed fishing practices, such a shift in behavior would likely increase monkfish landings beyond those anticipated, particularly in the SFMA, thereby undermining the effectiveness of effort controls adopted in Amendment 5. This could lead to monkfish landings that exceed the SFMA TAL during FY 2013, as existing regulations do not allow the Regional Administrator to revise monkfish possession limits for vessels operating in the SFMA. Further, such measures are beyond the purpose and intent of this emergency action, and were not included in the proposed rule for this action. Therefore, it would not have been possible to slow or curtail excessive monkfish landings in the SFMA if monkfish fishing effort would shift into the SFMA under the proposed emergency action, as suggested in public comments. To minimize the potential increase and shift of effort into the SFMA, the measures implemented by this interim final rule require vessels to use their monkfish DAS to be exempt from current monkfish possession limits in the NFMA. This reduces the likelihood that monkfish fishing effort would substantially increase outside of the NFMA during FY 2013 and potentially cause the FY 2013 SFMA monkfish TAL to be exceeded.

Although this interim final rule would likely result in less monkfish fishing revenue than would be expected from the original proposed measures (Alternative 2), this final action would likely still result in economic benefits to affected entities. Further, unlike the original proposed measures, the final action would likely increase monkfish fishing opportunities and associated revenue in the NFMA without increasing the likelihood of exceeding the monkfish TAL in the SFMA. If excessive effort in the SFMA results in landings that exceed the SFMA monkfish TAL, overfishing could occur, leading to more restrictive measures and negative impacts in the future. This would necessitate reductions in future monkfish fishing opportunities in the SFMA, as suggested in public comments received for this action. Thus, this final action (Alternative 1) would likely provide the highest overall benefit to affected entities, while reducing the risk of long-term negative impacts to the monkfish resource and associated fishing vessels and communities.

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 16, 2013.

Alan D. Risenhoover,

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

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.94, suspend paragraphs (b)(1)(i) and (b)(1)(ii), and add paragraphs (b)(1)(iii) through (v), and paragraph (h) to read as follows:

§ 648.94 Monkfish possession and landing restrictions.

* * * * *

(b) * * *

(1) * * *

(iii) *Category A vessels.* A limited access monkfish Category A vessel that fishes under a monkfish DAS exclusively in the NFMA may land up to 1,250 lb (567 kg) tail weight or 3,638 lb (1,650 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(iv) *Category B vessels.* A limited access monkfish Category B vessel that fishes under a monkfish DAS exclusively in the NFMA may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish (gutted) per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(v) *Category C and D vessels.* Unless otherwise specified pursuant to paragraph (h) of this section, there is no monkfish trip limit for limited access monkfish Category C or D vessels that are fishing under a monkfish DAS exclusively in the NFMA.

* * * * *

(h) *Regional Administrator authority to reinstate monkfish possession limits.* Based upon available information, if the Regional Administrator projects that monkfish landings on trips that fished in the NFMA may exceed the fishing year 2013 target total allowable landing limit of 5,854 mt or, when combined with an estimate of discards, the 6,567 mt annual catch target, before the end of fishing year 2013 on April 30, 2014, the Regional Administrator shall reinstate monkfish possession limits for Category C and D vessels in a manner consistent with the Administrative Procedure Act. If monkfish possession limits are reinstated pursuant to this paragraph (h), Category C vessels shall be subject to the possession limits specified in paragraphs (b)(1)(iii) and (c)(1)(i) of this section, while Category D vessels shall be subject to the possession limits specified in paragraphs (b)(1)(iv) and (c)(1)(i) of this section.

[FR Doc. 2013–10023 Filed 4–29–13; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 83
Tuesday, April 30, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1140; Airspace Docket No. 12–ASW–11]

Proposed Amendment of Class E Airspace; Harlingen, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Harlingen, TX. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) due to the decommissioning of the Sebas locator outer marker/nondirectional radio beacon (LOM/NDB) at Valley International Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–1140/Airspace Docket No. 12–ASW–11, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–1140/Airspace Docket No. 12–ASW–11.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by amending Class E airspace extending upward from 700 feet above the surface to accommodate new standard instrument approach procedures due to the decommissioning of the Sebas LOM/NDB at Valley International Airport (formerly Rio Grande Valley International Airport), Harlingen, TX. Small segments would extend from the current 7.8-mile radius of the airport to 12.3 miles north and 11.5 miles south of the airport to provide adequate controlled airspace for the safety and management of IFR operations. Geographic coordinates and the airport name would also be updated to coincide with the FAA's aeronautical database.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority

described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Valley International Airport, Harlingen, TX.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E5 Harlingen, TX [Amended]

Harlingen, Valley International Airport, TX
(Lat. 26°13′38″ N., long. 97°39′19″ W.)

That airspace extending upward from 700 feet above the surface within a 7.8-mile radius of Valley International Airport, and within 2 miles each side of the 181° bearing from the airport extending from the 7.8-mile radius to 11.5 miles south of the airport, and within 2.5 miles each side of the 000° bearing from the airport extending from the 7.8-mile radius to 12.3 miles north of the airport.

Issued in Fort Worth, TX on April 11, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–10164 Filed 4–29–13; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0001; Airspace Docket No. 12–ASO–45]

Proposed Amendment of Class E Airspace; Live Oak, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace in the Live Oak, FL area, as new Standard Instrument Approach Procedures (SIAPs) have been developed at Suwannee County Airport. Controlled airspace is necessary for the continued safety and management of instrument flight rules (IFR) operations for SIAPs within the Live Oak, FL, airspace area. This action would also update the geographic coordinates of Suwannee Hospital Emergency Heliport.

DATES: 0901 UTC. Comments must be received on or before June 14, 2013.

ADDRESSES: Send comments on this rule to: U. S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2013–0001; Airspace Docket No. 12–ASO–45, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2013–0001; Airspace Docket No. 12–ASO–45) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0001; Airspace Docket No. 12–ASO–45.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface in the Live Oak, FL area, creating controlled airspace within a 7-mile radius of Suwannee County Airport, to support the new RNAV (GPS) standard instrument approach procedures for Suwannee County Airport. Controlled airspace is necessary for the continued safety and management of IFR operations within the Live Oak, FL, airspace area. Also, the point in space coordinates serving Suwannee Hospital Emergency Heliport would be adjusted to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6005 of FAA order 7400.9W, dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace in the Live Oak, FL, area.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71:

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO LL E5 Live Oak, FL [Amended]

Suwannee County Airport, FL
(Lat. 30°18′01″ N., long. 83°01′29″ W.)
Suwannee Hospital Emergency Heliport
Point in space coordinates
(Lat. 30°17′29″ N., long. 83°0′24″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Suwannee County Airport, and within 6-mile radius of the points in space (lat. 30°17′29″ N., long. 83°0′24″ W.) serving Suwannee Hospital Emergency Heliport.

Issued in College Park, Georgia, on April 22, 2013.

Barry A. Knight,

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

[FR Doc. 2013–10190 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0267; Airspace Docket No. 13–ASW–2]

Proposed Amendment of Class E Airspace; Fort Polk, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Fort Polk, LA. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Polk Army Airfield (AAF). The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0267/Airspace Docket No. 13–ASW–2, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall

regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0267/Airspace Docket No. 13–ASW–2.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by amending Class E airspace extending upward from 700 feet above the surface to accommodate new standard instrument approach procedures at Polk AAF, Fort Polk, LA. A small segment would extend from the current 7.6-mile radius of the airport to 20.2 miles north of the airport to provide adequate controlled airspace for the safety and management of IFR operations at the airport. Geographic coordinates would also be updated to coincide with the FAA's aeronautical database.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Polk AAF, Fort Polk, LA.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW LA E5 Fort Polk, LA [Amended]

Fort Polk, Polk AAF, LA
(Lat. 31°02′41″ N., long. 93°11′30″ W.)
Polk VORTAC
(Lat. 31°06′42″ N., long. 93°13′04″ W.)

That airspace extending upward from 700 feet above the surface within a 7.6-mile radius of Polk AAF, and within 8 miles west and 4 miles east of each side of the 340° radial from the Polk VORTAC extending from the 7.6-mile radius to 20.2 miles north of the airport, excluding that airspace within restricted areas R–3803A, R–3804A, and R–3804B.

Issued in Fort Worth, TX on April 11, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–10169 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0274; Airspace Docket No. 13–ACE–2]

Proposed Establishment of Class E Airspace; Stockton, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Stockton, KS. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Rooks County Regional Airport. The FAA is

taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0274/Airspace Docket No. 13–ACE–2, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0274/Airspace Docket No. 13–ACE–2.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking 202–267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 7-mile radius, with an extension to the south, to accommodate new standard instrument approach procedures at Rooks County Regional Airport, Stockton, KS. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Rooks County Regional Airport, Stockton, KS.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ACE KS E5 Stockton, KS [New]

Stockton, Rooks County Regional Airport, KS
(Lat. 39°20′48″ N., long. 99°18′17″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Rooks County Regional Airport, and within 2 miles each side of the 181° bearing from the airport extending from the 7-mile radius to 10.1 miles south of the airport.

Issued in Fort Worth, TX on April 11, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–10161 Filed 4–29–13; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1281; Airspace Docket No. 12–ASW–13]

Proposed Establishment of Class E Airspace; Colt, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Colt, AR. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Delta Regional Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–1281/Airspace Docket No. 12–ASW–13, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527, is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–1281/Airspace Docket No. 12–ASW–13.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking 202–267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 7.1-mile radius of Delta Regional Airport, Colt, AR, to accommodate new standard instrument approach procedures at the airport. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Delta Regional Airport, Colt, AR.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW AR E5 Colt, AR [New]

Delta Regional Airport, AR
(Lat. 35°07′12″ N., long. 90°49′35″ W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of Delta Regional Airport.

Issued in Fort Worth, TX on April 11, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–10174 Filed 4–29–13; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1282; Airspace Docket No. 12–AGL–16]

Proposed Establishment of Class E Airspace; Parkston, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Parkston, SD. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Parkston Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–1282/Airspace Docket No. 12–AGL–16, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–1282/Airspace Docket No. 12–AGL–16.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.8-mile radius to accommodate new standard instrument approach procedures at Parkston Municipal Airport, Parkston, SD. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A,

Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Parkston Municipal Airport, Parkston, SD.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL SD E5 Parkston, SD [New]

Parkston Municipal Airport, SD
(Lat. 43°22′39″ N., long. 97°59′23″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Parkston Municipal Airport.

Issued in Fort Worth, TX on April 16, 2013.

David P. Medina

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–10186 Filed 4–29–13; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1283; Airspace Docket No. 12–AGL–15]

Proposed Establishment of Class E Airspace; Mahnomen, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Mahnomen, MN. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Mahnomen County Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–1283/Airspace Docket No. 12–AGL–15, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–1283/Airspace Docket No. 12–AGL–15.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6-mile radius to accommodate new standard instrument approach procedures at Mahnomen County Airport, Mahnomen, MN. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Mahnomen County Airport, Mahnomen, MN.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL MN E5 Mahnomen, MN [New]

Mahnomen County Airport, MN
(Lat. 47°15′38″ N., long. 95°55′41″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Mahnomen County Airport.

Issued in Fort Worth, TX on April 16, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–10182 Filed 4–29–13; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0266; Airspace Docket No. 13–AGL–11]

Proposed Establishment of Class E Airspace; Walker, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Walker, MN. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Walker Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0266/Airspace Docket No. 13–AGL–11, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0266/Airspace Docket No. 13–AGL–11.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 8-mile radius to accommodate new standard instrument approach procedures at Walker Municipal Airport, Walker, MN. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Walker Municipal Airport, Walker, MN.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL MN E5 Walker, MN [New]

Walker Municipal Airport, MN
(Lat. 47°09′34″ N., long. 94°38′43″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Walker Municipal Airport.

Issued in Fort Worth, TX, on April 16, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–10178 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket ID ED–2012–OPE–0008]

Negotiated Rulemaking Committee; Public Hearings; Correction

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Intent to establish negotiated rulemaking committee; correction.

SUMMARY: In May 2012, we announced our intention to establish a negotiated rulemaking committee to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended. On April 16, 2013, we published in the **Federal Register** a notice announcing additional topics for consideration by that committee. We announced three public hearings at which interested parties may comment. We also announced that for anyone unable to attend a public hearing, we would accept written comments. This document corrects the inconsistent docket numbers we provided for commenters in the April 16 document. The correct docket number is ED–2012–OPE–0008.

DATES: Effective April 30, 2013.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of April 16, 2013 (78 FR 22467), on page 22467, in the first column, in the headings for the notice, we correct the docket number to read: ''[Docket ID ED–2012–OPE–0008]''

The docket number for the notice is correctly stated as ''ED–2012–OPE–0008'' on page 22467 in the third column of the notice. However, in the heading in the first column on page 22467, the docket number is incorrectly stated as ''ED–2013–OPE–0008,'' rather than the correct ''ED–2012–OPE–0008.'' We are correcting that error.

Program Authority: 20 U.S.C. 1098a.

FOR FURTHER INFORMATION CONTACT: Wendy Macias, U.S. Department of Education, 1990 K Street NW., Room 8017, Washington, DC 20006. Telephone: (202) 502–7526. Email: *Wendy.Macias@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact persons listed under For Further Information Contact in this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System

at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 25, 2013,

Martha Kanter,

Under Secretary for Education.

[FR Doc. 2013–10104 Filed 4–29–13; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2013–0274, FRL–9807–6]

Approval and Promulgation of Implementation Plans; New York; Infrastructure SIP for the 1997 8-Hour Ozone and the 1997 and 2006 Fine Particulate Matter Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve most elements of New York's State Implementation Plan (SIP) revisions submitted to demonstrate that the State meets the requirements of the Clean Air Act (CAA) for the 1997 8-hour ozone and the 1997 and 2006 fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). EPA is also proposing to conditionally approve certain elements of New York's submittals. The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by the EPA and is commonly referred to as an infrastructure SIP.

DATES: Comments must be received on or before May 30, 2013.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–R02–OAR–2013–0274, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Ruvo.Richard@epa.gov.*
- *Fax:* 212–637–3901.
- *Mail:* Richard Ruvo, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.
- *Hand Delivery:* Richard Ruvo, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R02–OAR–2013–0274. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional 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 *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. EPA requests, if at all possible, that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249, or by email at *wieber.kirk@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA proposing?
II. What is the background information?
III. What is a section 110(a)(1) and (2) SIP?
IV. What elements are required under section 110(a)(1) and (2)?
V. What did New York submit?
VI. How has the State addressed the elements of the section 110(a)(1) and (2) ''infrastructure'' provisions?
VII. What action is EPA taking?
VIII. Statutory and Executive Order Reviews

I. What action is EPA proposing?

EPA is proposing to approve and conditionally approve elements of the State of New York Infrastructure SIP as meeting the section 110(a) infrastructure requirements of the Clean Air Act (CAA) for the 1997 ozone, 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS or standards). As explained below, the State has the necessary infrastructure, resources, and general authority to implement the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ standards, except where specifically noted.

II. What is the background information?

On July 18, 1997, EPA promulgated new and revised NAAQS for 8-hour ozone (62 FR 38856) and $PM_{2.5}$ (62 FR 38652). The ozone NAAQS is based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm [1]. The new $PM_{2.5}$ NAAQS established a health-based standard of 15.0 micrograms per cubic meter (µg/

[1] EPA issued a revised 8-hour ozone standard on March 27, 2008 (73 FR 16436). On September 22, 2011, EPA clarified that the current ozone standard is set at 75 ppb. EPA is not addressing the 2008 ozone NAAQS in this rulemaking.

m^3) based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour standard of 65 $\mu g/m^3$ based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA strengthened the 24-hour $PM_{2.5}$ NAAQS from 65 $\mu g/m^3$ to 35 $\mu g/m^3$ on October 17, 2006 (71 FR 61144) [2].

Section 110(a) of the CAA requires states to submit State Implementation Plans (SIPs) that provide for the implementation, maintenance, and enforcement of new or revised NAAQS within three years following the promulgation of such NAAQS.

III. What is a section 110(a)(1) and (2) SIP?

Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. Sections 110(a)(1) and (2) of the CAA requires, in part, that states submit to EPA plans to implement, maintain and enforce each of the NAAQS promulgated by EPA. EPA interprets this provision to require states to address basic SIP requirements including emission inventories, monitoring, and modeling to assure attainment and maintenance of the standards. By statute, SIPs meeting the requirements of section 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised standard. These SIPs are commonly called infrastructure SIPs. In 1997, EPA promulgated the 8-hour ozone primary and secondary NAAQS and a new annual and 24-hour $PM_{2.5}$ NAAQS. Intervening litigation over the 1997 standards caused a delay in SIP submittals. In 2006, EPA promulgated a new 24-hour $PM_{2.5}$ NAAQS.

IV. What elements are required under section 110(a)(1) and (2)?

The infrastructure requirements are listed in EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' and September 25, 2009, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards.[3] The 14 elements required to be addressed are as follows: (1) Emission limits and other control measures; (2) ambient air quality monitoring/data system; (3) program for enforcement of control measures; (4) interstate transport; (5) adequate resources; (6) stationary source monitoring system; (7) emergency power; (8) future SIP revisions; (9) consultation with government officials; (10) public notification; (11) prevention of significant deterioration (PSD) and visibility protection; (12) air quality modeling/data; (13) permitting fees, and (14) consultation/participation by affected local entities.

Two elements identified in section 110(a)(2) are not governed by the 3 year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within 3 years after promulgation of a new or revised NAAQS, but rather due at the time that the nonattainment area plan requirements are due pursuant to section 172. See 77 FR 46354 (August 3, 2012); 77 FR 60308 (October 3, 2012, footnote 1). These requirements are: (1) submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. As a result, this action does not address the above infrastructure elements related to section 110(a)(2)(C) or 110(a)(2)(I).

This action also does not address the requirements of section 110(a)(2)(D)(i) for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS, since they had been addressed in previous rulemakings. See January 24, 2008 (73 FR 4109). Additionally, this action does not address the requirements of section 110(a)(2)(D)(i)(I) for the 2006 $PM_{2.5}$ NAAQS, which was addressed in a previous EPA rulemaking. See July 20, 2011 (76 FR 43153).

Scope of Infrastructure SIPs

This rulemaking will not cover four substantive issues that are not integral to acting on a state's infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction (''SSM'') at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (''director's discretion''); (iii) existing provisions for minor source NSR programs that may be inconsistent with the requirements of the CAA and EPA's regulations that pertain to such programs (''minor source NSR''); and, (iv) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). A detailed rationale for why these four substantive issues are not part of the scope of infrastructure SIP rulemakings can be found in EPA's July 13, 2011, final rule entitled, ''Approval and Promulgation of Air Quality Implementation Plans; Illinois; Indiana; Michigan; Minnesota; Ohio; Wisconsin; Infrastructure SIP Requirements for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' in the section entitled, ''What is the scope of this final rulemaking?'' (76 FR 41075 at 41076–41079).

V. What did New York Submit?

EPA is acting on three New York SIP submittals, dated December 13, 2007, October 2, 2008 and March 15, 2010, which address the section 110 infrastructure requirements for the three NAAQS: the 1997 8-hour ozone NAAQS, the 1997 annual and 24-hour $PM_{2.5}$ NAAQS, and the 2006 24-hour $PM_{2.5}$ NAAQS.

December 13, 2007 SIP submission

New York's section 110 infrastructure submittal was submitted by the New York State Department of Environmental Conservation (NYSDEC) on December 13, 2007 and addressed the 1997 ozone NAAQS. Effective April 28, 2008, the submittal was determined to be complete for all elements except 110(a)(2)(C). 73 FR 16205 (March 27, 2008). New York's December 13, 2007 section 110 submittal demonstrates how the State, where applicable, has a plan in place that meets the requirements of section 110 for the 1997 8-hour ozone NAAQS. This plan references the current New York Air Quality SIP, the New York Codes of Rules and Regulations (NYCRR), the New York Environmental Conservation Law (ECL) and the New York Public Officer's Law (POL). The NYCRR, ECL and POL

[2] EPA issued a revised $PM_{2.5}$ standard on January 15, 2013 (78 FR 3086). EPA is not addressing the 2012 $PM_{2.5}$ NAAQS in this rulemaking.

[3] ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' which can be found at *http://www.epa.gov/ttn/oarpg/t1/memoranda/110a_sip_guid_fin100207.pdf* and ''Guidance on SIP Elements Required Under Sections 11O(a)(l) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS)'' which can be found at *http://www.epa.gov/ttn/oarpg/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf.*

referenced in the submittal are publicly available. New York's air pollution control regulations that have been previously approved by EPA and incorporated into the New York SIP can be found at 40 CFR 52.1670 and are posted on the Internet at: *http://www.epa.gov/region02/air/sip/ny_reg.htm.*

October 2, 2008 SIP submission

New York's section 110 infrastructure submittal for the 1997 $PM_{2.5}$ NAAQS was submitted by the NYSDEC on October 2, 2008, and the submittal was deemed complete April 2, 2009.

March 15, 2010 SIP submission

New York's section 110 infrastructure submittal for the 2006 $PM_{2.5}$ 24-hour NAAQS was submitted by the NYSDEC on March 15, 2010, and the submittal was deemed complete September 15, 2010.

EPA's evaluation of all three submittals is detailed in the ''Technical Support Document for EPA's Proposed Rulemaking for the New York's State Implementation Plan Revision: State Implementation Plan Revision For Meeting the Infrastructure Requirements In the Clean Air Act Dated December 13, 2007, October 2, 2008 and March 15, 2010'' (TSD). As explained in the **ADDRESSES** section of this action, the TSD is available in the docket (EPA–R02–OAR–2013–0274) for this action and at the EPA Region 2 Office.

VI. How has the State addressed the elements of the section 110(a)(1) and (2) ''infrastructure'' provisions?

A. Emission Limits and Other Control Measures

Section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means, or techniques, and schedules for compliance. EPA notes that the specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirement of section 172, not the timing requirement of section 110(a)(1). New York's ECL section 19–0301, provides the NYSDEC with power to formulate, adopt and promulgate, amend and repeal codes and rules and regulations for preventing, controlling and prohibiting air pollution in such areas of the State as shall or may be affected by air pollution. The federally enforceable New York SIP contains enforceable emission limits and other control measures. EPA is proposing to determine that New York has met the requirements of section 110(a)(2)(A) of the CAA with respect to the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS.

B. Ambient Air Quality Monitoring/Data System

Section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, to monitor, compile and analyze ambient air quality data, and to make these data available to EPA upon request. New York, under its authority provided in ECL subsection 19–0305(2)(d), operates and maintains a network of ambient air quality monitors used to sample the degree of air pollution throughout the State and submits the data collected to EPA. New York has submitted annual air monitoring network plans which have been approved by EPA. The most recent was approved by EPA on October 18, 2012. EPA is proposing to determine that New York has met the requirements of section 110(a)(2)(B) of the CAA with respect to the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS.

C. Program for Enforcement of Control Measures

Section 110(a)(2)(C) requires states to have a plan that includes a program providing for enforcement of all SIP measures and the regulation of the modification and construction of any stationary source, including a program to meet Prevention of Significant Deterioration (PSD) and minor source new source review.

The NYSDEC is authorized by ECL section 19–0305, to enforce the codes, rules and regulations of the NYCRR. The minor source permitting and enforcement programs operate under Title 6 NYCRR Part 201, ''Permits and Registrations''. EPA proposes to find that the State has adequate authority and regulations to insure that SIP approved control measures are enforced for the 1997 8-hour ozone and the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ NAAQS.

On March 3, 2009, the State of New York, through the NYSDEC, submitted to EPA Region 2 revisions to the New York SIP. The submittal consists of revisions to three regulations. The affected regulations are: 6 NYCRR Part 231, ''New Source Review for New and Modified Facilities''; 6 NYCRR Part 200, ''General Provisions''; and 6 NYCRR Part 201, ''Permits and Certificates''. The purpose of these revisions were to revise the New York State PSD program regulations and to update the existing New York State nonattainment regulations consistent with changes to the Federal NSR regulations published on December 31, 2002 (67 FR 80186). On November 17, 2010 (75 FR 70140), EPA approved the New York PSD program.

EPA proposes to find that the State has adequate authority and regulations to ensure that SIP-approved control measures are enforced. EPA also finds that based on the approval of New York's PSD program, New York has the authority to regulate the construction of new or modified stationary sources to meet the PSD program requirements. EPA is proposing to determine that New York has met the requirements of section 110(a)(2)(C) and (J) of the CAA with respect to the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS.

D. Interstate Transport

Section 110(a)(2)(D) is divided into two subsections, 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) consists of two subsections (I) and (II), each of which has two ''prongs.'' The two prongs under 110(a)(2)(D)(i)(I) prohibit any source or other type of emissions activity within the State from emitting any air pollutants in amounts which will (prong 1) contribute significantly to nonattainment in any other state with respect to any primary or secondary NAAQS, and (prong 2) interfere with maintenance by any other state with respect to any primary or secondary NAAQS. The two prongs under 110(a)(2)(D)(i)(II) prohibit any source or other type of emissions activity within the state from emitting any air pollutants in amounts which will interfere with measures required to be included in the applicable implementation plan for any other state under part C (prong 3) to prevent significant deterioration of air quality or (prong 4) to protect visibility.

Section 110(a)(2)(D)(ii) addresses interstate and international pollution abatement, and requires SIPs to include provisions insuring compliance with sections 115 and 126 of the CAA, relating to interstate and international pollution abatement.

In this action for New York, with respect to section 110(a)(2)(D)(i), we are only addressing prong 3 (i.e., interference with PSD) and prong 4 (i.e., to protect visibility) of 110(a)(2)(D)(i)(II). EPA previously took rulemaking action on prong 1 and prong 2 on January 24, 2008 (73 FR 4109) for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS, and July 20, 2011 (76 FR 43153) for the 2006 $PM_{2.5}$ NAAQS, respectively. For prong 3, as discussed previously under (C) (Program for enforcement of control measures), on November 17, 2010 (75 FR 70140), EPA approved the New York PSD program. A state's infrastructure SIP submittal can be considered for approvability with respect to prong 3 if

EPA has issued final approval of that state's PSD SIP or, alternatively, has issued final approval of a SIP that EPA has otherwise found adequate to prohibit interference with other states' measures to prevent significant deterioration of air quality. Therefore, we are proposing to approve New York's 110(a) submissions for prong 3 of 110(a)(2)(D)(i)(II) because New York has a federally approved PSD program.

For prong 4, New York has met its obligations pursuant to section 110(a)(2)(D)(i)(II) for visibility protection for all three NAAQS through its Regional Haze SIP submittals, which were approved by EPA on August 28, 2012 (77 FR 51915). The regional haze rule specifically requires that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. Thus, New York's approved Regional Haze SIP will ensure that emissions from sources within the State are not interfering with measures to protect visibility in other states. Therefore, EPA proposes to find for 8-hr ozone and $PM_{2.5}$ NAAQS that New York satisfies the section 110(a)(2)(D)(i)(II) requirement for visibility.

Regarding section 110(a)(2)(D)(ii), which relates to interstate and international pollution abatement, as noted above, on November 17, 2010 (75 FR 70140), EPA approved the New York PSD program which is consistent with 40 CFR 51.166(q)(2)(iv), and requires a source to notify air agencies whose lands may be affected by emissions from that source (see 6 NYCRR sections 231–7.4(f) and 8.5(f)). New York has no pending obligations under section 115 or 126(b) of the CAA. Therefore, we are proposing to approve New York's submissions for infrastructure element 110(a)(2)(D)(ii).

E. Adequate Resources

Section 110(a)(2)(E) requires each state to provide necessary assurances that the state (i) will have adequate personnel, funding, and authority under state law to carry out the SIP (and is not prohibited by any provision of federal or state law from carrying out the SIP or portion thereof), (ii) will comply with the requirements respecting state boards under section 128, and (iii) where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, the state has responsibility for ensuring adequate implementation of such SIP provision.

New York has adequate authority, under ECL sections 19–0301, 0303 and 0305, to carry out its SIP obligations with respect to the 1997 ozone and 1997 and 2006 $PM_{2.5}$ NAAQS. New York receives sections 103 and 105 grant funds along with required State-matching funds to provide funding necessary to carry out its SIP requirements. Therefore, EPA proposes to find New York has sufficient resources to meet the requirements of section 110(a)(2)(E)(i) for the 1997 8-hr ozone and 1997 and 2006 $PM_{2.5}$ NAAQS.

Congress added section 128 in the 1977 amendments. Titled ''State boards,'' section 128 provides in relevant part: (a) Not later than the date one year after August 7, 1977, each applicable implementation plan shall contain requirements that: (1) Any board or body which approves permits or enforcement orders under [this Act] shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under [this Act], and (2) Any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed. New York does not have a state board that approves permits or enforcement orders under the CAA. Instead, permits and enforcement orders are approved by the State's Commissioner of Environmental Conservation. Thus, the requirements of subsection 128(a)(1) are not applicable to New York. New York is subject to the requirements of section 128(a)(2). In its SIP submission New York cited POL sections 74(2) and 74(3)(e) which address conflict of interest. However, after further discussion with NYSDEC, it is more relevant to cite POL section 73-a, ''Financial disclosure'' and 19 NYCRR 937, ''Access To Publicly Available Records,'' as satisfying the section 128(a)(2) requirement. EPA proposes to conditionally approve the infrastructure SIP in fulfilling the requirements of section 110(a)(2)(E)(ii) for 1997 8-hour ozone and $PM_{2.5}$ NAAQS, provided the State submits POL section 73-a and 19 NYCRR 937 for approval as part of the SIP. In the alternative, should New York provide this information before we take final rulemaking, EPA will fully approve section 110(a)(2)(E)(ii).

Section 110(a)(2)(E)(iii) requires states to provide necessary assurances that, where the state has relied on a local or regional government, agency or instrumentality for the implementation of any provision of the SIP, the state has responsibility for ensuring adequate implementation of the SIP provision. The NYSDEC has delegation authority for inspection and enforcement efforts of various regulations under the general enforcement powers provided in ECL section 19–0305.

While New York has the authority to delegate responsibilities to county or local governments to implement certain SIP responsibilities, the information provided in both infrastructure SIP submittals does not identify the specific organizations that will participate in developing, implementing, and enforcing the plan and the responsibilities of such organizations. EPA proposes to conditionally approve the infrastructure SIP with regard to the requirements of section 110(a)(2)(E)(iii). The State must identify the county or local governments or entities that participate in the SIP planning efforts, identify the county or local governments or entities that have been delegated responsibilities to implement or enforce portions of the SIP, and provide copies of the delegation orders or memoranda of understanding (MOUs) between the State and the county or local governments or entities. Since it is EPA's understanding that this deficiency involves information that exists but was not provided in the SIP submittal, EPA proposes to conditionally approve section 110(a)(2)(E)(iii) for the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ NAAQS. In the alternative, should New York provide this information before we take final rulemaking, EPA will fully approve section 110(a)(2)(E)(iii).

F. Stationary Source Monitoring System

Section 110(a)(2)(F) requires states to establish a system to monitor emissions from stationary sources and to submit periodic emission reports.

The NYSDEC has the authority pursuant to ECL subsection 19–0311(3)(c) to require emissions monitoring, recordkeeping and reporting of stationary sources before an operating permit is issued or renewed. NYSDEC has adopted regulations to implement the federal requirements for stationary source emissions monitoring, reporting and recordkeeping in 6 NYCRR Part 201–6.4(b) and (c).

The NYSDEC adopted 6 NYCRR Part 202, ''Emission Verification,'' to require emissions reports from stationary sources. Further 6 NYCRR Part 616, Access to Records, specifically allows emission information to be made available to the public.

Based on the authority pursuant to ECL subsection 19–0311(3)(c) and the adoption of the Part 202, specifically subpart 202–2, ''Emission Statements,'' EPA is proposing to find that New York has met the requirements of section

110(a)(2)(F) for the 1997 8-hr ozone and 1997 and 2006 $PM_{2.5}$ NAAQS.

G. Emergency Power

Section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs.

For $PM_{2.5}$, EPA's guidance dated September 25, 2009[4] provides clarification that states that have air quality control regions identified as either Priority I, Priority IA or Priority II by the ''Prevention of Air Pollution Emergency Episodes'' rules at 40 CFR 51.150 must develop emergency episode contingency plans. States are required to develop emergency episode plans for any area that has monitored and recorded 24-hour $PM_{2.5}$ levels greater than 140.4 $\mu g/m^3$ since 2006. A state that has never exceeded this level since 2006 is considered to be Priority III. 40 CFR 51.150(f). In accordance with the guidance, a Priority III area may certify that it has appropriate general emergency powers to address $PM_{2.5}$-related episodes, and is not required to adopt specific emergency episode plans at this time, given the existing monitored levels.

Since 2006, air-quality monitors in New York show that $PM_{2.5}$ levels have been below the 140.5 $\mu g/m^3$ threshold. Based on air quality data, New York should be classified as a Priority III region and, therefore, emergency episode plans for $PM_{2.5}$ are not required.

However, in general and for the 1997 ozone standard, the section 110(a)(2)(G) requirements are addressed by New York's ECL, Articles 3 and 19, which are implemented through 6 NYCRR Part 207, ''Control Measures for Air Pollution Episodes.'' Among other things, 6 NYCRR Part 207 requires persons who own a significant air contamination source to submit a proposed episode action plan to the NYSDEC Commissioner, and enable the Commissioner to designate air pollution episodes which trigger the action plans. Pursuant to Part 207.3(a), the NYSDEC Commissioner shall have on file and make available the criteria used in determining the need to designate episodes. The NYSDEC maintains an ''Episode Action Plan'' with guidelines and protocols/criteria to be followed in case of an air pollution emergency. The NYSDEC's Episode Action Plan has been updated to reflect the $PM_{2.5}$ Significant Harm Levels (SHLs) proposed by EPA on January 15, 2009 along with revised values for ozone episodes. Therefore, New York has met the requirements of section 110(a)(2)(G) for the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ standards.

H. Future SIP Revisions

Section 110(a)(2)(H) requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining NAAQS, and in response to an EPA finding that the SIP is substantially inadequate.

Revisions to the New York SIP are authorized by Article 19 and sections 3–0301, 19–0103, 19–0301, 19–0303 and 19–0305 of the ECL. Article 19 of the ECL was adopted to protect New York's air resources from pollution and to put into effect the policy of the State to maintain a reasonable degree of purity of the air resources, consistent with the public health and welfare and the industrial development of the State. NYSDEC is granted specific powers and duties, including the power to promulgate regulations for preventing, controlling, or prohibiting air pollution. NYSDEC also has the specific authority to regulate motor vehicle exhaust and approve air contaminant control systems as well as regulate fuels. Section 71–2103 provides general enforcement authority for the New York State air regulations. Section 71–2105 provides criminal enforcement authority. Thus, New York has the authority to revise SIPs and provide for enforcement in response to changes in the NAAQS and improve methods for attaining the NAAQS. EPA proposes to find that the State has adequate authority to develop and implement plans and programs that fulfill the requirements of section 110(a)(2)(H) for the 1997 8-hr ozone and 1997 and 2006 $PM_{2.5}$ NAAQS.

I. Nonattainment Area Plans Under Part D

Section 110(a)(2)(I) of the CAA requires that each such plan shall ''in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D of this subchapter (relating to nonattainment areas).'' EPA is not evaluating nonattainment-related provisions, the NSR program required by part D in section 110(a)(2)(C) and measures for attainment required by section 110(a)(2)(I), as part of the infrastructure SIPs because, as discussed elsewhere in this proposal, these submittals have been addressed by other SIP revisions which EPA has or will be acting on in other rulemakings.

J. Consultation With Government Official, Public Notification, PSD, and Visibility Protection

Section 110(a)(2)(J) requires states to meet the applicable requirements of CAA section 121, relating to consultation, CAA section 127, relating to public notification, and CAA title I, part C, relating to the prevention of significant deterioration of air quality and visibility protection.

Consultation With Government Officials

Section 121 requires a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements. EPA finds that the 110(a) submittals from New York, and the cited authority of section 3–0303 of the ECL, meet the requirements of section 110(a)(2)(J) for consultation with government officials.

Public Notification

Section 127 requires that the state plan include measures to effectively notify the public of any NAAQS exceedances, advise the public of health hazards associated with such pollution, and include measures to enhance public awareness of measures that can be taken to prevent exceedances.

The NYSDEC's Web site, at *http://www.dec.nv.qov/chemical/34985.html* contains an Air Quality Index (AQI) for reporting daily air quality to the public. It describes how clean or polluted the air is, and what associated health effects might be a concern. It was created as a way to correlate levels of different pollutants to one scale; the higher the AQI value, the greater the health concern. When levels of ozone and/or fine particles are expected to exceed an AQI value of 100, an Air Quality Health Advisory is issued alerting sensitive groups to take the necessary precautions. The NYSDEC, in cooperation with the New York State Department of Health, posts warnings on the above-referenced Web site and issues press releases to local media outlets if dangerous conditions are expected to occur. The Air Quality Forecast displays the predicted AQI value for eight regions in New York State. It also displays the observed values for the previous day. Air quality measurements from New York's statewide continuous monitoring network are updated hourly where available. Parameters monitored include ozone, fine particulate, carbon

[4] See Guidance on SIP Elements Required Under Sections 110(a)(l) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS), from William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, dated September 25, 2009.

monoxide, sulfur dioxide, nitrogen oxides, methane/nonmethane hydrocarbons, and meteorological data.

EPA is proposing to find that New York's SIP submittal has met the public notification requirements of section 110(a)(2)(J) for the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ NAAQS. See section 19–0305 of the ECL.

PSD

Section 110(a)(2)(J) also requires states to meet applicable requirements of Part C related to prevention of significant deterioration and visibility protection. EPA evaluated this requirement in the context of section 110(a)(2)(C) with respect to permitting (see discussion under (C) (program for enforcement of control measures)). EPA interprets this section 110 provision relating to visibility as not being ''triggered'' by a new NAAQS because the visibility requirements in part C are not changed by a new NAAQS.

On November 17, 2010 (75 FR 70140), EPA approved the New York PSD program, as discussed under (C) (program for enforcement of control measures). The approvability of a state's PSD program in its entirety is essential to the approvability of the infrastructure SIP with respect to section 110(a)(2)(J). Therefore, EPA proposes to approve New York's infrastructure SIP with respect to the PSD sub-element of 110(a)(2)(J).

K. Air Quality and Modeling/data

Section 110(a)(2)(K) requires that SIPs provide for air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.

Authorized pursuant to sections 3–0301, 19–0103, 19–0301, 19–0303 and 19–0305 of the ECL, NYSDEC performs modeling as necessary to assess the degree of pollution in New York State. The NYSDEC certifies that the air quality modeling and analysis used in its SIPs complies with EPA's guidance on the use of models in attainment demonstrations, and commits to continue to use air quality models in accordance with EPA's approved modeling guidance and to submit data to EPA if requested. EPA proposes to find that the State has adequate authority to perform air quality modeling that fulfills the requirements of section 110(a)(2)(K).

L. Permitting Fees

Section 110(a)(2)(L) requires SIPs to require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit, until such time as the SIP fee requirement is superseded by EPA's approval of the State's Title V operating permit program.

EPA's full approval of the Title V program for New York became effective on November 30, 2001. In New York State, the Title V Permit Fee Program is established in ECL section 19–0311(c) requiring the NYSDEC to promulgate regulations that, among other things, require applications to identify and describe facility emissions in sufficient detail to establish the basis for the fees and applicability of requirements of the CAA. ECL section 72–0303 requires major stationary sources to pay operating permit program fees sufficient to support an appropriation approved by the legislature for the direct and indirect costs associated with the operating permit program established in section 19–0311.

In addition, paragraph 201–6.5(a)(7) of 6 NYCRR subpart 201–6, the NYSDEC's approved Title V program, specifically states that ''The owner and/or operator of a stationary source shall pay fees to the department consistent with the fee schedule authorized by Subpart 482–2 of this Title.''

EPA proposes to find that the State has met the requirements for section 110(a)(2)(L).

M. Consultation/participation by Affected Local Entities

Section 110(a)(2)(M) requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP.

EPA proposes to find that the State has adequate authority and procedures that fulfills the requirements of section 110(a)(2)(M). See ECL section 3–0303(3).

VII. What action is EPA taking?

EPA is proposing to approve New York's submittals as fully meeting the infrastructure requirements for the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS for the following section 110(a)(2) elements and sub-elements: (A), (B), (C), (D)(i)(II) prongs 3 and 4, (D)(ii), (E)(i), (F), (G), (H), (J), (K), (L), and (M). EPA is also proposing that EPA's action on October 22, 2008 (73 FR 62902) for New York has been satisfied.

EPA is proposing to conditionally approve New York's submittals for the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ NAAQS for the following 110(a)(2) sub-elements: E(ii) (state boards and conflict of interest provisions) and E(iii) (delegations). New York must commit in writing on or before May 30, 2013 to correct the deficiencies discussed above. New York must then correct the deficiencies and submit them to EPA within one year of EPA's final action on this SIP action. Some of the deficiencies involve providing information that EPA is familiar with and believes currently exists, but was not included in the State's submittal. Should New York provide this information before we take final rulemaking, EPA is also proposing in the alternative to fully approve New York's submittals for the section 110(a)(2)(E)(ii) and section 110(a)(2)(E)(iii) sub-elements.

Under section 110(k)(4) of the CAA, EPA may conditionally approve a plan based on a commitment from a State to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If EPA conditionally approves the commitment in a final rulemaking action, the State must meet its commitment to complete requirements of each section 110(a)(2) element listed above. If New York fails to do so for any section 110(a)(2) element, our conditional approval of that element will, by operation of law, become a disapproval for New York one year from the date of final approval. EPA will notify the State by letter that this action has occurred. At that time, this commitment will no longer be a part of the approved SIP for New York. EPA subsequently will publish a document in the **Federal Register** notifying the public that the conditional approval automatically converted to a disapproval. If New York meets its commitments within the applicable time frame, the conditionally approved submission will remain a part of the SIP or SIPs until EPA takes final action approving or disapproving the element in question.

If EPA disapproves a State's new submittal, the conditionally approved section 110(a)(2) element will also be disapproved at that time. If EPA approves the submittal, the section 110(a)(2) element will be fully approved in its entirety and replace the conditionally approved 110(a)(2) element in the SIP. Finally, if, based on information received before EPA takes final action on this proposal, EPA determines that it cannot issue a final conditional approval for one or more elements for which EPA has proposed a conditional approval, then EPA will instead issue a disapproval for such elements.

As discussed in section I, above, EPA is not acting on New York's submittal as it relates to nonattainment provisions, the NSR program required by part D in section 110(a)(2)(C) and the measures for attainment required by section 110(a)(2)(I), as part of the infrastructure

SIPs because these submittals have been addressed by other SIP revisions which EPA has or will be acting on in other rulemakings.

EPA is soliciting public comments on the issues discussed in this proposal. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional Office listed in the **ADDRESSES** section of this **Federal Register**, or by submitting comments electronically, by mail, or through hand delivery or courier following the directions in the **ADDRESSES** section of this **Federal Register**.

VIII. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: April 19, 2013.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2013–10168 Filed 4–29–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[EPA–R09–OAR–2011–0981; FRL 9806–2]

Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona, California, and Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve updates to the Code of Federal Regulations delegation tables to reflect the current delegation status of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) in Arizona, California, and Nevada.

DATES: Any comments on this proposal must arrive by May 30, 2013.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0981, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov*, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Adrianne Borgia at (415) 972–3576, *borgia.adrianne@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal will update the delegation tables in Title 40 Code of Federal Regulation Parts 60 and 61, to allow easier access by the public to the status of NSPS and NESHAP delegations in Arizona, California, and Nevada. In the Rules and Regulations section of this **Federal Register**, we are updating these delegations tables in a direct final action without prior proposal because we believe these delegations are not

controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: April 12, 2013.

Deborah Jordan,

Director, Air Division, Region IX.

[FR Doc. 2013–10176 Filed 4–29–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2012–0070; FWS–R1–ES–2013–0028; 4500030113]

RIN 1018–AY09; 1018–AZ38

Endangered and Threatened Wildlife and Plants; Listing 15 Species on Hawaii Island as Endangered and Designating Critical Habitat for 3 Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on our October 17, 2012, proposal to list 15 species as endangered and designate critical habitat for 1 of these 15 species on the Hawaiian island of Hawaii, and to designate critical habitat for 2 plant species that are already listed as endangered, under the Endangered Species Act of 1973, as amended (Act). Critical habitat is not determinable for the remaining 14 species that we proposed to list in our October 17, 2012, proposed rule. We also announce the availability of a draft economic analysis (DEA) of the proposed designation and an amended required determinations section of the proposed designation. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule, the associated DEA, and the amended required determinations section. In addition, we provide supplemental information on one of the species proposed for listing and seek comments on our proposal to list this species in light of this new information. Comments previously submitted on this rulemaking do not need to be resubmitted, as they will be fully considered in preparation of the final rule. We also announce a public hearing and public information meeting on our proposed rule and associated documents.

DATES: The comment period for the proposed rule published October 17, 2012, at 77 FR 63928, is reopened. *Written Comments:* We will consider comments received or postmarked on or before May 30, 2013. Please note comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

Public Information Meeting: We will hold a public information meeting in Kailua-Kona, Hawaii, on Wednesday, May 15, 2013, from 3 p.m. to 5 p.m. (see **ADDRESSES** below).

Public Hearing: We will hold a public hearing in Kailua-Kona, Hawaii, on Wednesday, May 15, 2013, from 6 p.m. to 8 p.m. (see **ADDRESSES** below).

ADDRESSES: *Document Availability:* You may obtain copies of the October 17, 2012, proposed rule, this document, and the draft economic analysis at *http://www.regulations.gov* at Docket Number FWS–R1–ES–2012–0070, from the Pacific Islands Fish and Wildlife Office's Web site (*http://www.fws.gov/pacificislands/*), or by contacting the Pacific Islands Fish and Wildlife Office directly (see **FOR FURTHER INFORMATION CONTACT**).

Written Comments: You may submit written comments by one of the following methods, or at the public information meeting or public hearing:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Submit comments on the listing proposal to Docket No. FWS–R1–ES–2012–0070, and submit comments on the critical habitat proposal, revisions, and associated draft economic analysis to Docket No. FWS–R1–ES–2013–0028. See **SUPPLEMENTARY INFORMATION** for an explanation of the two dockets.

(2) *By hard copy:* Submit comments on the listing proposal by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2012–0070; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203. Submit comments on the critical habitat proposal and draft economic analysis by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2013–0028; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

Public Information Meeting and Public Hearing: Both the public information meeting and the public hearing will be held in the Council Chambers of the West Hawaii Civic Center located at 74–5044 Ane Keohokalole Highway, Kailua-Kona, Hawaii 96740 (telephone 808–323–4444).

We request that you send comments only by the methods described above. We will post all comments we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Loyal Mehrhoff, Field Supervisor, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Box 50088, Honolulu, HI 96850; by telephone at 808–792–9400; or by facsimile at 808–792–9581. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: We are proposing to list 15 species on the Hawaiian island of Hawaii as endangered: specifically, 2 animals (picture-wing fly (*Drosophila digressa*) and anchialine pool shrimp (*Vetericaris chaceorum*)) and 13 plants (*Bidens hillebrandiana* ssp. *hillebrandiana, Bidens micrantha* ssp. *ctenophylla, Cyanea marksii, Cyanea tritomantha, Cyrtandra nanawaleensis, Cyrtandra wagneri, Phyllostegia floribunda, Pittosporum hawaiiense, Platydesma remyi, Pritchardia lanigera, Schiedea diffusa* ssp. *macraei, Schiedea hawaiiensis,* and *Stenogyne cranwelliae*). We are proposing to designate critical habitat for 1 of these 15 proposed species (*Bidens micrantha* ssp. *ctenophylla*), and for 2 plant species that are already listed as endangered (*Isodendrion pyrifolium* and *Caesalpinia kavaiense* (taxonomic revision proposed, to *Mezoneuron kavaiense*)).

Public Comments

We will accept written comments and information during this reopened comment period on our proposed listing determination and proposed critical habitat designation that was published in the **Federal Register** on October 17, 2012 (77 FR 63928), our draft economic analysis of the proposed critical habitat designation, and the amended required

determinations provided in this document.

On October 17, 2012, we published a proposal (77 FR 63928) to list 15 species on the island of Hawaii in the Hawaiian Islands as endangered, and designate critical habitat for 1 of those species and for 2 plant species that are already listed as endangered. Later this year, we will publish two separate final rules: One concerning the listing determinations described above, and the other concerning the critical habitat determinations described above. The final listing rule will publish under the existing Docket No. FWS–R1–ES–2012–0070, and the final critical habitat designation will publish under Docket No. FWS–R1–ES–2013–0028.

We request that you provide comments specifically on our listing determination under Docket No. FWS–R1–ES–2012–0070. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) Biological, commercial trade, or other relevant data concerning threats (or the lack thereof) to the 15 species proposed for listing, and regulations that may be addressing those threats.

(2) Additional information concerning the biology, range, distribution, and population sizes of each of the 15 species proposed for listing, including any comments on the recently confirmed new location for *Vetericaris chaceorum,* the anchialine pool shrimp proposed for listing as endangered in the October 17, 2012, proposed rule (77 FR 63928) (see discussion below), threats to the species at the new location, and the effect this new location information should have on our analysis of the listing factors for this species, which include:

- The present or threatened destruction, modification, or curtailment of its habitat or range;
- Overutilization for commercial, recreational, scientific, or educational purposes;
- Disease or predation;
- The inadequacy of existing regulatory mechanisms; or
- Other natural or manmade factors affecting its continued existence.

(3) Any information on the biological or ecological requirements of the 15 species proposed for listing, and ongoing conservation measures for the species and their habitat.

(4) Comments on our proposal to revise taxonomic classification with a name change for one plant species identified in the proposed rule.

We request that you provide comments specifically on the critical habitat determination and related draft economic analysis under Docket No. FWS–R1–ES–2013–0028. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(5) The reasons why we should or should not designate areas for *Bidens micrantha* ssp. *ctenophylla, Isodendrion pyrifolium,* and *Mezoneuron kavaiense* as ''critical habitat'' under section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), including whether there are threats to these species from human activity, the degree of which can be expected to increase due to the designation, and whether the benefit of designation would outweigh threats to these species caused by the designation, such that the designation of critical habitat is prudent.

(6) Specific information on:

- The amount and distribution of critical habitat for the three plant species;
- Areas in the geographic area occupied at the time of listing and that contain the physical or biological features essential for the conservation of the three plant species;
- Whether special management considerations or protections may be required for the physical or biological features essential to the conservation of the three plant species; and
- What areas not currently occupied are essential to the conservation of the three plant species and why.

(7) Land use designations and current or planned activities in the areas occupied or unoccupied by the species and proposed as critical habitat, and the possible impacts of these activities on these three species, or of critical habitat on these designations or activities.

(8) Any foreseeable economic, national security, or other relevant impacts of designating any area as critical habitat. We are particularly interested in any impacts on small entities, and the benefits of including or excluding areas that may experience these impacts.

(9) Whether the benefits of excluding any particular area from critical habitat outweigh the benefits of including that area as critical habitat under section 4(b)(2) of the Act, after considering the potential impacts and benefits of the proposed critical habitat designation. We are considering the possible exclusion of non-Federal lands, especially areas in private ownership, and whether the benefits of exclusion may outweigh the benefits of inclusion of those areas. We, therefore, request specific information on:

- The benefits of including any specific areas in the final designation and supporting rationale.
- The benefits of excluding any specific areas from the final designation and supporting rationale.
- Whether any specific exclusions may result in the extinction of the species and why.
- For private lands in particular, we are interested in information regarding the potential benefits of including private lands in critical habitat versus the benefits of excluding such lands from critical habitat. In weighing the potential benefits of exclusion versus inclusion of private lands, the Service may consider whether existing partnership agreements provide for the management of the species. We may consider, for example, the status of conservation efforts, the effectiveness of any conservation agreements to conserve the species, and the likelihood of the conservation agreement's future implementation.

(10) Our process used for identifying those areas that meet the definition of critical habitat for the species, as described in the section of the October 17, 2012, proposed rule titled *Criteria Used to Identify Critical Habitat Boundaries.*

(11) Information on the extent to which the description of potential economic impacts in the draft economic analysis is complete and accurate.

(12) Whether the draft economic analysis makes appropriate assumptions regarding current practices and any regulatory changes that would likely occur if we designate critical habitat.

(13) Whether the draft economic analysis identifies all Federal, State, and local costs and benefits attributable to the proposed designation of critical habitat, and information on any costs that may have been inadvertently overlooked. For example, are there any costs resulting from critical habitat designation related to the enhancement or maintenance of nonnative ungulates for hunting programs?

(14) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

(15) Specific information on ways to improve the clarity of this rule as it pertains to completion of consultations under section 7 of the Act.

Our final determination concerning listing 15 species as endangered and designating critical habitat for 3 plant species on the island of Hawaii will take into consideration all written comments

we receive during the public information meeting, written comments and information we receive during both comment periods, from peer reviewers, as well as comments and public testimony we receive during the public hearing. The comments will be included in the public record for this rulemaking, and we will fully consider them in the preparation of our final determinations. On the basis of peer reviewer and public comments, as well as any new information we may receive, we may, during the development of our final determination concerning critical habitat, find that areas within the proposed critical habitat designation do not meet the definition of critical habitat, that some modifications to the described boundaries are appropriate, or that areas may or may not be appropriate for exclusion under section 4(b)(2) of the Act.

If you submitted comments or information on the proposed rule (October 17, 2012, 77 FR 63928) during the comment period from October 17, 2012, to December 17, 2012, please do not resubmit them. We will incorporate them into the public record as part of this comment period, and we will fully consider them in the preparation of our final determinations.

You may submit your comments and materials concerning the proposed rule or draft economic analysis by one of the methods listed in the **ADDRESSES** section. Verbal testimony may also be presented during the public hearing (see **DATES** and **ADDRESSES** sections). We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you submit your comment via U.S. mail, you may request at the top of your document that we withhold personal information such as your street address, phone number, or email address from public review; however, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule and draft economic analysis, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R1–ES–2012–0070 or Docket No. FWS–R1–ES–2013–0028, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Information Meeting and Public Hearing

We are holding a public information meeting and a public hearing on the date listed in the **DATES** section at the address listed in the **ADDRESSES** section (above). We are holding the public hearing to provide interested parties an opportunity to present verbal testimony (formal, oral comments) or written comments regarding the proposed listing of 15 species as endangered and proposed designation of critical habitat for 3 plant species on the island of Hawaii, and the associated draft economic analysis. A formal public hearing is not, however, an opportunity for dialogue with the Service; it is only a forum for accepting formal verbal testimony. In contrast to the hearing, the public information meeting allows the public the opportunity to interact with Service staff, who will be available to provide information and address questions on the proposed rule and its associated draft economic analysis. We cannot accept verbal testimony at the public information meeting; verbal testimony can only be accepted at the public hearing. Anyone wishing to make an oral statement at the public hearing for the record is encouraged to provide a written copy of their statement to us at the hearing. At the public hearing, formal verbal testimony will be transcribed by a certified court reporter and will be fully considered in the preparation of our final determination. In the event there is a large attendance, the time allotted for oral statements may be limited. Speakers can sign up at the hearing if they desire to make an oral statement. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us.

Persons with disabilities needing reasonable accommodations to participate in the public information meeting or public hearing should contact Loyal Mehrhoff, Field Supervisor, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). Reasonable accommodation requests should be received at least 3 business days prior to the public information meeting or public hearing to help ensure availability; at least 2 weeks prior notice is requested for American Sign Language needs.

Background

The topics discussed below are relevant to designation of critical habitat for 3 plant species on the Hawaiian island of Hawaii in this document. For more information on previous Federal actions concerning these species, refer to the proposed listing and designation of critical habitat published in the **Federal Register** on October 17, 2012 (77 FR 63928), which is available online at *http://www.regulations.gov* (at Docket Number FWS–R1–ES–2012–0070) or from the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

On October 17, 2012, we published a proposed rule (77 FR 63928) to list 15 species as endangered and designate critical habitat for 3 plant species. We proposed to designate a total of 18,766 acres (ac) (7,597 hectares (ha)) on the island of Hawaii as critical habitat. Within that proposed rule, we announced a 60-day comment period, which began on October 17, 2012, and ended on December 17, 2012. Approximately 55 percent of the area being proposed as critical habitat is already designated as critical habitat for other species, including for the plant *Kokia drynarioides* (49 FR 47397, December 4, 1984), and 41 other listed plants (68 FR 39624, July 2, 2003), Blackburn's sphinx moth (68 FR 34710, June 10, 2003), and 3 picture-wing flies (73 FR 73794, December 4, 2003).

New Information

The anchialine pool shrimp *Vetericaris chaceorum* was recently documented at Manuka, Hawaii, approximately 15.5 mi (25 km) northwest of Luo o Palahemo, the previously only locality known for this species (77 FR 63928, October 17, 2012). The identification as *V. chaceorum* was confirmed by the Oxford Museum on Natural History and the Naturalis Biodiversity Center, Department of Marine Zoology, through the examination of two specimens collected by the Hawaii Department of Natural Resources, Division of Aquatic Resources (DAR) Hilo staff in 2012. Visual accounts made by DAR staff suggest that a population of *V. chaceorum* is established throughout the complex of pools located along the southern section of the Manuka Natural Area Reserve. Positive identifications of *V. chaceorum* were recorded in three pools; however, accurate estimates of its population are still unavailable due to the cryptic nature of this species. The habitat in which *V. chaceorum* was found at Manuka is described as being considerably different than that of Lua o Palahemo, and was characterized by shallow (<0.5 m deep) open pools dispersed throughout barren basaltic terrain. Accordingly, it does not seem to be limited to the deep recesses of the anchialine habitat (where the species was observed in Lua o Palahemo), but it may also roam freely throughout shallow exposed areas (Sakihara 2013, pers. comm).

The anchialine habitats in Manuka where *V. chaceorum* were recorded are located along the coastal boundary of the Manuka Natural Area Reserve (NAR), established in 1983 by the State of Hawaii. The Natural Area Reserves system is managed by the State of Hawaii, Department of Land and Natural Resources, Division of Forestry and Wildlife. Biological threats at Manuka have been described as including feral ungulates (goats) and an established population of alien invasive fountain grass (*Pennisetum setaceum*). NAR's management teams continue in their efforts in controlling biological threats to the natural resources within the NAR by active removal, monitoring, and public outreach (Sakihara 2013, pers. comm). The presence of and predation by introduced poecillids (fish in the Poeciliidae family that bear live young) may represent a threat to the biological integrity of one of the anchialine pools at Manuka (Sakihara 2009, pp. 20, 28; Sakihara 2012, pp. 91–92), although they have not been documented in the pools inhabited by *V. chaceorum.* Anthropogenic (human-caused) disturbance associated with the presence of a jeep trail and campsites near the anchialine pools at Awili Point and Keawaiki may also represent a threat to the species (Sakihara 2012, p. 92).

Although this new information does not change our proposal to list this species as endangered or our finding that the designation of critical habitat is not determinable at this time, as discussed in the proposed rule (77 FR 63928, October 17, 2012), we will consider this new evidence of a second occurrence of *V. chaceorum* in analyzing the listing factors and making a final determination on whether this species should be listed. We request comments on whether this evidence should change the listing analysis contained in the proposed rule and, if so, how.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency unless it is exempted pursuant to the provisions of the Act (16 U.S.C. 1536(e)–(n) and (p)). Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Consistent with the best scientific data available, the standards of the Act, and our regulations, we have initially identified, for public comment, a total of 18,766 ac (7,597 ha) in seven multi-species units located on the island of Hawaii that meet the definition of critical habitat for the three plant species. In addition, the Act provides the Secretary with the discretion to exclude certain areas from the final designation after taking into consideration economic impacts, impacts on national security, and any other relevant impacts of specifying any particular area as critical habitat.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat. In the case of the three Hawaii Island plant species, the benefits of critical habitat include public awareness of the presence of one or more of these species and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the species due to protection from adverse modification or destruction of critical habitat. With regard to these species, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. We also consider the potential economic or social impacts that may result from the designation of critical habitat.

In the proposed rule, we identified several areas to consider excluding from the final rule. We are considering excluding from the final designation approximately 4,099 ac (1,659 ha) of private lands that have a voluntary conservation agreement, partners in watershed partnerships or dry forest working groups, conservation or watershed preserve designation, or similar conservation protection.

These specific exclusions will be considered on an individual basis or in any combination thereof. In addition, the final designation may not be limited to these exclusions, but may also consider other exclusions as a result of continuing analysis of relevant considerations (scientific, economic, and other relevant factors, as required by the Act), and the public comment process. In particular, we solicit comments from the public on whether all of the areas identified meet the definition of critical habitat, whether other areas would meet that definition, whether to make the specific exclusions we are considering, and whether there are other areas that are appropriate for exclusion.

The final decision on whether to exclude any area will be based on the best scientific data available at the time of the final designation, including information obtained during the comment periods and information about the economic impact of designation. Accordingly, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES**, above).

Draft Economic Analysis

The purpose of the draft economic analysis (DEA) is to identify and analyze the potential economic impacts associated with the proposed critical habitat designation for the three Hawaii Island plant species.

When a species is federally listed as endangered or threatened, it receives protection under the Act. For example, under section 7 of the Act, Federal agencies must consult with the Service to ensure that actions they fund, authorize, or carry out do not jeopardize

the continued existence of the species. Economic impacts of conservation measures undertaken to avoid jeopardy to the species are considered baseline impacts in our analysis as they are not generated by the critical habitat designation. In other words, baseline conservation measures and associated economic impacts are not affected by decisions related to critical habitat designation for these species.

The DEA describes the economic impacts of potential conservation efforts for the three Hawaii Island plant species; some of these costs will likely be incurred regardless of whether we designate critical habitat. The economic impact of the proposed critical habitat designation is analyzed by comparing scenarios ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, considering protections already in place for these species (e.g., under the Federal listing and other Federal, State, and local regulations). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the three plant species. The incremental conservation efforts and associated impacts are those that would not be expected to occur without the designation of critical habitat for these species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs; these are the costs we may consider in the final designation of critical habitat when evaluating the benefits of excluding particular areas under section 4(b)(2) of the Act.

The ''without critical habitat'' scenario represents the baseline for the analysis, and considers the protections already afforded the three Hawaiian plants, regardless of critical habitat designation. The baseline for this analysis is the state of regulation, absent designation of critical habitat, which provides protection to these species under the Act, as well as any other Federal, State, and local laws and conservation plans. The baseline includes sections 7, 9, and 10 of the Act to the extent that they are expected to apply absent the designation of critical habitat for the species. The analysis qualitatively describes how baseline conservation for the three Hawaii Island plant species is currently implemented across the proposed designation in order to provide context for the incremental analysis (DEA Chapter 1.4 and Appendix B.3.1). For a further description of the methodology of the analysis, see DEA Chapter B.3.

The DEA provides estimated costs of the foreseeable potential economic impacts of the proposed critical habitat designation for the three Hawaii Island plant species over the next 10 years, which was determined to be the appropriate period for analysis because limited planning information is available for most activities to forecast activity levels for projects beyond a 10-year timeframe. It identifies potential incremental costs as a result of the proposed critical habitat designation; these are the costs attributed to critical habitat over and above those baseline costs attributed to listing. The DEA separately identifies the potential incremental costs of the critical habitat designation on lands being considered for exclusion under section 4(b)(2) of the Act.

The DEA focuses on economic activities that are occurring or have the potential to occur within the proposed critical habitat areas, and are of primary concern with respect to potential adverse modification of critical habitat. The key concern is the potential for activities to result in ground disturbance within a critical habitat unit. Such activities include commercial, residential, and industrial development, and transportation projects. Within these activity categories, the DEA is focused on those projects and activities that are considered reasonably likely to occur within the proposed critical habitat area. This includes projects or activities that are currently planned or proposed, or that permitting agencies or land managers indicate are likely to occur.

The only Federal regulatory effect of the designation of critical habitat is the prohibition on Federal agencies taking actions that are likely to destroy or adversely modify critical habitat. Federal agencies are not required to avoid or minimize effects unless the effects rise to the level of destruction or adverse modification as those terms are used in section 7 of the Act. Even then, the Service must recommend reasonable and prudent alternatives that: (1) Can be implemented consistent with the intended purpose of the action; (2) are within the scope of the Federal agency's legal authority and jurisdiction; and (3) are economically and technologically feasible. Thus, while the Service may recommend conservation measures, unless the action is likely to destroy or adversely modify critical habitat, implementation of recommended measures is voluntary, and Federal agencies and applicants have discretion in how they carry out their section 7 mandates.

Thus, the direct, incremental impacts of critical habitat designation stem from the consideration of the potential for destruction or adverse modification of critical habitat during section 7 consultations. The two categories of direct, incremental impacts of critical habitat designation are: (1) The added administrative costs of conducting section 7 consultation related to critical habitat; and (2) implementation of any conservation efforts requested by the Service through section 7 consultation, or required by section 7 to prevent the destruction or adverse modification of critical habitat.

The DEA describes the types of project modifications currently recommended by the Service to avoid jeopardy to the two currently listed species, *Isodendrion pyrifolium* (listed as an endangered species on March 4, 1994 (59 FR 10305)), and *Mezoneuron kavaiense* (listed as an endangered species on July 8, 1986 (51 FR 24672)) (''baseline'' project modifications). Critical habitat is also proposed for *Bidens micrantha* ssp. *ctenophylla,* which was proposed for listing as endangered on October 17, 2012 (77 FR 63928) and co-occurs with the above two species. These baseline project modifications would be recommended in occupied habitat areas regardless of whether critical habitat is designated for the two currently listed species, and would also be recommended for *Bidens micrantha* ssp. *ctenophylla,* regardless of critical habitat designation, should it be listed under the Act. Although the standards for jeopardy and adverse modification of critical habitat are not the same, because the degradation or loss of habitat is a key threat to the three Hawaii Island plant species, a jeopardy analyses for these species would already consider the potential for project modifications to avoid the destruction of habitat; therefore recommendations to avoid jeopardy would also likely avoid adverse modification or destruction of critical habitat for these species.

The Service estimates that the only project modification that may be recommended to avoid adverse modification of critical habitat above and beyond that recommended to avoid jeopardy to the species would be in cases where permanent impacts to critical habitat are unavoidable; in such cases, the Service would recommend that habitat loss be offset elsewhere in designated critical habitat, preferably within the critical habitat unit where the loss occurred. In other words, while the Service may recommend that habitat loss be offset even absent critical habitat designation, critical habitat designation may generate the additional

recommendation that the offset occur within the critical habitat unit. In occupied critical habitat, therefore, the incremental impacts are most likely limited to the potential incremental cost of offsetting habitat loss within the critical habitat unit that is affected as opposed to outside of the unit. As noted above, any recommended offsets would not be required unless necessary to avoid violating the prohibition of section 7 (i.e., destroying or adversely modifying critical habitat). However, to be conservative regarding potential incremental costs of the proposed critical habitat designation, the DEA assumes that the Federal agency or applicant may choose to implement the recommended offsets.

With regard to occupied habitat, the DEA predicts that a recommendation that ground disturbance be offset within the critical habitat unit would not generate additional economic impacts, beyond those related to the listing of the species under the Act. It is therefore unlikely that critical habitat designation would change the outcome of a future section 7 consultation on projects or activities within occupied areas, and incremental impacts would most likely be limited to the additional administrative effort of considering adverse modification as part of the consultation. However, the effects of each project on critical habitat would need to be evaluated as appropriate once a final decision has been made on this designation.

The proposed critical habitat designation includes seven multi-species units, totaling 18,766 acres (7,597 hectares) within Hawaii's lowland dry ecosystem. Each unit is occupied by at least one of the three species for which critical habitat is proposed, although the three plants do not necessarily occur across the entirety of each unit. Individuals of these species may be scattered intermittently throughout a unit or clumped in portions of a unit. While we have proposed areas that may be unoccupied on the basis that they are essential to the conservation of the species, for example in order to provide room for population expansion, there may be portions of each unit that would not be subject to section 7 consultation because the species does not occur in the specific location being impacted by a proposed action. Therefore, ground surveys to locate the individual plants would need to be conducted prior to each proposed project or activity within critical habitat and the cost of the consultation and any resulting conservation actions may be attributable to critical habitat.

The designation of critical habitat may, under certain circumstances, affect actions that do not have a Federal nexus and thus are not subject to the provisions of section 7 under the Act. Indirect impacts are those unintended changes in economic behavior that may occur outside of the Act, through other Federal, State, or local actions, and that are caused by the designation of critical habitat. Chapter 2.6 of the DEA discusses the types of potential indirect impacts that may be associated with the designation of critical habitat, such as time delays, regulatory uncertainty, and negative perceptions related to critical habitat designation on private property. These types of impacts are not always considered incremental. In the case that these types of conservation efforts and economic effects are expected to occur regardless of critical habitat designation, they are appropriately considered baseline impacts in this analysis.

Critical habitat may generate incremental economic impacts through implementation of additional conservation measures (beyond those recommended in the baseline) and additional administrative effort in section 7 consultation to ensure that projects or activities do not result in adverse modification of critical habitat. However, as described above and in Chapter 1 of the DEA, where critical habitat is considered occupied by the three Hawaii Island plant species, critical habitat designation is expected to have a more limited effect on economic activities, since section 7 consultation would already occur due to the presence of the species and these additional conservation measures would already be considered.

The focus of the DEA is on projects that are occurring or are reasonably likely to occur, based on information received from the development community in response to the proposed rule (77 FR 63928, October 17, 2012). Based on our section 7 consultation history, it is unlikely that critical habitat designation would change the outcome of a future section 7 consultation on projects or activities within occupied areas of the proposed designation. However, within unoccupied areas, all costs associated with conservation efforts recommended in section 7 consultations (including administrative costs) would be direct incremental costs attributable to proposed designation. Within areas proposed for critical habitat designation, the DEA estimates a total present value impact of $35,000 over the next 10 years (an annualized impact of $4,700, with a 7 percent discount rate) associated with future section 7 consultations (DEA, Exhibit 2–1). Impacts on projects occurring in areas being considered for exclusion under section 4(b)(2) of the Act are expected to be $15,000 (an annualized impact of $2,000, with a 7 percent discount rate). These costs reflect administrative effort of considering critical habitat in future section 7 consultations on projects identified as occurring within the proposed critical habitat area. Specifically, the DEA forecasts five future section 7 consultations for projects located in areas overlapping proposed critical habitat Units 33, 34, and 35, and three future consultations for projects located in areas being considered for exclusion in proposed critical habitat units 33, 34, and 35. The DEA assumes that all of the consultations would occur in 2013, following the designation of critical habitat.

Since projects and activities occurring within occupied habitat areas are less likely to be directly affected (i.e., economic impacts would most likely be limited to administrative costs), the DEA primarily focuses on the two reasonably foreseeable projects of which we are aware, that would occur within unoccupied areas of the proposed designation. These projects include a Department of Hawaiian Homelands (DHHL) residential project within proposed critical habitat unit 33, and a Queen Liliuokalani Trust (QLT) mixed-use development project within proposed critical habitat unit 35.

The DEA concludes that additional direct and indirect impacts of the designation are possible, although information limitations preclude quantification in this analysis. The DHHL project on 91 acres (37 hectares) of an unoccupied area of proposed critical habitat unit 33 is likely to be subject to section 7 consultation. However, significant uncertainty exists regarding the extent of conservation efforts that DHHL would ultimately undertake to avoid adverse modification of critical habitat. The QLT project overlaps 302 unoccupied acres (122 hectares) in proposed critical habitat Unit 35, and while a Federal nexus compelling consultation is unlikely, the project may be subject to indirect impacts including additional management by the county associated with required zoning changes. However, the uncertainties described in the DEA include whether the critical habitat designation will generate indirect economic impacts, including changes in land management by the State or county. Additionally, while the DEA describes the Service's initial recommendations, the projects would be reviewed on a case-by-case basis during

the consultation process. The ultimate nature and extent of conservation efforts is therefore uncertain.

We are soliciting data and comments from the public on the DEA, as well as all aspects of the proposed rule and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, we may exclude an area from critical habitat if the Secretary determines the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of the species.

Required Determinations—Amended

In our October 17, 2012, proposed rule (77 FR 63928), we indicated that we would defer our determination of compliance with several statutes and executive orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders became available in the draft economic analysis. We have now made use of the draft economic analysis data to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). However, based on the draft economic analysis data, we are amending our required determinations concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), E.O. 13211 (Energy, Supply, Distribution, and Use), and E.O. 12630 (Takings). We are also providing a determination for the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), which we inadvertently omitted from the October 17, 2012, proposed rule (77 FR 63928). In light of the statutory requirement that listing decisions be made ''solely'' on the basis of the best scientific and commercial data available, the following determinations relate only to the proposed critical habitat rulemaking, not the proposed listing rule.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. Based on our draft economic analysis of the proposed designation, we are certifying that the critical habitat designation for the three Hawaii Island plant species, if adopted as proposed, will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

To determine if the rule could significantly affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities, such as: (1) Agricultural, commercial, and residential development; (2) transportation; and (3) livestock grazing and other human activities. We apply the ''substantial number'' test individually to each industry to determine if certification is appropriate. However, the SBREFA does not explicitly define ''substantial number'' or ''significant economic impact.'' Consequently, to assess whether a ''substantial number'' of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in an area. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the number of small entities potentially affected, we also consider whether their activities have any Federal involvement.

Designation of critical habitat only has regulatory effects on activities authorized, funded, or carried out by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and will not be affected by critical habitat designation. In areas where any of the three Hawaii Island plant species are present, Federal agencies are already required to consult with us under section 7 of the Act on activities they authorize, fund, or carry out that may affect the species. Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat, therefore, could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities (see ''Application of the Adverse Modification Standard'' section of the proposed rule (October 17, 2012, 77 FR 63928)).

The Service's current understanding of recent case law is that Federal agencies are only required to evaluate the potential impacts of rulemaking on those entities directly regulated by the rulemaking; therefore, they are not required to evaluate the potential impacts to those entities not directly regulated. The designation of critical habitat for an endangered or threatened species only has a regulatory effect where a Federal action agency is involved in a particular action that may affect the designated critical habitat. Under these circumstances, only the Federal action agency is directly regulated by the designation, and, therefore, consistent with the Service's current interpretation of RFA and recent case law, the Service may limit its evaluation of the potential impacts to those identified for Federal action agencies. Under this interpretation, there is no requirement under the RFA

to evaluate the potential impacts to entities not directly regulated, such as small businesses. However, Executive Orders 12866 and 13563 direct Federal agencies to assess costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consequently, it is the current practice of the Service to assess to the extent practicable these potential impacts if sufficient data are available, whether or not this analysis is believed by the Service to be strictly required by the RFA. In other words, while the effects analysis required under the RFA is limited to entities directly regulated by the rulemaking, the effects analysis under the Act, consistent with the E.O. regulatory analysis requirements, can take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable. In doing so, we focus on the specific areas proposed to be designated as critical habitat and compare the number of small business entities potentially affected in that area with other small business entities in the region, instead of comparing the entities in the proposed area of designation with entities nationally, which is more commonly done. This analysis results in an estimation of a higher number of small businesses potentially affected.

As identified in Exhibit A–1, the third parties for five of the eight projects identified in the analysis are not considered small businesses. As it is unknown whether or not the third parties associated with the remaining three projects are small businesses, we conservatively assume that they are small businesses for purposes of our analysis. The per-consultation third-party cost of participating in a formal consultation is estimated to be $900, as described in Appendix B, Exhibit B–1. Exhibit A–2 provides information on the average annual revenues of small entities in the development industry, calculated using Risk Management Association (RMA) data. As detailed in the exhibit, the per-entity cost to participate in a single consultation likely represents approximately 0.01 percent or less of annual revenues. Note that the average annual revenues reported in Exhibit A–2 are derived from nationwide data, as there is limited data available to assess revenues of these types of businesses in Hawaii County, and therefore the revenues of these particular third parties may be far less. However, the estimated per-consultation cost of $900 is not likely to represent a significant portion of revenues for each third party. Therefore, we conclude that the economic impacts are not significant.

Following our evaluation of potential effects to small business entities from the proposed rulemaking, we conclude that the number of potentially affected small businesses is not substantial, and that the economic impacts are not significant. In the draft economic analysis, we evaluated the potential economic effects on small entities resulting from implementation of conservation actions related to the proposed designation of critical habitat for the three Hawaii Island plant species. Quantified incremental impacts that may be borne by small entities are limited to the administrative costs of section 7 consultation related to development and transportation projects (DEA, Appendix A–4). For projects located in occupied areas of the proposed critical habitat designation, incremental impacts of the designation are likely limited to these administrative costs for participation in the consultations. For projects located in unoccupied areas of the proposed critical habitat designation, incremental impacts may also include costs associated with additional conservation efforts implemented as a result of section 7 consultation.

The proposed critical habitat is located in the South Kohala and North Kona districts of the Big Island. The Hawaii County General Plan, approved in 2005 by the County Council, identifies both districts as the major tourism centers on the island, and describes Kona as ''the center for government, commercial, and industrial activities for West Hawaii.'' The plan outlines a proposed land use pattern, known as the Land Use Pattern Allocation Guide, which identifies much of the proposed critical habitat area for ''urban expansion,'' where ''new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined.'' In addition to the General Plan, which serves as the overall planning document for the county, Hawaii County also has Community Development Plans that translate the broader goals of the General Plan into specific implementation actions for geographic regions around the island. The Kona Community Development Plan (KCDP), adopted as Ordinance 08–131 in September 2008, identifies much of the area proposed for critical habitat designation as within the Kona Urban Area. Specifically, the entirety of proposed critical habitat Units 34, 35, and 36, and the majority of Unit 33, fall within the Kona Urban Area, as shown in Exhibit 2–2. One of the main goals of the KCDP is to direct future growth to the Kona Urban Area, and specifically to ''compact villages located along proposed transit routes or to infill areas within, or adjacent to, existing development,'' several of which overlap with the proposed critical habitat area.

Of the projects we identified within areas proposed for critical habitat designation, only two are expected to occur on lands that are unoccupied by the species, and could experience the greatest economic impact related to the proposed critical habitat designation. A Department of Hawaiian Home Lands (DHHL) residential project is planned within proposed critical habitat Unit 33, and a development project is planned within critical habitat Unit 35 by the Queen Lili'uokalani Trust (QLT) (DEA, Chapter 2). The DHHL is a State governmental agency, and the QLT Statements of Financial Position dated December 31, 2011, and 2010 identifies current assets of $193,590,994 and $197,834,747, and liabilities of $4,137,037 and $2,518,920 respectively (QLT 2011). Accordingly, neither of these entities would be considered small businesses under the RFA, as amended by the SBREFA. Therefore, we conclude that the economic impacts are not significant. Following our evaluation of potential effects to small business entities from the proposed rulemaking, we conclude that the number of potentially affected small businesses is not substantial, and that the economic impacts are not significant.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared to not taking the regulatory action under consideration. As described in the Chapter 1 of the DEA, the designation of critical habitat for the plants is not anticipated to result in any impacts to the energy industry. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

E.O. 12630 (Takings)

In accordance with E.O. 12630 (Government Actions and Interference

with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for *Bidens micrantha* ssp. *ctenophylla, Isodendrion pyrifolium,* and *Caesalpinia kavaiense* (taxonomic revision proposed to *Mezoneuron kavaiense*) in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, assistance, or require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. The economic analysis found that no significant economic impacts are likely to result from the designation of critical habitat for the above three species. Because the Act's critical habitat protection requirements apply only to Federal agency actions, few conflicts between critical habitat and private property rights should result from this designation. Based on information contained in the economic analysis assessment and described within this document, it is not likely that economic impacts to a property owner would be of a sufficient magnitude to support a takings action. Therefore, the takings implications assessment concludes that this designation of critical habitat for *Bidens micrantha* ssp. *ctenophylla, Isodendrion pyrifolium,* and *Caesalpinia kavaiense* (taxonomic revision proposed to *Mezoneuron kavaiense*) does not pose significant takings implications for lands within or affected by the designation.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, and the Department of Interior's manual at 512 DM2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act,'' we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

We have determined that there are no tribal lands occupied at the time of listing that contain the features essential for the conservation, and no tribal lands that are essential for the conservation, of the three Hawaii Island plant species. Therefore, we have not proposed designation of critical habitat for any of the three Hawaii Island plant species on tribal lands.

Authors

The primary authors of this notice are the staff members of the Pacific Islands Fish and Wildlife Office, Pacific Region, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 22, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–10044 Filed 4–29–13; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 78, No. 83
Tuesday, April 30, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Tuolumne-Mariposa Counties Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tuolumne-Mariposa Counties Resource Advisory Committee will meet on May 6, 2013, (alternate dates May 13, 2013 or May 20, 2013), at the City of Sonora Fire Department, in Sonora, California. The purpose of the meeting is to reprioritize projects due to expected decreases to Title II RAC funding.

DATES: The meeting will be held May 6, 2013, (alternate dates May 13, 2013 or May 20, 2013), from 12:00 p.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the City of Sonora Fire Department located at 201 South Shepherd Street, in Sonora, California (CA 95370).

FOR FURTHER INFORMATION CONTACT: Beth Martinez, Committee Coordinator, USDA, Stanislaus National Forest, 19777 Greenley Road, Sonora, CA 95370, (209) 532–3671, extension 320; EMAIL *bethmartinez@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Reprioritizing recommended projects based on finalized Title II funding decreases; (2) Public comment on meeting proceedings. This meeting is open to the public.

Dated: March 28, 2013.

Christina M. Welch,

Acting Forest Supervisor.

[FR Doc. 2013–10099 Filed 4–29–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Office of Advocacy and Outreach

Advisory Committee on Minority Farmers; Notice of Solicitation for Membership

AGENCY: Departmental Management, Office of Advocacy and Outreach (OAO), USDA.

ACTION: Notice of solicitation for membership.

SUMMARY: We are giving notice that the Secretary is soliciting nominations for membership for this Committee to serve for 2-year terms.

DATES: Consideration will be given to nominations received on or before May 31st, 2013.

ADDRESSES: Nominations should be addressed to the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mrs. Kenya Nicholas, Designated Federal Officer, USDA OAO, 1400 Independence Avenue, Room 520–A, Washington, DC 20250–0170; Telephone (202) 720–6350; Fax (202) 720–7704; Email: *ACMF@osec.usda.gov*.

SUPPLEMENTARY INFORMATION: The Advisory Committee for Minority Farmers (ACMF) will advise the Secretary of Agriculture on strategies to heighten participation of historically socially disadvantaged farmers and ranchers in the USDA's assistance programs. The ACMF will also advise the Secretary on outreach and administration of competitive grants programs and how the USDA may enhance its efforts to build an inclusive future for this targeted group of minority farmers. The ACMF may also look at the civil rights activities of USDA and how they affect USDA programs in general.

Terms for the current members of the Committee are set to expire in May 2013. We are therefore soliciting nominations from socially disadvantaged ranching and farming producers, civil rights professionals, private nonprofit organizations that support socially disadvantaged producers; and higher education institutions that work with socially disadvantaged producers. The membership term shall be 2 years from the date of appointment. The Secretary may also appoint others as deemed necessary and appropriate to fulfill the ACMF charter. The Committee Chair—who shall be the Assistant Secretary for Administration—will be appointed by the Secretary.

An organization may nominate individuals from within or outside its membership; alternatively, an individual may nominate herself or himself. Current members may likewise apply for reappointment. Nomination packages should include a nomination form along with a cover letter or resume that documents the nominee's background and experience. Nomination forms are available on the Internet at *http://www.ocio.usda.gov/forms/doc/AD–755.pdf* or may be obtained from Mrs. Kenya Nicholas at the address or telephone number noted above. The Secretary will select 20 members to obtain the broadest possible representation on the Committee, in accordance with the Federal Advisory Committee Act (5 U.S.C. App.2) and U.S. Department of Agriculture (USDA) Regulation 1041–1. Equal opportunity practices, in line with the USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Completed in Washington, DC, this 22nd day of April, 2013.

Carolyn C. Parker,

Director, Office of Advocacy and Outreach.

[FR Doc. 2013–10059 Filed 4–29–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Rural Utilities Service (RUS) invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Michele Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Avenue SW., STOP 1522, Room 5162 South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078. Fax: (202) 720–8435. Email: *michele.brooks@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for approval. 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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Michele Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Avenue SW., Washington, DC 20250–1522. FAX: (202) 720–8435. Email: *michele.brooks@wdc.usda.gov*.

Title: Technical Assistance Programs.
OMB Control Number: 0572–0112.

Type of Request: Extension of a currently approved collection.

Abstract: The Rural Utilities Service is authorized by section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, American Indian tribes, and nonprofit corporations to fund the development of drinking water, wastewater, and solid waste disposal facilities in rural areas with populations of up to 10,000 residents. Under the CONACT, 7 U.S.C. 1925(a), as amended, section 306(a)(14)(A) authorizes Technical Assistance and Training grants, and 7 U.S.C. 1932(b), section 310B authorizes Solid Waste Management grants. Grants are made for 100 percent of the cost of assistance. The Technical Assistance and Training Grants and Solid Waste Management Grants programs are administered through 7 CFR part 1775.

Estimate of Burden: Public reporting for this collection of information is estimated to average 3 hours per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 142.

Estimated Number of Responses per Respondent: 17.

Estimated Total Annual Burden on Respondents: 6,250.

Copies of this information collection can be obtained from Anne Mayberry, Program Development and Regulatory Analysis, at (202) 690–1756. FAX: (202) 720–8435, or Email: *anne.mayberry@wdc.usda.gov*. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: April 23, 2013.

John Charles Padalino,

Administrator, Rural Utilities Service.

[FR Doc. 2013–10047 Filed 4–29–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–37–2013]

Foreign-Trade Zone (FTZ) 26—Atlanta, Georgia; Notification of Proposed Production Activity; PBR, Inc. d/b/a SKAPS Industries (Polypropylene Geotextiles); Athens, Georgia

Georgia Foreign-Trade Zone, Inc., grantee of FTZ 26, submitted a notification of proposed production activity to the FTZ Board on behalf of PBR, Inc. d/b/a SKAPS Industries (SKAPS), located in Athens, Georgia. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 8, 2013.

The SKAP facilities are located at 325, 330, and 335 Athena Drive in Athens (Clarke County), Georgia. A separate request for usage-driven status at the SKAP facilities was submitted and will be processed under Section 400.24(c) of the FTZ Board's regulations. The facilities are used for the production of non-woven geotextile fabric using polypropylene fiber. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt SKAPS from customs duty payments on the foreign status polypropylene fiber used in export production. On its domestic sales, SKAPS would be able to choose the duty rate during customs entry procedures that applies to geotextile fabric (free) for the foreign status polypropylene fiber (4.3%). Customs duties also could possibly be deferred or reduced on foreign status production equipment.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 10, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz*.

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: April 23, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–10140 Filed 4–29–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–957]

Seamless Carbon and Alloy Steel Standard, Line, and Pressure From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is rescinding the administrative review of the countervailing duty order on certain seamless carbon and alloy steel standard, line, and pressure pipe

(''seamless pipe'') from the People's Republic of China (''PRC'') for the period January 1, 2011, through December 31, 2011.

DATES: *Effective Date:* April 30, 2013.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin, 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) 482–6478.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated an administrative review of the countervailing duty order on seamless pipe from the PRC covering the period January 1, 2011, through December 31, 2011, based on a request by United States Steel Corporation (''U.S. Steel''). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 77 FR 77017 (December 31, 2012) (''*Initiation Notice*''). The review covers 203 companies. *See Initiation Notice,* 77 FR at 77026–77029.

On March 27, 2013, U.S. Steel withdrew its request for an administrative review of these 203 companies.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this case, U.S. Steel withdrew its requests within the 90-day deadline and no other parties requested an administrative review of the countervailing duty order. Therefore, we are rescinding the administrative review of seamless pipe from the PRC covering the period January 1, 2011, through December 31, 2011, of the 203 companies listed in the *Initiation Notice.*

Assessment

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess countervailing duties on all entries of seamless pipe from the PRC during the POR at rates equal to the cash deposit of estimated countervailing duties required at the time of entry or withdrawal from warehouse for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this 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 countervailing duties prior to liquidation of the relevant entries during this review period.

This notice also serves as a final 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(a)(3). 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 that is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: April 22, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–10141 Filed 4–29–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing an Open Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The Information Security and Privacy Advisory Board (ISPAB) will meet Wednesday, June 12, 2013, from 8:00 a.m. until 5:00 p.m. Eastern Time, Thursday, June 13, 2013, from 8:00 a.m. until 5:00 p.m. Eastern Time, and Friday, June 14, 2013, from 8:00 a.m. until 12:00 p.m. Eastern Time. All sessions will be open to the public.

DATES: The meeting will be held on Wednesday, June 12, 2013, from 8:00 a.m. until 5:00 p.m. Eastern Time, Thursday, June 13, 2013, from 8:00 a.m. until 5:00 p.m. Eastern Time, and Friday, June 14, 2013, from 8:00 a.m. until 12:00 p.m. Eastern Time.

ADDRESSES: The meeting will take place at the United States Access Board Conference Room, 1331 F Street NW., Suite 800, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Annie Sokol, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, telephone: (301) 975–2006, or by email at: *annie.sokol@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Information Security and Privacy Advisory Board (ISPAB) will meet Wednesday, June 12, 2013, from 8:00 a.m. until 5:00 p.m. Eastern Time, Thursday, June 13, 2013, from 8:00 a.m. until 5:00 p.m. Eastern Time, and Friday, June 14, 2013, from 8:00 a.m. until 12:00 p.m. Eastern Time. All sessions will be open to the public. The ISPAB is authorized by 15 U.S.C. 278g–4, as amended, and advises the Secretary of Commerce, the Director of the Office of Management and Budget, and the Director of NIST on information security and privacy issues pertaining to federal computer systems. Details regarding the ISPAB's activities are available at *http://csrc.nist.gov/groups/SMA/ispab/index.html.*

The agenda is expected to include the following items:

—Cybersecurity
- Executive Order 13636, Improving Critical Infrastructure Cybersecurity (78 FR 11737, February 19, 2013);
- Development of New Cybersecurity Framework;
- Request for Information (RFI)—Developing a Framework to Improve Critical Infrastructure Cybersecurity (78 FR 13024, February 26, 2013);
- Notice of Inquiry (NOI)—Incentives to Adopt Improved Cybersecurity Practices (78 FR 18954, March 28, 2013),

—DHS Information Sharing Update,
—Update on Legislative proposals relating to information security and privacy,
—Update on FISMA—transfer of operational responsibilities for DHS and OMB,
—FISMA—gaps and issues,
—DHS—investigative discussion on reducing required reporting,
—US–CERT changing reporting categories, and
—Update of NIST Computer Security Division.

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters. The final agenda will be posted on the Web site indicated above. Seating will be available for the public and media. No registration is required to attend this meeting.

Public Participation: The ISPAB agenda will include a period of time, not to exceed thirty minutes, for oral comments from the public (Friday, June 14, 2013, between 10:00 a.m. and 10:30 a.m.). Speakers will be selected on a first-come, first-served basis. Each speaker will be limited to five minutes. Questions from the public will not be considered during this period. Members of the public who are interested in speaking are requested to contact Annie Sokol at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements. In addition, written statements are invited and may be submitted to the ISPAB at any time. All written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930.

Dated: April 24, 2013.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2013–10137 Filed 4–29–13; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC621

Atlantic Highly Migratory Species; Public Conference Call and Webinar Regarding Updates to the HMS Recreational Fishing Action Plan

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

ACTION: Announcement of public conference call and webinar.

SUMMARY: NMFS will hold a public conference call to discuss progress on current goals and objectives in the 2011 Atlantic Highly Migratory Species (HMS) Recreational Fishing Action Agenda and potential updates to the Agenda. The 2011 Atlantic HMS Recreational Fishing Action Agenda was developed as part of a national effort to provide a comprehensive perspective of our efforts relating to recreational fisheries.

DATES: An operator-assisted, public conference call and webinar will be held on May 15, 2013, from 2:00 p.m. to 5:00 p.m., EDT.

ADDRESSES: The conference call information is phone number 800–857–5085; participant pass code 1116226. We will also show a brief presentation via webinar. RSVP at *https://www1.gotomeeting.com/register/253309785.* A confirmation email with webinar log-in information will be sent after your RSVP has been registered. The presentation and any supporting information will be posted on the HMS Web site at: *http://www.nmfs.noaa.gov/sfa/hms.*

FOR FURTHER INFORMATION CONTACT: Clifford Hutt at 301–427–8503; Brad McHale at (978) 281–9139; or Randy Blankenship at (727) 824–5313.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce manages Atlantic HMS, including Atlantic tunas, sharks, billfish, and swordfish, and has delegated that authority to NMFS. Atlantic HMS are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSA) and the Atlantic Tunas Convention Act (ATCA). Management of HMS requires international cooperation given the migratory nature of the species.

In December 2011, as part of a national effort to provide a comprehensive perspective of our efforts relating to recreational fisheries, we released the 2011 Atlantic HMS Recreational Fishing Action Agenda to serve as a publicly available roadmap detailing priorities and objectives for addressing recreational fishing issues. Development of the 2011 Atlantic HMS Recreational Fishing Action Agenda included input from the Atlantic HMS Advisory Panel and the Marine Fisheries Advisory Committee (MAFAC) Recreational Fisheries Working Group. The 2011 Atlantic HMS Recreational Fishing Action Agenda is available at *http://www.nmfs.noaa.gov/sfa/hms/rec/12-0611_rec_action_agenda_atlantic_hms.pdf.*

On May 15, 2013, we will hold a public conference call and webinar to discuss updating the 2011 Atlantic HMS Recreational Fishing Action Agenda. The purpose of this call is to report on our progress toward achieving the goals and objectives laid out in the original action agenda, and to discuss potential revisions to the plan. Additionally, we will discuss efforts to improve HMS recreational fishing opportunities, recreational catch and effort data, social and economic data on recreational fisheries, and communication with recreational constituents.

The call will start with a presentation, which participants and interested parties can follow via webinar, that will cover an overview of the current HMS Recreational Fishing Action Agenda, and our progress towards accomplishing the objectives listed therein. The presentation will be followed by a discussion among members of the HMS Advisory Panel, the MAFAC Recreational Fisheries Working Group, recreational constituents, academics researching HMS fisheries, non-governmental organizations interested in HMS recreational fishing issues, and members of the public. For information on how to participate in the call, see **DATES** and **ADDRESSES**.

Dated: April 24, 2013.

Kara Meckley,

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

[FR Doc. 2013–10142 Filed 4–29–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC649

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Council to convene public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a meeting of the Coastal Migratory Pelagics Advisory Panel.

DATES: The meeting will convene at 8:30 a.m. and conclude by 4 p.m. on Wednesday, May 15, 2013.

ADDRESSES: The meeting will be held at the Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Ryan Rindone; Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630 x241.

SUPPLEMENTARY INFORMATION: The Coastal Migratory Pelagics (CMP) Advisory Panel will meet to discuss CMP Amendments 19 and 20. Amendment 19 addressed sale and permit provisions for Gulf of Mexico Spanish and king mackerel. Amendment 20 addresses season length, transit provisions, allocation, and framework procedures for coastal

migratory pelagics. The Panel will provide input to the Gulf Council on preferred actions and alternatives for both amendments, and will suggest which actions and alternatives need not be considered further. These recommendations will be provided to the Gulf Council at their June 2013 meeting in Pensacola, FL.

Copies of the agenda and other related materials can be obtained by calling (813) 348–1630.

Although other non-emergency issues not on the agenda may come before the Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Advisory Panel will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: April 25, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–10092 Filed 4–29–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC648

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Groundfish Committee and Habitat Committee on May 17, 2013 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Friday, May 17, 2013 at 9 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Sheraton Harborside Hotel, 250 Market Street, Portsmouth, NH 03801; telephone: (603) 431–2300; fax: (603) 433–5649.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Groundfish and Habitat Committees will convene jointly to continue development of alternatives for inclusion in Omnibus Essential Fish Habitat Amendment 2. The Committees will receive a report from the Closed Area Technical Team and Habitat Plan Development Team with technical advice about integrating Habitat Management and Juvenile Groundfish Habitat Management Options, including a summary of various evaluation metrics. The Committees will provide guidance about packaging options into alternatives.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: April 25, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–10143 Filed 4–29–13; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket Number: CPSC–2013–0016]

Petition Requesting Exception From Lead Content Limits: BIC USA Inc.

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) has received a petition requesting an exception from the 100 ppm lead content limit under section 101(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), as amended by Public Law 112–28 from BIC USA Inc. (BIC). We invite written comments concerning the petition.

DATE: Submit comments by May 30, 2013.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2013–0016, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov*. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov*. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov*. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov*, and insert the docket number, CPSC–2013–0016, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Kristina Hatlelid, Ph.D., M.P.H., Directorate for Health Sciences, Consumer Product Safety Commission, 5 Research Pl, Rockville, MD 20850; email: *khatlelid@cpsc.gov*; telephone: 301–987–2558.

SUPPLEMENTARY INFORMATION: Under section 101(a) of the CPSIA, consumer products designed or intended primarily for children 12 years old and younger that contain lead content in excess of 100 ppm are considered to be banned hazardous substances under the Federal Hazardous Substances Act (FHSA).

Section 101(b)(1) of the CPSIA provides for a functional purpose exception from lead content limits under certain circumstances. The exception allows the CPSC, on the Commission's own initiative, or upon petition by an interested party, to exclude a specific product, class of product, material, or component part from the lead limits established for children's products under the CPSIA if, after notice and a hearing, the Commission determines that: (i) The product, class of product, material, or component part requires the inclusion of lead because it is not practicable or not technologically feasible to manufacture such product, class of product, material, or component part, as the case may be, in accordance with section 101(a) of the CPSIA by removing the excessive lead or by making the lead inaccessible; (ii) the product, class of product, material, or component part is not likely to be placed in the mouth or ingested, taking into account normal and reasonably foreseeable use and abuse of such product, class of product, material, or component part by a child; and (iii) an exception for the product, class of product, material, or component part will have no measurable adverse effect on public health or safety, taking into account normal and reasonably foreseeable use and abuse.

Under section 101(b)(1)(B) of the CPSIA, there is no measurable adverse effect on public health or safety if the exception will result in no measurable increase in blood lead levels of a child. In November 2012, CPSC staff issued a report, which found that, for the purposes of evaluating children's products for an exception from the CPSIA lead limit, a product will have no measurable adverse effect on public health or safety if a potential exposure to lead from the product is estimated to result in an increase in a child's blood lead level of less than 0.8 μg/dL. The level of exposure that would be associated with such an increase is approximately 2.2 μg per day. That report may be viewed at: *http://www.cpsc.gov/PageFiles/133902/lead101.pdf*.

Given the highly technical nature of the information required for an exception, including data on the lead content of the product and test methods used to obtain those data, the Commission finds that notice of the petition and solicitation for written comments would provide the most efficient process for providing an adequate opportunity for all interested parties to participate in the proceeding. However, the Commission may hold a public hearing or public meeting if the Commission deems a public hearing or public meeting appropriate and necessary to determine whether the petition for a functional purpose exception should be granted.

On March 25, 2013, BIC submitted a petition requesting an exception from the lead content limit of 100 ppm under section 101(b) of the CPSIA for a new line of writing instrument products aimed at children age 5 and up (BIC Children's Pen) to address the needs of young children who are in the early stages of learning to write. BIC specifically requests the functional purpose exemption for the point component of the BIC Children's Pen. The accessible portion of the nickel silver points assembly that BIC proposes to use in its BIC Children's Pen contains total lead of approximately 8720 ppm (point and point support subassembly). According to BIC, all of the other accessible components of the BIC Children's Pen contain total lead below 100 ppm.

BIC contends that removing or making excess lead inaccessible in manufacturing the BIC Children's Pen is neither practicable nor technologically feasible. BIC states that if BIC were to change the metal alloy to reduce the lead content to below 100 ppm, millions of dollars in high-speed manufacturing equipment would require retooling and use of cutting oil to produce the points, requiring significant resources and capital. In addition, BIC asserts that adjusting manufacturing processes in this way would result in lower point manufacturing productivity and a reduction in machine speeds and machine cycling.

BIC further states that the only metal alloy available for pen points that contain lead below 100 ppm is stainless steel. However, BIC does not produce stainless steel points in any of its factories. According to BIC, stainless steel points are more commonly used with water-based inks typically found in roller ball pens and gel ink pens. The BIC Children's Pen will not contain a water-based ink; rather, the pen will contain a solvent-based ink that is used in BIC's ballpoint pens.

BIC also contends that the BIC Children's Pen point is not likely to be placed in the mouth or ingested. According to BIC, the BIC Children's Pen is designed without a cap, clip, or pen body that can be opened. In addition, the point is securely adhered to the ink cartridge, and therefore, the point is not easily detachable, and the point is retractable. BIC states that the frequency of mouthing of objects by children who are intended to use the BIC Children's Pen is relatively low for the user age group (ages 5 – 12), and because the pen point is sharp, children will not mouth the pen point end of the product.

Finally, BIC asserts that granting an exception will have no measurable adverse effect on public health or safety, taking into account normal and foreseeable use and abuse because the potential exposure to the pen point would have no measurable increase in blood lead levels of a child. According to BIC, a child's fingers would not likely be in contact with the pen point during normal use conditions, and the point would be extremely difficult to grip. In addition, BIC states that a wipe test of the pen point shows that even in a worst case analysis (assuming purposeful dermal contact), the potential exposure to lead would be 0.31 μg/day, which is far less than the CPSC staff recommendation that 2.2 μg/day can be used in a determination of a ''measurable increase'' in blood lead levels of a child.

Through this notice, we invite written comments on the petition. Interested parties may view a copy of the petition under supporting and related materials identified by Docket No. CPSC–2013–0016, through *http://www.regulations.gov*. Interested parties also may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, MD 20184; email: *cpsc-os@cpsc.gov*, telephone 301–504–7923.

Dated: April 25, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–10093 Filed 4–29–13; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Process and Impact Evaluation of the Minnesota Reading Corps for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Scott Richardson, at (202) 606–6903 or email to *srichardson@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* (202) 395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) *By email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day public comment Notice was published in the **Federal Register** on February 21, 2103. This comment period ended April 22, 2013. No public comments were received from this Notice.

Description: CNCS is seeking approval of its Process and Impact Evaluation of the Minnesota Reading Corps. This project will assess the effect of the Minnesota Reading Corps on the literacy outcomes of students enrolled in their Pre-Kindergarten program and the personal and professional goals of AmeriCorps members serving in the program. Copies of the information collection request can be obtained by contacting the office listed in the **ADDRESSES** section of this Notice.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Process and Impact Evaluation of the Minnesota Reading Corps.

OMB Number: 3045–0144.

Agency Number: None.

Affected Public: Pre-Kindergarten students enrolled in select Minnesota schools and individuals who served as tutors in the Minnesota Reading Corps.

Total Respondents for Student Assessments: 1,440.

Frequency for Students: Three.

Average Time per Response for Students: 7 minutes.

Total Respondents for Member Survey: 1,031.

Frequency for Members: Once.

Average Time per Response for Members: 20 minutes.

Estimated Total Burden Hours: 848 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: April 24, 2013.

Christopher Spera,

Director of Research and Evaluation.

[FR Doc. 2013–10107 Filed 4–29–13; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0090]

Notice of Availability (NOA) for Sharpe Permit Relinquishment Project Environmental Assessment

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice of Availability (NOA) for Sharpe Permit Relinquishment Project Environmental Assessment.

SUMMARY: The Defense Logistics Agency (DLA) announces the availability of an environmental assessment (EA) for the potential environmental impacts associated with the proposed action to relinquish DLA's current permit from the U.S. Department of the Army for the use and occupancy of the Defense Distribution Depot San Joaquin, California—Sharpe [Sharpe Site]. The EA has been prepared as required under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4331 *et seq.*) In addition, the EA complies with DLA Regulation (DLAR) 1000.22. The EA evaluates the potential environmental impacts of relinquishing the permit and moving the Sharpe Site operations to the near-by Defense Distribution Depot San Joaquin, California—Tracy Site and potentially other DLA facilities. Based on the analysis in the EA, DLA has determined that the proposed action was not a major federal action significantly affecting the quality of the human environment within the context of NEPA. Therefore, the preparation of an environmental impact statement (EIS) is not required.

DATES: The public comment period will end 30 days after publication of this NOA in the **Federal Register**. Comments received by the end of the 30-day period will be considered when preparing the final version of the document. The EA is available electronically at *http://www.dla.mil/Documents/Sharpe%20EA%20040113%20v1%20from%20Anil%20received%20in%20DS-E%2004-03-13pdf.pdf.* In addition, a hard copy of the EA is available at Lathrop Public Library, 15461 7th Street, Lathrop, California 95440 and at the Defense Distribution Depot San Joaquin—Tracy Site Public Affairs Office, 2600 S. Chrisman Road, Building 1, Tracy, California 95304. A copy of the EA may be requested by contacting Defense Distribution Depot San Joaquin—Tracy Site Public Affairs Office at (209) 839–4226.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd floor, Suite 02G09, Alexandria, VA 22350–3100.

FOR FURTHER INFORMATION CONTACT: Public Affairs Office, Tracy, California, (209) 839–4226.

Dated: April 25, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–10123 Filed 4–29–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Intent To Grant an Exclusive License; Integrata Security, LLC

AGENCY: National Security Agency, DoD.

ACTION: Notice.

SUMMARY: The National Security Agency hereby gives notice of its intent to grant Integrata Security, LLC a revocable, non-assignable, exclusive, license to practice the following Government-Owned invention as described in U.S. Patent No. 8,069,483 entitled: ''Device for and Method of Wireless Intrusion Detection,'' issued by the U.S. Patent & Trademark Office on November 29, 2011, and any related non-provisional patent application and all Letters Patent issuing thereon, and any continuation, continuation-in-part or division of said non-provisional patent application and any reissue or extension of said Letters Patent.

The above-mentioned invention is assigned to the United States Government as represented by the National Security Agency.

DATES: Anyone wishing to object to the grant of this license has fifteen (15) days from the date of this notice publication to file written objections along with any supporting evidence, if any.

ADDRESSES: Written objections are to be filed with the National Security Agency Technology Transfer Program, 9800 Savage Road, Suite 6848, Fort George G. Meade, MD 20755–6848.

FOR FURTHER INFORMATION CONTACT: Marian T. Roche, Director, Technology Transfer Program, 9800 Savage Road, Suite 6848, Fort George G. Meade, MD 20755–6848, telephone (443) 634–3514.

Dated: April 24, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–10061 Filed 4–29–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2012–ICCD–0071]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; A Study of Implementation and Outcomes in Upward Bound and Other TRIO Programs

AGENCY: The Institute of Education Sciences (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 30, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2012–ICCD–0071 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: A Study of Implementation and Outcomes in Upward Bound and Other TRIO Programs.

OMB Control Number: 1850–NEW.

Type of Review: New collection.

Respondents/Affected Public: Not for profit institutions.

Total Estimated Number of Annual Responses: 274.

Total Estimated Number of Annual Burden Hours: 183.

Abstract: This Upward Bound (UB) study, sponsored by the U.S. Department of Education, focuses on the implementation strategies of all regular UB projects. To do so, project directors will be asked to complete a 40 minute survey. This survey will serve two main purposes:

1. To describe the services and strategies that Upward Bound grantees implement. Upward Bound projects are required to provide a wide-range of services, and are allowed to provide other services as well. The survey will attempt to capture program offerings, requirements, and features of the program that participants experience and which may improve their prospects of successfully competing high school, entering college, and completing college.

2. To provide input into the decision-making process to identify a strategy to test as part of a random assignment demonstration. ED has contracted with a research team to (1) conduct a rigorous evaluation of college savings accounts in the context of the GEAR UP Program and (2) under an option that could be exercised by ED, conduct a random assignment demonstration of one or more promising strategies that could be implemented in an Upward Bound context to improve participant outcomes. This survey of UB grantees will probe into specific UB programmatic areas to identify to determine the prevalence of different implementation strategies and obtain a more complete picture on how some of these strategies are implemented. The results of this survey will inform the UB community as a whole as well as the planned future work noted above.

The grantee survey will be conducted with all 820 regular Upward Bound projects in the spring of 2013. Preliminary results from the survey, which will be shared internally within ED in late Spring 2013, will help inform the selection of a yet-to-be determined promising strategy or strategies for a possible experimental study that could be implemented in a set of UB grantees. ED will decide whether to exercise the option for a study of promising strategies in Upward Bound by June 2013, based, in large part, on the findings from the survey of UB grantees.

Additionally, IES plans to publicly release the findings from the survey of UB grantees through a report that will require approval by the IES Standards and Review Office. This report will be of great interest to program providers and researchers concerned about college access programs in light of the recent changes to the Upward Bound program that were made in the 2012 grant competition. One of the important questions arising from the UB 2012 grant competition is what type of approaches or strategies UB projects initiated in an effort to reduce the cost of implementing key program components while not reducing the number of students served. For example, a review of 2012 UB grant applications revealed that UB applicants proposed introducing the use of various technologically-based approaches to delivering some program components. The UB grantee survey is intended to identify and describe the specific strategies that UB projects actually implement to fulfill their grant objectives in conducting required program components.

Dated: April 22, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–09923 Filed 4–29–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3063–001.

Applicants: Green Country Energy, LLC.

Description: Green Country Energy, LLC submits second supplement to December 21, 2012 Triennial Market Power Update for the Southwest Power Pool, Inc. Region.

Filed Date: 4/19/13.

Accession Number: 20130419–5225.

Comments Due: 5 p.m. ET 5/10/13.

Docket Numbers: ER12–1179–005.

Applicants: Southwest Power Pool, Inc.

Description: Integrated Marketplace Compliance Filing—Docket ER12–1179–002 to be effective 3/1/2014.

Filed Date: 4/19/13.

Accession Number: 20130419–5189.

Comments Due: 5 p.m. ET 5/10/13.

Docket Numbers: ER13–1315–000.

Applicants: Massachusetts Electric Company.

Description: Interconnection Agreement Between Massachusetts Electric Co. and Pepperell Hydro to be effective 6/19/2013.

Filed Date: 4/19/13.

Accession Number: 20130419–5220.

Comments Due: 5 p.m. ET 5/10/13.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–44–007.

Applicants: El Paso Electric Company.

Description: El Paso Electric Company submits Report on Operational Penalty Distributions.

Filed Date: 4/18/13.

Accession Number: 20130418–5238.

Comments Due: 5 p.m. ET 5/9/13.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD13–8–000.

Applicants: North American Electric Reliability Corporation.

Description: Petition of the North American Electric Reliability Corporation for Approval of an Interpretation to Reliability Standards TPL–003–0a and TPL–004–0.

Filed Date: 4/12/13.

Accession Number: 20130412–5227.

Comments Due: 5 p.m. ET 5/13/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 22, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–10089 Filed 4–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

April 23, 2013.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–804–000.

Applicants: Northwest Pipeline GP.

Description: Revised System Map to be effective 5/1/2013.

Filed Date: 4/22/13.

Accession Number: 20130422–5073.

Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: RP13–805–000.

Applicants: Boardwalk Storage Company, LLC.

Description: Revise Hub Services and Umbrella Pro Forma Agmts to be effective 5/22/2013.

Filed Date: 4/22/13.

Accession Number: 20130422–5074.

Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: RP13–806–000.

Applicants: Portland Natural Gas Transmission System.

Description: Docket No. RP08–306 Compliance Filing 1 to be effective 9/30/2010.

Filed Date: 4/22/13.

Accession Number: 20130422–5103.

Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: RP13–807–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Negotiated Rate—EDF Trading to be effective 5/1/2013.

Filed Date: 4/22/13.

Accession Number: 20130422–5140.

Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: RP13–808–000.

Applicants: KPC.

Description: KPC Change of Address to be effective 6/1/2013.

Filed Date: 4/22/13.

Accession Number: 20130422–5150.

Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: RP13–809–000.

Applicants: Kern River Gas Transmission Company.

Description: 2013 Changes to High Desert Pro Formas to be effective 5/23/2013.

Filed Date: 4/22/13.

Accession Number: 20130422–5158.

Comments Due: 5 p.m. ET 5/6/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–556–001.

Applicants: Gulf Shore Energy Partners, LP.

Description: Gulf Shore Energy Partners, Revision 1—LP GAS TARIFF ORIGINAL VOLUME NO. 1 to be effective 5/1/2013.

Filed Date: 4/22/13.

Accession Number: 20130422–5145.

Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: RP13–676–001.

Applicants: East Tennessee Natural Gas, LLC.

Description: No-bump Compliance Filing to be effective 6/1/2013.

Filed Date: 4/22/13.

Accession Number: 20130422–5104.

Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: RP13–677–001.

Applicants: Saltville Gas Storage Company L.L.C.

Description: No-bump Compliance Filing to be effective 6/1/2013.

Filed Date: 4/22/13.

Accession Number: 20130422–5093.

Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: RP13–806–001.

Applicants: Portland Natural Gas Transmission System.

Description: Docket No. RP08–306 Compliance Filing 2 to be effective 10/23/2010.

Filed Date: 4/22/13.

Accession Number: 20130422–5123.

Comments Due: 5 p.m. ET 5/6/13.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–10091 Filed 4–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–96–000.

Applicants: Nevada Power Company.

Description: Section 203 Application for Disposition of Jurisdictional Facilities of Nevada Power Company.

Filed Date: 4/22/13.

Accession Number: 20130422–5208.

Comments Due: 5 p.m. ET 5/13/13.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG13–20–000.

Applicants: Ivanpah Master Holdings, LLC.

Description: Letter of clarification of Ivanpah Master Holdings, LLC.

Filed Date: 4/23/13.

Accession Number: 20130423–5078.

Comments Due: 5 p.m. ET 5/14/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2763–008; ER10–2732–008; ER10–2733–008; ER10–2734–008; ER10–2736–008; ER10–2737–008; ER10–2741–008; ER10–2749–008; ER10–2752–008; ER12–2492–004; ER12–2493–004; ER12–2494–004; ER12–2495–004; ER12–2496–004.

Applicants: Bangor Hydro Electric Company, Emera Energy Services, Inc., Emera Energy U.S. Subsidiary No. 1, Inc., Emera Energy U.S. Subsidiary No. 2, Inc., Emera Energy Services Subsidiary No. 1 LLC, Emera Energy Services Subsidiary No. 2 LLC, Emera Energy Services Subsidiary No. 3 LLC, Emera Energy Services Subsidiary No. 4 LLC, Emera Energy Services Subsidiary No. 5 LLC, Emera Energy Services Subsidiary No. 6 LLC, Emera Energy Services Subsidiary No. 7 LLC, Emera Energy Services Subsidiary No. 8 LLC, Emera Energy Services Subsidiary No. 9 LLC, Emera Energy Services Subsidiary No. 10.

Description: Notice of Change in Status of Bangor Hydro Electric Company, et al.

Filed Date: 4/22/13.

Accession Number: 20130422–5210.

Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: ER13–878–001.

Applicants: Southwest Power Pool, Inc.

Description: Compliance Filing in Order No. ER13–878—Attachment AE 1.2.2 to be effective 4/1/2012.

Filed Date: 4/22/13.

Accession Number: 20130422–5129.

Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: ER13–1069–001.

Applicants: MP2 Energy LLC.

Description: Amendment to be effective 4/23/2013.

Filed Date: 4/23/13.

Accession Number: 20130423–5001.

Comments Due: 5 p.m. ET 5/14/13.

Docket Numbers: ER13–1192–000.

Applicants: Hess Energy Marketing LLC.

Description: Hess Energy Marketing LLC submits Supplement to March 29, 2013 Application for Market-Based Rate Authorization.

Filed Date: 4/23/13.

Accession Number: 20130423–5068.

Comments Due: 5 p.m. ET 5/14/13.

Docket Numbers: ER13–1316–000.

Applicants: Public Service Company of New Mexico.

Description: Navopache Compliance Filing to be effective 4/14/2012.

Filed Date: 4/22/13.

Accession Number: 20130422–5112.

Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: ER13–1317–000.

Applicants: Entergy Arkansas, Inc.

Description: RSP Agreements to be effective 6/21/2013.

Filed Date: 4/22/13.

Accession Number: 20130422–5122.

Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: ER13–1318–000.

Applicants: Public Service Company of New Mexico.

Description: WestConnect Regional Transmission Service Agreement to be effective 7/1/2013.

Filed Date: 4/23/13.

Accession Number: 20130423–5002.

Comments Due: 5 p.m. ET 5/14/13.

Docket Numbers: ER13–1319–000.

Applicants: Pacific Gas and Electric Company.

Description: CCSF IA—41st Quarterly Filing of Facilities Agreements to be effective 3/31/2013.

Filed Date: 4/23/13.

Accession Number: 20130423–5004.

Comments Due: 5 p.m. ET 5/14/13.

Docket Numbers: ER13–1320–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: Niagara Mohawk Power Corporation submits tariff filing per

35.13(a)(2)(iii: SGIA 1988 between Niagara Mohawk and WM Renewable Energy to be effective 6/23/2013.

Filed Date: 4/23/13.

Accession Number: 20130423–5044.

Comments Due: 5 p.m. ET 5/14/13.

Docket Numbers: ER13–1321–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 04–23–2013 SA 2490 Tower-Embarrass T–T IA to be effective 4/24/2013.

Filed Date: 4/23/13.

Accession Number: 20130423–5131.

Comments Due: 5 p.m. ET 5/14/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 23, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–10090 Filed 4–29–13; 8:45 am].

BILLING CODE 6717–01–P.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–581]

Duke Energy Carolinas, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission) regulations (18 CFR Part 380), Commission staff has reviewed plans, filed April 2011, and supplemented February 14, 2012, to perform embankment seismic stability improvement (ESSI) work at Linville Dam, part of the Catawba-Wateree Hydroelectric Project's Bridgewater Development, which is located on the Catawba River in McDowell and Burke counties, North Carolina. The project is located in nine counties in North Carolina and five counties in South Carolina.

As planned by the project licensee, Duke Energy Carolinas, LLC (Duke Energy), the ESSI work would involve the installation of a counterweight stability berm against the downstream face of Linville Dam. The ESSI work is necessary because it has been determined that Linville Dam could fail during a seismic event (identified as an earthquake of approximately magnitude 5.4). Accordingly, the Commission is requiring remediation under Part 12 of its regulations. In the environmental assessment (EA), Commission staff has analyzed the probable environmental effects of the planned work and has concluded that approval of the work, with appropriate environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is available at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–2232) in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free at 1–866–208–3372, or for TTY, (202) 502–8659.

Dated: April 23, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–10133 Filed 4–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. PR13–16–002; PR13–17–002; Not Consolidated]

TexStar Transmission, LP; TEAK Texana Transmission Company, LP; Notice of Filings

Take notice that on April 23, 2013, the applicants listed above submitted an amendment to the December 6, 2012, baseline filing of their Statement of Operating Conditions for services provided under Section 311 of the Natural Gas Policy Act of 1978 (NGPA).

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 30, 2013.

Dated: April 24, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–10132 Filed 4–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1298–000]

Mega Energy Holdings, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Mega Energy Holdings, LLC's application for

market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 13, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 23, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–10135 Filed 4–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–13123–002—CA]

Eagle Mountain Pumped Storage Hydroelectric Project; Eagle Crest Energy; Notice of Meeting With the Bureau of Land Management

a. *Date and Time of Meeting:* Wednesday, May 8, 2013, at 9:00 a.m. (Pacific Time)

b. *Location:* In the vicinity of Palm Springs, California; however the precise meeting location is still pending and will be provided in a subsequent notice.

c. *FERC Contact:* Kenneth Hogan, (202) 502–8434: *Kenneth.Hogan@ferc.gov*.

d. *Purpose of the Meeting:* Commission staff will meet with the staff of the Bureau of Land Management to improve agency coordination and discuss the agencies' overlapping jurisdictions (pursuant to the Federal Land Policy and Management Act and the Federal Power Act), on the Eagle Mountain Pumped Storage Hydroelectric Project.

e. All local, state, and federal agencies, tribes, and interested parties, are hereby invited to observe the meeting in person.

f. This meeting was originally noticed on July 17, 2012, and subsequently postponed on August 3, 2012.

Dated: April 23, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–10136 Filed 4–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14492–000]

Hydrodynamics, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 1, 2013, Hydrodynamics, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Ruby River Reservoir Water Power Project (project) to be located on the Ruby River, near Alder in Madison County, Montana. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) An 846-foot-long, 111-foot-high earthen dam; (2) a reservoir with a surface area of 970 acres and a storage capacity of 36,663 acre-feet at a normal water surface elevation of 5,392 feet mean sea level; (3) a 180-foot-long, 84-inch-diameter concrete with steel liner penstock consisting of a concrete outlet tunnel works; (4) a 20-foot-long, 84-inch-diameter penstock extending from the tunnel to the powerhouse; (5) a powerhouse containing two generating units with a combined installed capacity of 2.3 megawatts; (6) a tailrace discharging flows into the Ruby River at the base of the dam; (7) a new substation; (8) a 2-mile-long, 15-kilovolt transmission line; and (9) appurtenant facilities. The proposed project would have an average annual generation of 10 gigawatt-hours.

Applicant Contact: Roger Kirk and Ben Singer, Hydrodynamics, Inc., P.O. Box 1136, Bozeman, Montana 59771; phone: (406) 587–5086.

FERC Contact: John Matkowski; phone: (202) 502–8576.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14492) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 19, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–10166 Filed 4–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–179–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization

Take notice that on April 16, 2013, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 Highway 56, Owensboro, Kentucky, filed in Docket No. CP13–179–000, a prior notice request pursuant to sections 157.205 and 157.216(b) of the Commission's regulations under the Natural Gas Act (NGA), seeking authorization to abandon a portion of compression within its existing Tonganoxie Compressor Station located in Leavenworth County, Kansas, all as more fully set forth in the application. This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is also available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to the subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Specifically, Southern Star proposes to abandon in place four compressor units (Units 1 through 4), each rated at 440 horsepower, at its Tonganoxie Compressor Station. These units, installed in 1949, were used in routing natural gas from Southern Star's Ottawa Compressor Station and McLouth Gas Storage field to system deliveries in the St. Joe, Atchison, Fall City, and Tonganoxie-Fairfax areas. Southern Star has deemed the utilization of these units to be unnecessary in serving peak firm service, and the abandonment will save on maintenance costs and avoid the need for future capital cost.

Any questions regarding the applications should be directed to David N. Roberts, Staff Analyst, Regulatory Compliance, Southern Star Central Gas Pipeline, Inc., 4700 Highway 56, Owensboro, KY 42301, or call (270) 852–4654.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: April 23, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–10134 Filed 4–29–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Washoe Project-Rate Order No. WAPA–160

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Extension of Non-Firm Power Formula Rate.

SUMMARY: The Western Area Power Administration (Western) extends, on an interim basis, the existing Washoe Project formula rate through September 30, 2017. The existing Non-Firm Power Formula Rate Schedule SNF–7 expires on July 31, 2013. The formula rate will be in effect until the Federal Energy Regulatory Commission (FERC) places the formula rate into effect on a final basis or until it is replaced by another rate.

DATES: This action is effective as of July 31, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas R. Boyko, Regional Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4418, email: *boyko@wapa.gov,* or Ms. Regina Rieger, Rates Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4629, email: *rieger@wapa.gov.*

SUPPLEMENTARY INFORMATION: By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. This extension is issued pursuant to the Delegation Order and DOE rate extension procedures at 10 CFR 903.23(a).

On April 16, 2009, FERC confirmed and approved the existing formula rate for the Washoe Project, Stampede Division (Project), Non-Firm Power

Formula Rate Schedule SNF–7,[1] Rate Order No. WAPA–136.[2] Rate Schedule SNF–7 expires on July 31, 2013. This formula rate is calculated annually after determining the Project's reimbursable expenses and revenue collected in accordance with the Stampede Energy Exchange Services Contract. Since the Project has no Federally-owned transmission, a contractor accepts delivery of Project generation, approximately 12,000 megawatt-hours annually, to serve project use obligations, then pays Western for energy received in excess of project use loads. Pursuant to Rate Schedule SNF–7, any remaining reimbursable expenses are transferred into the Central Valley Project power revenue requirement. The existing formula rate methodology collects annual revenue sufficient to recover annual expenses, including interest, capital requirements, and deficit recovery, thus ensuring Project repayment within the cost recovery criteria set forth in DOE Order RA 6120.2.

Rate extensions are authorized under 10 CFR 903.23. Rates previously confirmed and approved by FERC, for which no adjustment is contemplated, may be extended by the Deputy Secretary on an interim basis following notice of proposed extension at least 30 days before expiration.[3] On February 22, 2013, Western published a notice of the proposed extension in the **Federal Register**.[4]

Following review of Western's proposal within DOE, I hereby approve, on an interim basis, Rate Order No. WAPA–160, which extends, without adjustment, the existing Non-Firm Power Formula Rate Schedule SNF–7 through September 30, 2017. Rate Order No. WAPA–160 will be submitted to FERC for confirmation and approval on a final basis.

Dated: April 23, 2013.

Daniel B. Poneman,

Acting Secretary.

Order Confirming and Approving an Extension of the Washoe Project, Stampede Division, Non-Firm Power Formula Rate Schedule

Section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152) transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This extension is issued pursuant to the Delegation Order and DOE rate extension procedures at 10 CFR 903.23(a).

Background

On April 16, 2009, FERC confirmed and approved the existing formula rate for the Washoe Project, Stampede Division (Project), Non-Firm Power Formula Rate Schedule SNF–7,[1] Rate Order No. WAPA–136.[2] FERC approved Rate Schedule SNF–7 for 5 years beginning August 1, 2008, through July 31, 2013. On February 22, 2013, pursuant to 10 CFR 903.23(a), Western filed a notice in the **Federal Register** proposing to extend, without adjustment, Rate Schedule SNF–7, as Rate Order No. WAPA–160.[3] Consistent with its regulations at 10 CFR 903.23(a), Western did not hold a consultation and comment period.

Discussion

The Project's Non-Firm Power Formula Rate Schedule SNF–7 expires on July 31, 2013. The formula rate, calculated annually, transfers reimbursable expenses not recovered by contract into the Central Valley Project power revenue requirement. The existing formula rate methodology collects annual revenue sufficient to recover annual expenses, including interest, capital requirements, and deficit recovery, thus ensuring Project repayment within the cost recovery criteria set forth in DOE Order RA 6120.2.

For the extension period, August 1, 2013, through September 30, 2017, there is no adjustment to the formula rate. Under the formula rate, the forecasted annual revenue is $361,000, a reduction of approximately $418,000 from the prior rate period, August 1, 2008, through July 31, 2013, due to completion of deficit repayment. The Project is scheduled to recover the remaining $1.6 million deficit by 2015 and all appropriate costs. Rate Order No. WAPA–160 extends the existing Rate Schedule SNF–7 through September 30, 2017, thereby continuing to ensure Project repayment within the cost recovery criteria.

Order

In view of the above and under the authority delegated to me, I hereby extend, on an interim basis, the existing Non-Firm Power Formula Rate Schedule SNF–7. Rate Order No. WAPA–160 extends, without adjustment, the existing formula rate through September 30, 2017. The formula rate shall be in effect pending the FERC confirmation and approval of this extension or substitute rate on a final basis.

Dated: April 23, 2013.

Daniel B. Poneman,

Acting Secretary.

[FR Doc. 2013–10125 Filed 4–29–13; 8:45 am]

BILLING CODE 6450–01–P

[1] *See U.S. Dept. of Energy, Western Area Power Admin.,* Docket No. EF08–5161–000, 127 FERC ¶ 62,043 (2009).

[2] *See* 73 FR 42565 (July 22, 2008).

[3] *See* 10 CFR 903.23(a) (2012).

[4] *See* 78 FR 12308 (February 22, 2013).

[1] *See U.S. Dept. of Energy, Western Area Power Admin.,* Docket No. EF08–5161–000, 127 FERC ¶ 62,043 (2009).

[2] *See* 73 FR 42,565 (July 22, 2008).

[3] *See* 78 FR 12,308 (February 22, 2013).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9806–5]

2013 Annual Meeting of the Ozone Transport Commission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing the 2013 Annual Meeting of the Ozone Transport Commission (OTC). This OTC meeting will explore options available for reducing ground-level ozone precursors in a multi-pollutant context. The Commission will be evaluating potential measures and considering actions in areas such as performance standards for electric generating units (EGUs) on high electric demand days, oil and gas boilers serving EGUs, small natural gas boilers, stationary generators, energy security/energy efficiency, architectural industrial and maintenance coatings, consumer products, institution commercial and industrial (ICI) boilers, vapor recovery at gas stations, large

above ground storage tanks, seaports, aftermarket catalysts, lightering, and non-road idling.

DATES: The meeting will be held on June 13, 2013 starting at 9:30 a.m. and ending at 4:00 p.m.

Location: The Study at Yale, 1157 Chapel Street, New Haven, Connecticut 06511; (203) 503–3900.

FOR FURTHER INFORMATION CONTACT: *For documents and press inquiries contact:* Ozone Transport Commission, 444 North Capitol Street NW., Suite 322, Washington, DC 20001; (202) 508–3840; email: *ozone@otcair.org*; Web site: *http://www.otcair.org*.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 provisions for the Control of Interstate Ozone Air Pollution. Section 184(a) establishes an Ozone Transport Region (OTR) comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia. The purpose of the OTC is to deal with ground-level ozone formation, transport, and control within the OTR.

Type of Meeting: Open.

Agenda: Copies of the final agenda will be available from the OTC office (202) 508–3840; by email: *ozone@otcair.org* or via the OTC Web site at *http://www.otcair.org*.

Dated: April 16, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2013–10187 Filed 4–29–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9807–9; Docket ID No. EPA–HQ–ORD–2013–0189]

An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing a public comment period for the revised draft document titled, ''An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska'' (EPA–910–R–12–004Ba–c). The document was revised by the EPA after reviewing comments received from the public between May 18 and July 23, 2012 and input from the peer review panel held in August 2012. The EPA conducted this assessment to determine the significance of Bristol Bay's ecological resources and the potential impacts of large-scale mining on these resources.

DATES: The public comment period will begin with the publication of this notice and will end Friday, May 31, 2013. Technical comments should be in writing and must be received by EPA by May 31, 2013.

ADDRESSES: The revised draft ''An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska'' is available primarily via the Internet on the EPA Region 10 Bristol Bay Web site at *www.epa.gov/bristolbay* as well as on the National Center for Environmental Assessment's Web site under the Recent Additions and the Data and Publications menus at *www.epa.gov/ncea.* A limited number of CD copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a CD copy, please provide your name, your mailing address, and the document title, ''An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska.''

Comments on the report may be submitted electronically via *www.regulations.gov,* by email, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–9744; or email: *Docket_ORD@epa.gov.*

For technical information concerning the report, contact Judy Smith; telephone: 503–326–6994; facsimile: 503–326–3399; or email: *r10bristolbay@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Project/Document

The U.S. Environmental Protection Agency (EPA) conducted this assessment to provide a characterization of the biological and mineral resources of the Bristol Bay watershed, increase understanding of the potential impacts of large-scale mining on the region's fish resources, and inform future governmental decisions.

A previous draft was released for public comment on May 18, 2012 (77 FR 31353, May 25, 2012). Peer review panel members were announced June 5, 2012 (77 FR 33213, June 5, 2012), and the external peer review meeting was announced July 6, 2012 (77 FR 40037, July 6, 2012). The external peer review meeting was held in Anchorage, AK, August 7–9, 2012. This revised draft was completed by the agency to address public and peer review comments provided on the May 2012 draft.

EPA is releasing this revised draft assessment for the purposes of public comment. This draft assessment is not final as described in EPA's information quality guidelines, and it does not represent and should not be construed to represent Agency policy or views.

EPA is seeking comments from the public on all aspects of the report, including the scientific and technical information presented in the report, the realistic mining scenario used, the data and information used to inform assumptions about mining activities and the evaluations of risk to the fishery, and the potential mitigation measures considered (and effectiveness of those measures). EPA is also specifically seeking any additional data or scientific or technical information about Bristol Bay resources or large-scale mining that should be considered in our evaluation. EPA will consider any public comments submitted in accordance with this notice when revising the document.

II. How To Submit Technical Comments to the Docket at *www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2013–0189, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–566–9744.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 28221T), Docket ID No. EPA–HQ–ORD–2013–0189, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. The phone number is 202–566–1752. If you provide comments by mail, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334, EPA West Building, 1301 Constitution Ave. NW., Washington, DC. 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. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2013–0189. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available on-line at *www.regulations.gov,* including any personal information provided, unless a 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 comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comments. Electronic files should avoid the use of special characters and 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 *www.epa.gov/epahome/dockets.htm.*

Docket: 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 at *www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: April 10, 2013.

James K. Gallahan,

Acting Deputy Director, National Center for Environmental Assessment.

[FR Doc. 2013–10157 Filed 4–29–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2010–0674; FRL–9807–7]

Request for Information To Inform Hydraulic Fracturing Research Related to Drinking Water Resources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for information.

SUMMARY: The EPA is extending its deadline for the public to submit data and scientific literature to inform EPA's research on the potential impacts of hydraulic fracturing on drinking water resources from April 30, 2013 until November 15, 2013. EPA is extending the deadline in order to provide the public with more of an opportunity to provide feedback to the Agency.

DATES: The EPA will accept data and literature in response to this request until November 15, 2013.

ADDRESSES: Using the online method is preferred for submitting information. Follow the online instructions at *http://www.regulations.gov,* and identify your submission with Docket ID No. EPA–HQ–ORD–2010–0674.

Additional methods for submission are:

- *Email:* Send information by electronic mail (email) to: ord.docket@epa.gov, Attention Docket ID No. EPA–HQ–ORD–2010–0674.
- *Fax:* Fax information to: (202) 566–9744, Attention Docket ID No. EPA–HQ–ORD–2010–0674.
- *Mail:* Send information by mail to: U.S. Environmental Protection Agency, EPA Docket Center, Mail code: 28221T, 1200 Constitution Avenue NW., Washington, DC, 20460, Attention Docket ID No. EPA–HQ–ORD–2010–0674.
- *Hand Delivery or Courier:* Deliver information to: EPA Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2010–0674. Deliveries are only accepted during the docket's normal hours of operation, between the 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your information to Docket ID No. EPA–HQ–ORD–2010–0674. The EPA's policy is that all information 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 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 information electronically, 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. Information on a CD ROM should be formatted as a MS Word, Rich Text, or Adobe Acrobat PDF file. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the EPA Docket Center, EPA West Building, Room 3334, 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 ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: For further information contact Lisa Matthews, Mail Code 8101R, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; via phone/voice mail at: (202) 564–6669; via fax at: (202) 565–2430; or via email at: *matthews.lisa@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background

In response to public concern, the U.S. Congress urged the EPA to conduct scientific research to examine the relationship between hydraulic fracturing and drinking water resources. The EPA currently has underway a study to understand the potential impacts, if any, of hydraulic fracturing on drinking water resources and to identify the driving factors that may affect the severity and frequency of any such impacts.

The scope of the study includes the full hydraulic fracturing water lifecycle—from water acquisition, through the mixing of chemicals and injection of fracturing fluids, to the post fracturing stage, including the management of flowback and produced water and its ultimate treatment and disposal. The study includes a review of the published literature, analysis of existing data, scenario evaluation and modeling, laboratory studies and case studies. A copy of the EPA document entitled, *Study of the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources: PROGRESS REPORT* can be found on the Internet at: *http://epa.gov/hfstudy/pdfs/hf-report20121214.pdf.*

To ensure that the EPA is up-to-date on evolving hydraulic fracturing practices and technologies, the EPA is soliciting relevant data and scientific literature specific to potential impacts of hydraulic fracturing on drinking water resources. While the EPA conducts a thorough literature search, there may be studies or other primary technical sources that are not available through the open literature. The EPA would appreciate receiving information from the public to help inform current and future research. Consistent with our commitment to using the highest quality information, The EPA prefers information which has been peer reviewed. Interested persons may provide scientific analyses, studies, and other pertinent scientific information, preferably information which has undergone scientific peer review. The EPA will consider all submissions but will give preference to all peer reviewed data and literature sources.

Dated: April 22, 2013.

Mary Ellen Radzikowski,

Acting Associate Assistant Administrator, Office of Research and Development.

[FR Doc. 2013–10154 Filed 4–29–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Guidance on Deposit Advance Products

AGENCY: The Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed guidance with request for comment.

SUMMARY: The FDIC is proposing guidance on safe and sound banking practices and consumer protection in connection with deposit advance credit products.

DATES: Comments must be submitted on or before May 30, 2013.

ADDRESSES:

- *Mail:* Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comment on the agency Web site.
- *Email:* You may also electronically mail comments to *comments@fdic.gov.*
- *Public Inspection:* Comments may be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1005, Arlington, Virginia 22226, between 9:00 a.m. and 4:00 p.m. (EST), Monday to Friday.

FOR FURTHER INFORMATION CONTACT: Luke H. Brown, Associate Director, Supervisory Policy, (202) 898–3842; Rae-Ann Miller, Associate Director, Risk Management Policy, (202) 898–3898; Surya Sen, Section Chief, Supervisory Policy, (202) 898–6699; Ardie Hollifield, Senior Policy Analyst, Supervisory Policy, (202) 898–6638; or Louis Bervid, Senior Examination Specialist, Risk Management Policy, (202) 898–6896.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Deposit Insurance Corporation (FDIC) is proposing supervisory guidance to clarify the FDIC's application of principles of safe and sound banking practices and consumer protection in connection with deposit advance products. This proposed guidance details the principles that the FDIC expects FDIC-supervised financial institutions to follow in connection with any deposit advance product to address potential reputational, compliance, legal and credit risks. The FDIC expects institutions to apply the principles set forth in this guidance to any deposit advance product they offer.

II. Description of Guidance

A deposit advance product is a small-dollar, short-term loan that a depository institution (bank) makes available to a customer whose deposit account reflects recurring direct deposits. The customer is allowed to take out a loan, which is to be repaid from the proceeds of the next direct deposit. These loans typically have high fees, are repaid in a lump sum in advance of the customer's other bills, and often do not utilize fundamental and prudent banking practices to determine the customer's ability to repay the loan and meet other necessary financial obligations.

The FDIC continues to encourage banks to respond to customers' small-dollar credit needs; however, banks should be aware that deposit advance products can pose a variety of safety and soundness, compliance, consumer protection, and other risks. The FDIC is proposing guidance to ensure that any bank offering these products does so in a safe and sound manner and does not engage in practices that would increase credit, compliance, legal, and reputation risks to the institution.

III. Guidance

The text of the proposed Supervisory guidance on deposit advance products follows:

FDIC Proposed Guidance on Deposit Advance Products

The Federal Deposit Insurance Corporation (FDIC) is proposing supervisory guidance to depository institutions (banks) that offer deposit advance products. This guidance is intended to ensure that banks are aware of the significant risks associated with deposit advance products. The guidance

also supplements the FDIC's existing guidance on payday loans and subprime lending.[1] Although the FDIC encourages banks to respond to customers' small-dollar credit needs in a responsible manner and with reasonable terms and conditions, deposit advance products pose a variety of safety and soundness, compliance, and consumer protection risks to banks.[2]

Background. A deposit advance product is a type of small-dollar, short-term credit product offered to customers maintaining a deposit account, reloadable prepaid card, or similar deposit-related vehicle at a bank. The bank provides a credit feature that allows the customer to take out a loan in advance of the customer's next direct deposit. The advance is based on the customer's history of recurring deposits. Typically, the advance is offered as an open-end line of credit. While the specific details of deposit advance products vary from bank to bank, and also may vary over time, those currently offered incorporate some or all of the characteristics described below.

Cost. The cost of the deposit advance is typically based on a fee structure, rather than an interest rate. Generally advances are made in fixed dollar increments and a flat fee is assessed for each advance. For example, a customer may obtain advances in increments of $20 with a fee of $10 per every $100 advanced. The cost of the deposit advance can be more expensive than other forms of credit, such as a credit card, or a traditional line of credit.

Eligibility, Loan Limits and Ability To Repay. Typically, a customer is eligible for a deposit advance if the deposit account has been open for a certain period of time and the customer receives recurring deposits. Banks typically require a minimum sum to be directly deposited each month for a certain period of time in order for the borrower to be eligible for a deposit advance loan. Currently, some banks permit a recurring deposit as low as $100.

The maximum dollar amount of the advance is typically limited to a percent or amount of the recurring monthly deposit. For example, some banks permit the deposit advance to be the lesser of $500 or 50 percent of the scheduled direct deposits from the preceding statement cycle, rounded up to the nearest $10. The advance limit does not include the fee associated with the advance. In addition, some banks will allow the advance even if the customer's account is currently overdrawn. Some banks also permit a customer to exceed the advance limit, at the bank's discretion.

Typically, the bank does not analyze the customer's ability to repay the loan based on recurring debits or other indications of a need for residual income to pay other bills. The decision to advance credit to borrowers, based solely on the amount and frequency of their deposits, stands in contrast to banks' traditional underwriting standards for other products, which typically include an assessment of the ability to repay the loan based on an analysis of the borrower's finances.

Repayment. Repayment is generally required through an electronic payment of the fee and the advance with the next direct deposit. Typically, the bank is paid first before any other transactions are paid. In some cases, a bank will apply a time limit on how soon it will take the fee and the advance from the direct deposit, but the time limit is minimal, usually one or two days. If the first deposit is insufficient to repay the fee and the advance, the repayment will be obtained from subsequent deposits. If the deposits are insufficient to repay the fee and the advance within a certain time period, typically 35 days, then the bank executes a forced repayment by sweeping the underlying deposit account for the remaining balance. Unlike a payday lender, the bank has automatic access to the underlying deposit account. In some cases, borrowers may be able to access program features that allow for a longer repayment period than 35 days; however, this is not usually allowed.

If the deposit account funds are insufficient to repay the fee and the advance, then the account goes into overdraft status. Some banks will charge an overdraft fee based on the deposit advance overdrawing the account. Other banks will only charge overdraft fees based on any subsequent transactions that overdraw the account.

Although the deposit advance limit is based on an amount or percentage of the monthly deposit, the repayment can be based on a shorter time period. For example, if a customer receives direct deposits of $500 every other Friday from her employer, her monthly direct deposit would be $1000. Under the typical bank's advance limit, she could receive an advance of $500 with a fee of $50. If she obtains the deposit advance on the Thursday before her payday, then the bank will obtain repayment on Friday. The bank will take the entire $500 paycheck. In addition, the customer will still owe $50 in principal because the deposit was only sufficient to pay the $50 fee and $450 in principal. Assuming the customer has no other source of income, the customer will need to rely on savings to pay bills until the next paycheck. At the next paycheck, the bank will take the remaining $50 in principal and the customer will have $450 to pay all outstanding bills.

Some banks have implemented alternative repayment methods that provide more flexibility to the customer. For example, some banks will permit repayment to extend through to the second direct deposit if the first direct deposit falls below a specific dollar threshold. In addition, some banks allow payment by mail rather than electronic transfer, but may charge a fee for this option. Finally, some banks offer an installment loan option, but may also charge an additional fee or may only offer this option if the customer cannot repay the advance and fee from the monthly deposits.

Repeat Usage Controls. Banks often have repeat usage limits that trigger a ''cooling off'' period during which the customer cannot take out a deposit advance, or the credit limit is reduced. For example, some banks may prevent an advance for 35 days if the borrower has used the service at least once each month in the previous six-month period. However, the customer can resume use of the product after the 35-day period is completed. Other banks may prevent an advance for one full billing cycle if the customer borrows the entire amount of the advance each month in the previous six months. However, the customer can avoid this limit by taking out something less than the maximum advance.

Marketing and Access. Banks market deposit advance products as intended to assist customers through a financial emergency or to meet short term needs. These advances, however, are typically not included with the bank's list of available credit products, but are instead listed as a deposit account ''feature.'' Customers are alerted to the availability of the products by a reference on their account statement or a ''button'' or hot link on their personal account Web page, but it is not clear

[1] FDIC Financial Institutions Letter FIL–14–2005, ''Guidelines for Payday Lending,'' (*Guidelines for Payday Lending*) (February 25, 2005); FDIC Financial Institutions Letter FIL–50–2007, ''Affordable Small-Dollar Loan Guidelines,'' (June 19, 2007); FDIC Financial Institutions Letter FIL–9–2001, ''Expanded Guidance for Subprime Lending Programs'' (*Subprime Lending Guidance*), jointly signed by the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the FDIC, and the Office of Thrift Supervision (OTS) (January 31, 2001).

[2] This guidance on Deposit Advance Products does not apply to banks' overdraft lines of credit. Overdraft lines of credit typically do not have repayment characteristics similar to deposit advance products.

that the customer is made equally aware of less expensive alternatives.

Supervisory Concerns of Deposit Advance Loans

Although the FDIC encourages banks to respond to customers' small-dollar credit needs, deposit advance products pose supervisory risks. These products share a number of characteristics seen in traditional payday loans, including: high fees; very short, lump-sum repayment terms; and inadequate attention to the consumer's ability to repay. As such, banks need to be aware of these products' potential to harm consumers, as well as elevated safety and soundness, compliance, and consumer protection risks.

The combined impact of an expensive credit product coupled with short repayment periods increases the risk that borrowers could be caught in a cycle of high-cost borrowing over an extended period of time. Specifically, deposit advance customers may repeatedly take out loans because they are unable to fully repay the balance in one pay period while also meeting typical recurring and other necessary expenses (e.g., housing, food, and transportation). Customers may feel compelled to take out another loan very soon thereafter to make up for the shortfall. This cycle is referred to as the ''churning'' of loans and is similar to the practice of ''loan flipping'' that the OCC, the FDIC and the Board, have previously noted to be an element of predatory lending.[3] Though deposit advance products are often marketed as intended for emergency financial assistance, and as unsuitable for meeting a borrower's recurring or long term obligations, the FDIC believes the product's design results in consumer behavior that is frequently inconsistent with this marketing and is detrimental to the customer.

To address concerns that certain borrowers become dependent on deposit advance products to meet their daily expenses (as evidenced by their repeated borrowings), certain lenders now require borrowers who have taken out a specified number of deposit advance loans within a certain time frame to wait for a specified period before they are eligible to take out a new loan. However, the FDIC is concerned these ''cooling-off'' periods can be easily avoided and are ineffective in preventing repeated usage of these high-cost, short-term loans.

Weak underwriting increases the risk that the borrower's account may become overdrawn and result in multiple overdraft fees when subsequent transactions are presented for payment. Some banks assess overdraft fees when the automatic repayment of the deposit advance loan causes the associated account to reflect a negative balance.

Safety and Soundness Risk

Credit Risk: Borrowers who obtain deposit advance loans may have cash flow difficulties or blemished or insufficient credit histories that limit other borrowing options. The high aggregate cost of numerous and repeated extensions of credit that may be a consequence of this product further increase credit risk. Lenders that offer deposit advance loans typically focus on the amount of the borrower's monthly deposit for underwriting purposes. Failure to consider whether the income sources are adequate to repay the debt while covering typical living expenses, other debt payments, and the borrower's credit history presents safety and soundness risks.

Numerous and repeated extensions of credit to the same individual may be substantially similar to continuous advances and subject the bank to increased credit risk. While re-aging, extensions, deferrals, renewals, and rewrites of lending products can be used to help borrowers overcome temporary financial difficulties, repeated re-aging credit practices can cloud the true performance and delinquency status of the portfolio.[4]

Relying on the amount of the customer's incoming deposits without consideration of expected outflows does not allow for a proper assessment of the customer's ability to repay the loan and other necessary expenses. This failure to properly assess the borrower's financial capacity, a basic underwriting principle, increases default risk.

Reputation Risk: Reputation risk is the risk arising from negative public opinion. Deposit advance products are receiving significant levels of negative news coverage and public scrutiny. This increased scrutiny includes reports of high fees and borrowers taking out multiple advances to cover prior advances and everyday expenses. Engaging in practices that are perceived to be unfair or detrimental to the customer can cause a bank to lose community support and business.

Legal Risk: The significant risks associated with deposit advance lending products may subject institutions to the risk of litigation—both from private lawsuits and regulatory enforcement actions.

Third-Party Risk: Banks remain responsible and liable for compliance with all applicable laws and regulations, even for the activities of a third party.[5] The FDIC is aware of banks working with third parties to develop, design and service the deposit advance product. The existence of third-party arrangements may, when not properly managed, significantly increase institutions' legal, operational and reputation risks. Some of the risks are associated with the underlying activity itself, similar to the risks faced by a bank directly conducting the activity. Other potential risks arise from or are heightened by the involvement of a third party, particularly if the third party will receive a portion of the fees. Consequently, third-party arrangements may expose the bank to regulatory action and affect the institution's ability to establish new or service existing customer relationships.

Compliance and Consumer Protection Related Concerns

Deposit advance products must comply with all applicable federal laws and regulations, some of which are outlined below. State laws also may be applicable, including usury laws and laws on unfair or deceptive acts or practices. It is important that banks have their deposit advance products reviewed by counsel for compliance with all applicable laws prior to implementation. Furthermore, although the guidance below outlines federal laws and regulations as of the date this guidance is published, applicable laws and regulations are subject to amendment. In addition, statutes and regulations will have different applications depending on how a deposit advance product is structured. Banks offering deposit advances should carefully consider whether and how these laws and rules will apply to the particular version of a deposit advance product they are providing. Accordingly, banks should monitor applicable laws and regulations for revisions and to ensure that their deposit advance product is fully compliant. Federal laws and regulations applicable to deposit advance products include, but are not limited to, the following:

[3] *Subprime Lending Guidance* jointly signed by the OCC, the Board, the FDIC and the OTS (January 31, 2001).

[4] *See* the Federal Financial Institutions Examination Council Uniform Retail Credit Classification and Account Management Policy, **Federal Register** Vol. 65, No. 113, June 12, 2000. This policy is addressed more fully in the ''Credit Quality'' section.

[5] *See* FDIC FIL 44–2008, ''Guidance for Managing Third-Party Risk'' (June 6, 2008).

The Federal Trade Commission Act (FTC Act): Section 5 of the FTC Act prohibits unfair or deceptive acts or practices (UDAP).[6] The FDIC enforces this section pursuant to its authority in Section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818.[7] An act or practice is unfair where it: (1) Causes or is likely to cause substantial injury to consumers; (2) cannot be reasonably avoided by consumers; and (3) is not outweighed by countervailing benefits to consumers or to competition. Public policy may also be considered. An act or practice is deceptive if: (1) There is a representation, omission, or practice that misleads or is likely to mislead a consumer; (2) the consumer's interpretation is reasonable under the circumstances; and (3) the misleading representation, omission, or practice is material.

Deposit advance products may raise issues under the FTC Act depending upon how the products are marketed and implemented. Any FTC Act analysis will be dependent on the facts and circumstances in a particular matter.

The prohibition on UDAP applies not only to the product, but to every stage and activity, from product development to the creation and rollout of marketing campaigns, and to servicing and collections. For example, marketing materials and disclosures should be clear, conspicuous, accurate and timely; and should fairly and adequately describe the terms, benefits, potential risks and material limitations of the product.

Truth in Lending Act (TILA): TILA and Regulation Z require creditors to provide cost disclosures for extensions of consumer credit.[8] Different rules apply to Regulation Z disclosures depending on whether the loan is an open- or closed-end credit product. Banks should ensure the product's disclosures comply with the applicable requirements. TILA advertising rules for open-end credit require that, if an advertisement states any periodic rate that may be applied, it must state the rate as an Annual Percentage Rate, using that term.[9] Similarly, TILA advertising rules for closed-end credit require that, if an advertisement states a rate of finance charge, it must state the rate as an Annual Percentage Rate, using that term.[10]

Electronic Fund Transfer Act (EFTA): A program that involves the use of electronic fund transfers must meet the applicable disclosure and other requirements of EFTA and Regulation E.[11] EFTA requires disclosures,[12] prohibits creditors from mandating that loans be repaid by ''preauthorized electronic fund transfers,'' [13] and allows borrowers to withdraw authorization for ''preauthorized fund transfers.'' [14]

Truth in Savings Act (TISA): A program that involves a consumer's deposit account must meet the disclosure requirements of TISA and Regulation DD.[15] Under TISA, deposit account disclosures must include the amount of any fee that may be imposed in connection with the account and the conditions under which the fee may be imposed.[16] TISA also prohibits institutions from making any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents their deposit contracts.[17] TISA disclosures enable consumers to make informed decisions about their deposit accounts at depository institutions. A consumer is entitled to receive TISA disclosures at account opening, when the terms of the consumer's account are changed, and when a periodic statement is sent.

Equal Credit Opportunity Act (ECOA): Under ECOA and Regulation B, creditors are prohibited from discriminating against an applicant on a prohibited basis in any aspect of a credit transaction.[18] This prohibition applies to deposit advance products. The creditor's discretion, for example in the application of eligibility requirements, loss mitigation options and fee waivers, may raise fair lending risk.[19] Steering or targeting certain customers on a prohibited basis toward deposit advance products while offering other customers more favorable credit products may also raise fair lending risk. Additionally, providing different product terms or conditions and different servicing or loss mitigation options to similarly situated customers on a prohibited basis may also violate ECOA.

In addition to the general prohibition against discrimination, ECOA and Regulation B contain specific rules concerning procedures and notices for credit denials and other adverse actions. Regulation B defines the term ''adverse action,'' and generally requires a creditor who takes an adverse action to send a notice to the consumer providing, among other things, the reasons for the adverse action.[20]

Supervisory Expectations

Deposit advance lending presents significant consumer protection and safety and soundness concerns, irrespective of whether the products are issued by a bank directly or by third parties. The FDIC will take appropriate supervisory action to prevent harm to consumers, to address any unsafe or unsound banking practices associated with these products, and to ensure compliance with all applicable laws. Examinations will focus on compliance with applicable consumer protection statutes and potential safety and soundness issues.

Examiners will assess credit quality, including underwriting and credit administration policies and practices. In addition, examiners will assess the adequacy of capital, reliance on fee income, and adequacy of the allowance for loan and lease losses. Compliance with applicable federal consumer protection statutes, management's oversight, and relationships with third-parties will also be assessed.

Credit Quality: The Uniform Retail Credit Classification and Account Management Policy (Retail Classification Policy) establishes guidelines for classifying consumer loans, such as deposit advance loans, based on delinquency, but also grants examiners the discretion to classify individual retail loans that exhibit signs of credit weakness, regardless of delinquency status. An examiner also may classify consumer portfolios, or segments thereof, where underwriting standards are weak and present unreasonable credit risk.

Deposit advance loans often have weaknesses that may jeopardize the liquidation of the debt. Borrowers often have limited repayment capacity. Banks should adequately review repayment capacity to assess whether borrowers will be able to repay the loan without

[6] 15 U.S.C. §§ 45(a) and (n).

[7] Joint Board and FDIC guidance on ''Unfair or Deceptive Acts or Practices by State-Chartered Banks'' (March 11, 2004).

[8] 15 U.S.C. 1601 *et seq.* TILA is implemented by Regulation Z, 12 CFR 1026.

[9] *See* 12 CFR 1026.16(b)(1).

[10] *See* 12 CFR 1026.24(c).

[11] 15 U.S.C. 1693 *et seq.* The EFTA is implemented by Regulation E, 12 CFR 1005.

[12] *See, e.g.,* 12 CFR 1005.7, 1005.8, and 1005.9.

[13] *See* 12 CFR 1005.10(e).

[14] *See* 12 CFR 1005.10(c).

[15] 12 U.S.C. 4301 *et seq.* TISA is implemented by Regulation DD at 12 CFR § 1030 for banks and federal savings associations.

[16] *See* 12 CFR 1030.4(b)(4).

[17] *See* 12 CFR 1030.8.

[18] 15 U.S.C. 1691 *et seq.* ECOA is implemented by Regulation B, 12 CFR Part 1002. ECOA prohibits discrimination on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract), the fact that all or part of the applicant's income derives from a public assistance program, and the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

[19] *See* Interagency Fair Lending Examination Procedures (August 2009) at 9–13.

[20] *See* 12 CFR §§ 1002.2(c) and 1002.9.

needing to incur further deposit advance borrowing.

Deposit advance loans that have been accessed repeatedly or for extended periods of time are evidence of ''churning'' and inadequate underwriting. Banks should monitor for repeated or extended use, as will be discussed in greater detail in the discussion of underwriting expectations below.

Underwriting and Credit Administration Policies and Practices: As part of the credit quality review, examiners will assess underwriting and administration policies and practices for deposit advance loan products. Eligibility and underwriting criteria for deposit advance loans, consistent with eligibility and underwriting criteria for other bank loans, should be well documented in the bank's policy. The criteria should be designed to assure that the extension of credit can be repaid according to its terms while allowing the borrower to continue to meet typical recurring and other necessary expenses such as food, housing, transportation and healthcare, as well as other outstanding debt obligations. Additionally, criteria should ensure that borrowers can meet these requirements without needing to borrow repeatedly. Institutions should maintain appropriate criteria to prevent churning and prolonged use of these products. Underwriting for deposit advance products should occur prior to opening such accounts and should be monitored on an on-going basis. Repetitive deposit advance borrowings indicate weak underwriting and will be criticized in the Report of Examination and then taken into account in an institution's rating.

Bank policies regarding the underwriting of deposit advance loan products should be written and approved by the bank's board of directors, and consistent with the bank's general underwriting standards and risk appetite. Factors a bank should address in its written underwriting policies for deposit advance products include, but are not necessarily limited to, the following:

- *The Length of a Customer's Deposit Relationship With the Bank.* Banks should ensure that the customer relationship is of sufficient duration to provide the bank with adequate information regarding the customer's recurring deposits and expenses in order to prudently underwrite deposit advance loans. The FDIC will consider sufficient duration to evaluate a customer's deposit advance eligibility to be no less than six months.
- *Classified Credits.* Customers with any delinquent or adversely classified credits should be ineligible.
- *Financial Capacity.* In addition to any eligibility requirements, the bank should conduct an analysis of the customer's financial capacity including income levels. Underwriting assessments should consider the customer's ability to repay a loan without needing to borrow repeatedly from any source, including re-borrowing, to meet necessary expenses. The financial capacity assessment should include:
  - An analysis of the customer's account for recurring deposits (inflows) and checks/credit/customer withdrawals (outflows) over at least six consecutive months. Lines of credit of any sort, including overdrafts, and drafts from savings should not be considered inflows. In reviewing customers' transactions to determine deposit advance eligibility, the bank should consider the customers' net surplus or deficit at the end of each of the preceding six months, and not rely on a six-month transaction average.
  - After conducting the above described analysis, determine whether an installment repayment is more appropriate.
- *Cooling Off Period.* Each deposit advance loan should be repaid in full before the extension of a subsequent deposit advance loan, and banks should not offer more than one loan per monthly statement cycle.[21] A cooling off period of at least one monthly statement cycle after the repayment of a deposit advance loan should be completed before another advance may be extended in order to avoid repeated use of the short-term product.[22]
- *Increasing Deposit Advance Credit Limits.* The amount of credit available to a borrower should not be increased without a full underwriting reassessment in compliance with the bank's underwriting policies and in accordance with the factors discussed in this guidance. Additionally, any increase in the credit limit should not be automatic and should be initiated by a request from the borrower.
- *Ongoing Customer Eligibility.* As part of their underwriting for this product, banks should, no less than every six months, reevaluate the customer's eligibility and capacity for this product. Additionally, banks should identify risks that could negatively affect a customer's eligibility to receive additional deposit advances. For example:
  - Repeated overdrafts (establish/set a certain number during a specified number of months).
  - Evidence that the borrower is overextended with respect to total credit obligations.

Capital Adequacy: Higher capital requirements generally apply to loan portfolios that exhibit higher risk characteristics and are subject to less stringent loan underwriting requirements. Loans exhibiting subprime credit characteristics are higher risk loans and may require higher levels of capital.

Over-Reliance on Fee Income: Fees associated with deposit advance products should be based on safe and sound banking principles. Institutions should monitor for any undue reliance on the fees generated by such products for their revenue and earnings.

Adequacy of the Allowance for Loan and Lease Losses (ALLL): Examiners will assess whether the ALLL is adequate to absorb estimated credit losses within the deposit advance loan portfolio. Examiners will also determine whether banks engaged in deposit advance lending have methodologies and analyses in place that demonstrate and document that the level of the ALLL is appropriate.

Consumer Compliance: Banks should implement effective compliance management systems, processes and procedures to appropriately mitigate risks. Examiners will review a bank's program with respect to deposit advance products for compliance with applicable consumer protection statutes and regulations, including TILA, EFTA, TISA, ECOA, and Section 5 of the FTC Act.

Management Oversight: Examiners will assess bank management's ability to administer a deposit advance loan program and board oversight of the program. Furthermore, examiners will determine whether bank management has established controls and implemented a rigorous analytical process to identify, measure, monitor, and manage the risks associated with deposit advance loans. The bank's

[21] The Interagency ''Expanded Guidance for Subprime Lending Programs'' (2001) states that loans to borrowers who do not demonstrate the capacity to repay the loan, as structured, from sources other than the collateral pledged, in this case the borrower's direct deposit, are generally considered unsafe and unsound. Such lending practices should be criticized in the Report of Examination as imprudent.

[22] The FDIC, in its 2005 *Guidelines for Payday Lending,* directs institutions to ensure that payday loans are not provided to customers who had payday loans outstanding at any lender for a total of three months during the previous 12 months. FDIC-supervised institutions should apply this requirement to any deposit advance program using for example, state payday lending databases or incoming checks or Automated Clearing House transactions to known payday lenders.

compliance management system should ensure continuing compliance with applicable federal and state laws, rules and regulations, as well as internal policies and procedures.

Banks should maintain adequate oversight of deposit advance programs and adequate quality control over those products and services to minimize exposure to potential significant financial loss, reputation damage, and supervisory action. Management should provide the appropriate oversight and allocate sufficient qualified staff to monitor deposit advance programs. Results of oversight activities should be reported periodically to the financial institution's board of directors or designated committee, including identified weaknesses, which should be documented and promptly addressed.

Third-Party Relationships: Because third-party relationships are important in assessing a bank's overall risk profile, the FDIC's primary supervisory concern in reviewing a bank's relationships with third parties is whether the bank is assuming more risk than it can identify, monitor, and manage. Management should allocate sufficient qualified staff to monitor for significant third-party relationships, excessive usage by borrowers, and excessive risk taking by the bank. Therefore, examiners will review the risks associated with all material third-party relationships and activities together with other bank risks. In certain high risk situations, examiners may conduct on-site third-party reviews under specific authorities granted to the FDIC.

Responsible Products To Meet Small-Dollar Credit Needs

The FDIC recognizes the need for responsible small-dollar credit products among consumers. A number of banks are currently offering reasonably priced small-dollar loans at reasonable terms to their customers. The FDIC's 2007 *Affordable Small-Dollar Loan Guidelines* (Guidelines) encourage insured institutions to offer small-dollar loan products that have affordable, reasonable interest rates with no or low fees and payments that reduce the principal balance of the loan.[23] The Guidelines indicate that if structured properly, small-dollar loans can provide a safe and affordable means for borrowers to transition away from reliance on high-cost debt products. The FDIC conducted a two-year case study from 2007 to 2009 that demonstrated that safe and affordable small-dollar lending is feasible for banks and resulted in a template of important elements for such lending.[24] The FDIC encourages banks to continue to offer these products, consistent with safety and soundness and other supervisory considerations, and encourages other banks to consider offering such products as well. Properly managed small-dollar loan products offered with reasonable terms and at a reasonable cost do not pose the same level of supervisory risk as deposit advance products.

Dated at Washington, DC, this 25th day of April, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–10101 Filed 4–29–13; 8:45 am]

BILLING CODE 6714–01–P

[23] *See* FDIC Financial Institutions Letter FIL–50–2007, ''Affordable Small-Dollar Loan Guidelines,'' (June 19, 2007).

[24] FDIC, ''FDIC Model Safe Accounts Pilot Final Report'', (April 2012).

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 May 15, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Harvey Alan Sorkin,* Palm Beach Gardens, Florida; to acquire at least 10 percent of the voting shares of Floridian Community Holdings, Inc., and thereby indirectly acquire voting shares of Floridian Community Bank, Inc., both of Davie, Florida.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Connie Jean Lonneman,* Adrian, Minnesota, individually and as proposed co-trustee; to acquire voting shares of the First State Bank Southwest 2010 Amended and Restated KSOP Plan and Trust, and thereby indirectly acquire voting shares of First Rushmore Bancorporation, Inc., Worthington, Minnesota, and First State Bank Southwest, Pipestone, Minnesota.

Board of Governors of the Federal Reserve System, April 25, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–10115 Filed 4–29–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Determination and Declaration Regarding Emergency Use of in Vitro Diagnostics for Detection of the Avian Influenza A (H7N9) Virus

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Secretary of Health and Human Services (HHS) is issuing this notice pursuant to section 564(b) of the Federal Food, Drug, and Cosmetic (FD&C) Act, 21 U.S.C. 360bbb–3(b)(4). On April 19, 2013, the Secretary determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves the avian influenza A (H7N9) virus.

On the basis of this determination, she also declared that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection of the avian influenza A (H7N9) virus pursuant to section 564(b)(1) of the FD&C Act, 21 U.S.C. § 360bbb–3(b)(1), subject to the terms of any authorization issued under that section. The Secretary also specified that this declaration is a declaration of an emergency with respect to in vitro diagnostics as defined under the Public Readiness and Emergency Preparedness (PREP) Act Declaration for Pandemic Influenza Diagnostics, Personal Respiratory Protection Devices, and Respiratory Support Devices signed by then Secretary Michael Leavitt on December 17, 2008.[1]

DATES: The determination and declaration are effective April 19, 2013.

FOR FURTHER INFORMATION CONTACT: Nicole Lurie, M.D., MSPH, Assistant

[1] 73 FR 78362 (Dec. 22, 2008).

Secretary for Preparedness and Response, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201, Telephone (202) 205–2882 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 564 of the FD&C Act, the Commissioner of the Food and Drug Administration (FDA), acting under delegated authority from the Secretary of HHS, may issue an Emergency Use Authorization (EUA): (1) Authorizing the emergency use of an unapproved drug, an unapproved or uncleared device, or an unlicensed biological product; or (2) an unapproved use of an approved drug, approved or cleared device, or licensed biological product. Before an EUA may be issued, the Secretary of HHS must declare an emergency justifying the authorization based on one of four determinations: (1) A determination of a domestic emergency, or a significant potential for a domestic emergency, by the Secretary of Homeland Security; (2) the identification of a material threat by the Secretary of Homeland Security pursuant to section 319F–2 of the Public Health Service (PHS) Act [2] sufficient to affect national security or the health and security of United States citizens living abroad; (3) a determination of a military emergency, or a significant potential for a military emergency, by the Secretary of Defense; or (4) a determination by the Secretary that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of United States citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents (see 21 U.S.C. 360bbb–3(b)(1)).[3]

Based on any of these four determinations, the Secretary of HHS may then declare that circumstances exist that justify the EUA, at which point the FDA Commissioner may issue an EUA if the criteria for issuance of an authorization under section 564 of the FD&C Act are met.

The Centers for Disease Control and Prevention (CDC), HHS, requested that the FDA, HHS, issue an EUA for in vitro diagnostics for detection of the avian influenza A (H7N9) virus to allow the Department to take preparedness measures based on information currently available about the avian influenza A (H7N9) virus detected in China. The determination of a significant potential for a public health emergency, and the declaration that circumstances exist justifying emergency use of in vitro diagnostics for detection of the avian influenza A (H7N9) virus by the Secretary of HHS, as described below, enable the FDA Commissioner to issue an EUA for certain in vitro diagnostics for emergency use under section 564(a) of the FD&C Act, 21 U.S.C. 360bbb–3(a).

II. Determination by the Secretary of Health and Human Services

On April 19, 2013, pursuant to section 564(b)(1)(C) of the FD&C Act, 21 U.S.C. 360bbb–3(b)(1)(C), I determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves the avian influenza A (H7N9) virus.

III. Declaration of the Secretary of Health and Human Services

Also on April 19, 2013, on the basis of my determination of a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves the avian influenza A (H7N9) virus, I declared that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection of the avian influenza A (H7N9) virus pursuant to section 564 of the FD&C Act, 21 U.S.C. 360bbb–3, subject to the terms of any authorization issued under that section.

I also specified that this declaration is a declaration of an emergency with respect to in vitro diagnostics as defined under the PREP Act Declaration for Pandemic Influenza Diagnostics, Personal Respiratory Protection Devices, and Respiratory Support Devices signed by then Secretary Michael Leavitt on December 17, 2008.

Notice of the EUAs issued by the FDA Commissioner pursuant to this determination and declaration will be provided promptly in the **Federal Register** as required under 21 U.S.C. 360bbb–3(h).

Dated: April 19, 2013.

Kathleen Sebelius,

Secretary.

[FR Doc. 2013–10055 Filed 4–29–13; 8:45 am]

BILLING CODE 4150–37–P

[2] 42 U.S.C. 247d–6b.

[3] As amended by the Pandemic and All-Hazards Preparedness Reauthorization Act, Public Law 113–5, the Secretary may make determination of a public health emergency, or a significant potential for a public health emergency, under section 564 of the FD&C Act. The Secretary is no longer required to make a determination of a public health emergency in accordance with section 319 of the PHS Act, 42 U.S.C. 247d to support a determination or declaration made under section 564 of the FD&C Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Matthew Poore, Advanced Liquid Logic Inc.: Based on the report of an inquiry conducted by Advanced Liquid Logic Inc. (Liquid Logic), the Respondent's admission, and additional analysis conducted by ORI, ORI found that Mr. Matthew Poore, former Technician, Liquid Logic, engaged in research misconduct in research supported by National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH), contract HHSN272200900030C.

ORI found that the Respondent engaged in research misconduct by falsifying data that were included in one (1) presentation and one (1) report to NIAID and in laboratory records at Liquid Logic.

ORI finds that Respondent knowingly and intentionally falsified reverse transcription-polymerase chain reaction (RT–PCR) results by reporting the results from previous experiments as the actual results, when the experiments had not been performed. Specifically:

- In Liquid Logic laboratory documents, the Respondent falsified the RT–PCR results of human immunodeficiency virus (HIV) viral loads in whole blood patient samples by falsely changing previous results for two (2) samples from negative to positive and one (1) sample from positive to negative. The latter falsified sample result, changed from HIV positive to negative, was included in an April 1–June 30, 2012, quarterly report and a July 12, 2012, presentation to NIAID.
- In Liquid Logic laboratory documents, the Respondent falsified the RT–PCR whole blood lysis results of testing samples as 100 and 200 HIV viral copies per milliliter, when the experiments were not performed by the Respondent. These falsified results were

included in an April 1–June 30, 2012, quarterly report to NIAID.

• In Liquid Logic laboratory documents, the Respondent falsified the graphs of RT–PCR results of the *Escherichia coli* bacteriophage MS2, an internal control, viral loads for three (3) clinical samples, when the results were actually from prior experiments of two (2) controls and one (1) unrelated clinical sample. The Respondent falsified the MS2 graphs in an effort to conceal that RT–PCR experiments of the clinical samples had not been performed.

Mr. Poore has entered into a Voluntary Settlement Agreement and has voluntarily agreed for a period of three (3) years, beginning on April 1, 2013:

(1) To have his research supervised; Respondent agreed that prior to the submission of an application for U.S. Public Health Service (PHS) support for a research project on which his participation is proposed and prior to his participation in any capacity on PHS-supported research, Respondent shall ensure that a plan for supervision of his duties is submitted to ORI for approval; the supervision plan must be designed to ensure the scientific integrity of his research contribution; he agreed that he shall not participate in any PHS-supported research until such a supervision plan is submitted to and approved by ORI; Respondent agreed to maintain responsibility for compliance with the agreed upon supervision plan; and

(2) To exclude himself voluntarily from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

David E. Wright,

Director, Office of Research Integrity.

[FR Doc. 2013–10085 Filed 4–29–13; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Chronic Fatigue Syndrome Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the Chronic Fatigue Syndrome Advisory Committee (CFSAC) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will be held on Wednesday, May 22, 2013, and Thursday, May 23, 2013, from 9:00 a.m. until 5:00 p.m.

ADDRESSES: Department of Health and Human Services; Hubert H. Humphrey Building; 200 Independence Avenue SW., Room 800; Washington, DC 20201. For a map and directions to the Hubert H. Humphrey building, please visit *http://www.hhs.gov/about/hhhmap.html.*

FOR FURTHER INFORMATION CONTACT: Nancy C. Lee, M.D., Designated Federal Officer, Chronic Fatigue Syndrome Advisory Committee, Department of Health and Human Services, 200 Independence Avenue SW., Room 712E, Washington, DC 20201. Any questions about meeting registration or public comment sign-up should be directed to *CFSACMay2013@seamon corporation.com.* Please direct other inquiries to *cfsac@hhs.gov.*

SUPPLEMENTARY INFORMATION: CFSAC was established on September 5, 2002, to advise, consult with, and make recommendations to the Secretary, through the Assistant Secretary for Health, on a broad range of topics including: (1) The current state of knowledge and research and the relevant gaps in knowledge and research about the epidemiology, etiologies, biomarkers, and risk factors relating to CFS, and identifying potential opportunities in these areas; (2) impact and implications of current and proposed diagnosis and treatment methods for CFS; (3) development and implementation of programs to inform the public, health care professionals, and the biomedical academic and research communities about CFS advances; and (4) partnering to improve the quality of life of CFS patients.

The agenda for this meeting is being developed and will be posted on the CFSAC Web site, *http://www.hhs.gov/advcomcfs* when finalized. The meeting will be live-video streamed at *www.HHS.gov/Live* and archived through the CFSAC Web site: *www.hhs.gov/advocomcfs.* Listening-only audio via telephone will be available on both days. Call-in information will be posted on the CFSAC Web site.

Individuals who plan to attend should register at the following link by May 17, 2013: *http://www.blsmeetings.net/CFSACMay2013.* Attendance by visitors who are not U.S. citizens is welcome, but prior approval is required by sending a request to *CFSACMay2013@seamon corporation.com* before May 8, 2013. Members of the media will also need to register. All attendees will be required to show government-issued picture identification (state or federal) for entry into a federal building. Attendees will receive a wrist band that must be worn the entire time. Security requires all non-federal employees to be escorted the entire time they are in the building. Upon leaving the building for any reason, all persons will be required to follow the security steps mentioned above and receive a new wrist band.

Members of the public will have the opportunity to provide public comment at the meeting or via telephone. International calls cannot be accommodated. You are no longer required to submit a written copy of your testimony as in past years unless you wish to have it included in the public record. Individuals wishing to submit public comment for public record must send an electronic copy of their testimony in advance to: *CFSACMay2013@seamon corporation.com* by Wednesday, May 15, 2013. A separate sign-up process for requesting time for public comment must be completed by Wednesday, May 15, 2013 at the following link: *http://www.blsmeetings.net/CFSACPublicCommentMay2013.* An email to acknowledge receipt of the request for public comment will be sent from this email address. The document for public record must not exceed 5 single-spaced, typed pages, using a 12-point typeface; it is preferred that the document be prepared in the MSWord format. Please note that PDF files, handwritten notes, charts, and photographs that are submitted for distribution to the Committee will not be posted on the CFSAC Web site. However, this material will be made available for the public to view on site during the dates that the meeting is being conducted. Individuals who wish to view this material after the meeting should contact the CFSAC DFO, whose contact information is included in this **Federal Register** notice. Requests to participate in the public comment and provide written testimony will not be accepted through the CFSAC mailbox. Also, the CFSAC mailbox will not respond to questions about specific public comment requests. These requests and/or inquiries should be directed to *CFSACMay2013@seamon corporation.com.*

Only testimony submitted for public record and received in advance of the meeting are part of the official meeting record and will be posted to the CFSAC Web site. Materials submitted should not include sensitive personal information, such as social security number, birthdates, driver's license number, state identification or foreign country equivalent, passport number, financial account number, or credit or debit card number. If you wish to remain anonymous the document must specify this.

We will confirm your time for public comment via email by May 17, 2013. Each speaker will be limited to five minutes per speaker; no exceptions will be made. We will give priority to individuals who have not provided public comment within the previous year.

Persons who wish to distribute printed materials to CFSAC members should submit one copy for approval to the Designated Federal Officer at *cfsac@hhs.gov*, prior to Friday, May 17, 2013.

Dated: April 15, 2013.

Nancy C. Lee,

Designated Federal Officer, Chronic Fatigue Syndrome Advisory Committee.

[FR Doc. 2013–10083 Filed 4–29–13; 8:45 am]

BILLING CODE 4150–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Office of Minority Health, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of a virtual public meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that a meeting of the Advisory Committee on Minority Health (ACMH) will be held virtually. This virtual meeting will take place via webinar and audio video conferencing technology. This meeting will be open to the public. Preregistration is required for both virtual public participation and comment. Any individual who wishes to participate in the virtual public meeting and/or in the public comment session should preregister at the following email address: *acmh@osophs.dhhs.gov.*

DATES: The meeting will be held virtually on Thursday, May 16, 2013, from 10:00 a.m. to 1:00 p.m. (EST).

ADDRESSES: The meeting will be conducted virtually only.

FOR FURTHER INFORMATION CONTACT: Ms. Monica A. Baltimore, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. Phone: 240–453–2882; Fax: 240–453–2883.

SUPPLEMENTARY INFORMATION: In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health in improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the Office of Minority Health.

Topics to be discussed during this meeting will include patient protections, consumer assistance, and the Affordable Care Act. The Committee will also discuss strategies to improve the health of racial and ethnic minority populations through the development of health policies and programs that will help eliminate health disparities.

To participate in this meeting, please follow the instructions below:

(1) Participants are asked to dial in 15 minutes prior to the scheduled start time.

(2) For audio, participant Dial-in Numbers:

U.S. Toll Free: 800–875–3456
Canadian Toll Free: 800–648–0973
International Toll Free: 302–607–2001
Verbal Passcode (to be given to the operator): VS11535

This webinar will be limited to 125 participants. The Office of Minority Health will make every effort to accommodate persons with special needs. Individuals who have special needs for which special accommodations may be required should contact Professional and Scientific Associates at (703) 234–1700 and reference this meeting. Requests for special accommodations should be made at least ten (10) business days prior to the meeting.

Webinar Instructions:

Go to *http://lotuslive.readyshow.com.*
Before logging in, click on ''Check your browser compatibility'' at the bottom.
Participants will log in under the ''Join A Conference'' section. The Participant Passcode is 53385094.

Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to two minutes per speaker during the time allotted. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least seven (7) business days prior to the meeting.

Public Comment: To participate during the public comment session please follow instructions below:

Press *1 to make a comment.
Press # to remove the comment from the comment queue.

Any members of the public who wish to have printed material distributed to ACMH members should submit their materials to the Executive Director, ACMH, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852, prior to close of business Tuesday, May 7, 2013.

Dated: April 17, 2013.

Monica A. Baltimore,

Executive Director, Advisory Committee on Minority Health, Office of Minority Health, U.S. Department of Health and Human Services.

[FR Doc. 2013–10084 Filed 4–29–13; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Opportunity and Procedure To Submit Nominations for Nutrients of Interest for Dietary Reference Intake Reviews

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health, Office of Disease Prevention and Health Promotion.

Authority: 42 U.S.C. 300u(a).

ACTION: Notice.

SUMMARY: The Dietary Reference Intake (DRI) Subcommittee, an entity within the federal Interagency Committee on Human Nutrition Research, has developed procedures jointly with its Canadian counterpart to allow interested parties to nominate nutrients for consideration for DRI review. This notice will serve to announce the opportunity to submit such information to the DRI Subcommittee as it considers updates for nutrients and food components that have previously been considered by Institute of Medicine DRI committees.

DATES: The DRI Subcommittee will accept nominations for consideration beginning April 29, 2013 through 11:59 p.m. EDT on July 31, 2013.

ADDRESSES: Nominations may be submitted by email in the required format and to the email addresses specified in the Dietary Reference Intakes page on the Web site: *www.health.gov/DRI.*

FOR FURTHER INFORMATION CONTACT: Yvonne Chow, Division of Nutrition Research Coordination, National Institute of Diabetes, Digestive and Kidney Diseases, National Institutes of Health; Room 624A, 6707 Democracy Blvd., Bethesda, MD 20817; Telephone: (301) 594–8821; Email: *DRInominations@hhs.gov.*

SUPPLEMENTARY INFORMATION: The DRI Subcommittee, in collaboration with its Canadian counterpart, has been responsible for prioritizing nutrients for federally-funded DRI reviews that establish nutrient reference values. Given the completion in 2011 of the most recent DRI review which was conducted by the Institute of Medicine at the National Academy of Sciences, the DRI Subcommittee is now considering future reviews. The increasingly broad range of uses of the DRIs warrants input to the DRI Subcommittee concerning nutrients of interest for such reviews. Input from all interested parties is welcome and may come from individuals and organizations external to the federal government as well as from federal agencies.

The opportunity to provide information is limited at this time to new reviews for nutrients and food components that have previously been considered by Institute of Medicine DRI committees. The nomination is to include a cover letter and a literature search. The requirements of the nomination package and the nomination procedures are specified in the Web site identified above in the **ADDRESSES** section, and interested persons should access the Web site to obtain specific instructions for the nomination. The nomination will be regarded as information for the DRI Subcommittee and is intended to assist only in informing planning activities; the submission of a nomination does not guarantee the initiation of a DRI review. Further, the opportunity to provide information should not be construed as a funding opportunity or grant program. Please note that proprietary or confidential information cannot be considered and should not be submitted.

Dated: April 24, 2013.

Howard K. Koh,

Assistant Secretary for Health.

[FR Doc. 2013–10054 Filed 4–29–13; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary; Office of the Assistant Secretary for Preparedness and Response; Statement of Organization, Functions, and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS) is being amended at Chapter AN, Office of the Assistant Secretary for Preparedness and Response (ASPR), as last amended at 78 FR 7784, dated February 4, 2013, and at 75 FR 35035–35038, dated June 21, 2010. This organizational change is to rename the Office of Preparedness and Emergency Operations (ANC), establish five Divisions under the Office of Preparedness and Emergency Operations (ANC), and rename one existing Division. The changes are as follows.

I. Under Part A, Chapter AN, Section AN.10, Organization, rename ''Office of Preparedness and Emergency Operations'' to ''Office of Emergency Management.''

II. Under Part A, Chapter AN, Section AN.20, Functions, Paragraph C, Office of Preparedness and Emergency Operations (ANC):

a. Replace all references to the ''Office of Preparedness and Emergency Operations'' and ''OPEO'' with the ''Office of Emergency Management'' and ''OEM,'' respectively.

b. Rename ''Division of Mass Care (ANC1)'' as ''Division of National Hospital Preparedness (ANC1).''

c. At the end of Paragraph C, add the following sub-components:

- Division of Recovery (ANC7)
- Division of Regional Emergency Coordinators (ANC8)
- Division of Logistics (ANC9)
- Division of Fusion (ANCA)
- Division of Tactical Programs (ANC5)

II. Delegations of Authority. All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegation, provided they are consistent with this reorganization.

Dated: April 12, 2013.

E.J. Holland, Jr.,

Assistant Secretary for Administration.

[FR Doc. 2013–10056 Filed 4–29–13; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–13RQ]

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 Kimberly S. Lane, 1600 Clifton Road, MS D–74, 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

Community Transformation Grants (CTG) Context Scan Surveys—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Obesity currently affects more than one-third of adults and approximately 17 percent of children in the United States. Obese children and teens are likely to remain so into adulthood, and are at risk for developing severe health conditions such as heart disease, type 2 diabetes, stroke, and certain cancers. As one of the most dire and fastest growing health-related problems, obesity prevention has become a public health priority.

Physical activity and dietary behaviors are known to impact obesity. Importantly, research has shown that

these behaviors are impacted by community-level factors (social determinants of health) such as place of residence, access to healthy/unhealthy food, availability of walkable environments, and opportunities to be physically active. Thus, one promising strategy to address nutrition and physical activity is through policy and environmental improvements in settings such as schools, childcare centers, and workplaces.

Given the high proportion of children enrolled, and the substantial amount of time children spend in schools and childcare centers, these settings are natural targets for policy and environment changes to improve nutrition and physical activity. CDC and others have recommended strategies to decrease sedentary time, increase the quantity and quality of physical activity, improve nutrition standards, and decrease the availability of less healthy foods. Numerous governmental and non-governmental initiatives are underway to support improved policies and environments, but little is known about the barriers and facilitators to this work, and the overall community context in which these initiatives are occurring.

In fiscal year 2011, the Patient Protection and Affordable Care Act (ACA) funded the Community Transformation Grants (CTG) Program (CDC–RFA–DP11–1103PPHF11) to address the root causes of chronic disease. CTG grants were awarded to state and local governments, tribes and territories, and nonprofit organizations to help individuals lead healthier lives. As mandated by the ACA, CDC is conducting a national evaluation of the CTG Program that includes the following components: (1) Local Evaluation, (2) Performance Monitoring, (3) Population-level Surveillance, (4) Enhanced Evaluation Studies, (5) Cost Studies, (6) Simulation Modeling, and (7) Context Scan (policy and community characteristics).

The Context Scan will capture information on social determinants within communities, such as population density, community resources for active living and health eating, and nutrition and physical activity policies and environments in middle schools and childcare centers. It will include (1) Examining policies and environments in school and childcare settings (including review of school and childcare policies and administration of the Context Scan Surveys); (2) examining policies and environments in the community (including review of policies addressing the nutrition and built environments and observation of public food environments such as grocery and convenience stores) and (3) extraction of data from the U.S. Bureau of the Census, U.S. Department of Agriculture (USDA), and other publically available data sources.

The Context Scan Surveys will employ longitudinal data collection to document and monitor changes in nutrition and physical activity policies and environments in childcare centers and middle schools over time. The surveys will be implemented once per year over a four-year period with childcare center directors, middle school principals, and school food service personnel. A three-year Office of Management and Budget (OMB) clearance period is requested to support the first three years of the data collection.

The surveys include the (1) Childcare Center Nutrition and Physical Activity Survey (CCNPAS), (2) School Principal Nutrition and Physical Activity Survey (SPNPAS), and (3) School Food Service Nutrition Survey (SFSNS). A mixed-mode methodology will be used to recruit respondents; schools and centers will be identified from publically available lists.

The specific aims of the Context Scan Surveys, and related evaluation questions, are as follows:

A. Document policies and environments related to nutrition and physical activity in middle schools and childcare centers located in 20 CTG awardees.

1. Evaluation Question 1: What are the policies and environments related to nutrition and physical activity in middle schools?

2. Evaluation Question 2: What are the policies and environments related to nutrition and physical activity in childcare centers?

B. Monitor changes in policies and environments related to nutrition and physical activity in childcare centers and middle schools over time.

1. Evaluation Question 3: How do policies and environments related to nutrition and physical activity in middle schools change over time within and across awardees?

2. Evaluation Question 4: How do policies and environments related to nutrition and physical activity in childcare centers change over time within and across awardees?

The 20 CTG awardees selected for this study were identified based on their commitment to implementing comprehensive active living and healthy eating interventions and the diverse geographic and demographic contexts within their communities.

The study universe for these 20 communities includes 970 public middle schools and 4,362 licensed childcare centers in 871 intervention area zip codes. The study design will adopt implicit stratification coupled with probability proportional to size (PPS) systematic sampling with zip code areas serving as primary sampling units. The measure of size for PPS sampling will be the number of childcare centers in each zip code area and the resulting sample size will consist of 120 zip codes.

Participation in the surveys is voluntary. There are no costs to respondents other than time. The surveys will be hosted by the secure online survey-hosting site, Survey Monkey. All surveys will be Web-based, with paper options available as needed. Data from the Context Scan Surveys will provide the CDC with the ability to track policy and environment change over time across and within communities. When combined with other Context Scan and CTG national evaluation datasets, the Context Scan Survey data will provide a comprehensive understanding of the community environments in which CTG interventions are occurring, an evidence-base for policy and environmental change strategies to promote healthy eating and active lifestyles, and an identification of the factors that facilitate and inhibit policy and environmental initiatives.

The estimated burden for each survey response is 15 minutes. Pilot tests were performed to inform burden estimates and ensure relevance of questions to respondents.

Estimated Annualized Burden Hours

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avgerage burden per response (in hrs)	Total burden (in hrs)
Childcare center directors	CCNPAS	760	1	15/60	190
Middle school principals	SANPAS	738	1	15/60	185

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avgerage burden per response (in hrs)	Total burden (in hrs)
School food service personnel	SFSNS	738	1	15/60	185
Total					560

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. 2013–10130 Filed 4–29–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Evaluation of Treatments and Services Provided to People with Duchenne Muscular Dystrophy (DMD), FOA DD13–002, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 12:00 p.m.–2:00 p.m., May 30, 2013 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Evaluation of Treatments and Services Provided to People with Duchenne Muscular Dystrophy (DMD), FOA DD13–002, initial review.''

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

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. 2013–10064 Filed 4–29–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0450]

Agency Information Collection Activities; Proposed Collection; Comment Request; Abbreviated New Animal Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the 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. This notice solicits comments on the paperwork associated with abbreviated new animal drug applications submitted to the Center for Veterinary Medicine, FDA.

DATES: Submit either electronic or written comments on the collection of information by July 1, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Information Management, Food and Drug Administration, 1350 Piccard Drive, PI50–400B, Rockville, MD 20850, 301–796–3794, *Jonnalynn.capezzuto@fda.hhs.gov.*

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) and includes 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, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Abbreviated New Animal Drug Applications—Sections 512(b)(2) and (n)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(b)(2) and (n)(1)) (OMB Control Number 0910–0669))—Extension

On November 16, 1988, the President signed into law the Generic Animal Drug and Patent Restoration Act (GADPTRA) (Pub. L. 100–670). Under section 512(b)(2) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by GADPTRA, any person may file an abbreviated new animal drug application (ANADA) seeking approval of a generic copy of an approved new animal drug. The information required to be submitted as part of an abbreviated application is described in section 512(n)(1) of the FD&C Act. Among other things, an abbreviated application is required to contain information to show that the proposed generic drug is bioequivalent to, and has the same labeling as, the approved drug referenced in the abbreviated application. FDA allows applicants to submit a complete ANADA or to submit information in support of an ANADA for phased review followed by the submission of an Administrative ANADA when FDA finds that all the applicable technical sections for an ANADA are complete. FDA requests that an applicant accompany ANADAs and requests for phased review of data to support ANADAs with the Form FDA 356v to ensure efficient and accurate processing of information to support approval of the generic new animal drug.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ANADAS: ESTIMATED ANNUAL REPORTING BURDEN

FD&C act section 512(b)(2)	FDA form	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
ANADA	356v	18	1	18	159	2,862
Phased Review With Administrative ANADA	356v	3	5	15	31.8	477
Total						3,339

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

ANADA paperwork burden (section 512(b)(2) of the FD&C Act). Over the past 5 fiscal years, from October 2007 through September 2012, FDA has received an average of 21 ANADAs per year. FDA estimates that preparing the paperwork required under 21 U.S.C. 360b(n)(1) to be contained in an ANADA, whether all of the information is submitted with the ANADA or the applicant submits information for phased review followed by an Administrative ANADA that references that information, will take approximately 159 hours. (FDA is estimating that each ANADA that uses the phased review process will have approximately five phased reviews per application. Therefore, assuming that three respondents will take advantage of the phased review option per year and an average of five phased reviews are submitted per application, times 31.8 hours per phased review, equals 477 total hours per year or 159 hours per application.)

Although over the last 5 fiscal years all sponsors chose to submit traditional ANADAs, some sponsors did indicate an interest in using the phased review option in the future. FDA believes that with time, more and more sponsors will take advantage of the phased review option, as it provides greater flexibility, and estimates that there will be three respondents for the phased review option. FDA also estimates that sponsors of ANADAs take approximately 25 percent less time to put together the information to support an ANADA than a new animal drug application (NADA) because they only need to provide evidence of bioequivalence and not the data required in an NADA to support a full demonstration of safety and effectiveness.

Form FDA 356v. FDA requests that an applicant fill out and send in with an ANADA and requests for phased review of data to support an ANADAs, a Form FDA 356v to ensure efficient and accurate processing of information to support the approval of a generic new animal drug. Records and reports that are required post approval are described in 21 CFR 514.80 and that paperwork is already covered by that rule in OMB control number 0910–0284.

Dated: April 23, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–10088 Filed 4–29–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Cancer Therapeutics.

Date: May 22, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Careen K Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301)435–3504, *tothct@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group Basic Mechanisms of Cancer Therapeutics Study Section.

Date: May 24, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Season Hotel Washington DC, 2800 Pennsylvania Avenue, Washington, DC 20007.

Contact Person: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahman-sesayl@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 24, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10096 Filed 4–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of 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 National Advisory General Medical Sciences 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 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 Advisory General Medical Sciences Council.

Date: May 16–17, 2013.

Closed: May 16, 2013, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

Open: May 17, 2013, 8:30 a.m. to ADJOURNMENT.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Acting Director, NIGMS, and other business of the Council.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Ann A. Hagan, Ph.D., Associate Director for Extramural Activities, NIGMS, NIH, DHHS, 45 Center Drive, Room 2AN24H, MSC 6200, Bethesda, MD 20892, (301) 594–4499, *hagana@nigms.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 taxis, 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.nigms.nih.gov/About/Council/*)—where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research, National Institutes of Health, HHS)

Dated: April 24, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10095 Filed 4–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Early Stage and Advanced Development of Informatics Technology.

Date: July 11–12, 2013.

Time: 7:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Rockville, MD 20852.

Contact Person: Viatcheslav A Soldatenkov, MD, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, West Tower, Room 7W254, Bethesda, MD 20892–8329, 240–276–6378, *soldatenkovv@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 24, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10098 Filed 4–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR Panel: Understanding and Promoting Health Literacy.

Date: May 17, 2013.

Time: 12:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Rebecca Henry, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, 301–435–1717, *henryrr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 24, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–10097 Filed 4–29–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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.

Proposed Project: Mandatory Guidelines for Federal Workplace Drug Testing Programs (OMB No. 0930–0158)—Revision

SAMHSA's Mandatory Guidelines for Federal Workplace Drug Testing Programs will request OMB approval for the Federal Drug Testing Custody and Control Form for federal agency and federally regulated drug testing programs which must comply with the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs (73 FR 71858) dated November 25, 2008, and for the information provided by laboratories for the National Laboratory Certification Program (NLCP).

The Federal Drug Testing Custody and Control Form is used by all federal agencies and employers regulated by the Department of Transportation (DOT) to document the collection and chain of custody of urine specimens at the collection site, for laboratories to report results, and for Medical Review Officer (MRO) to make a determination. The Federal Drug Testing Custody and Control Form approved by OMB three years ago is being resubmitted for OMB approval without any revision.

The ONLY change is the number of respondents which has been reduced from 7.1 to a total of 6.1 million; which reduces the total burden hours of −240,480.

Prior to an inspection, a laboratory is required to submit specific information regarding its laboratory procedures. Collecting this information prior to an inspection allows the inspectors to thoroughly review and understand the laboratory's testing procedures before arriving at the laboratory.

The NLCP application form has not been revised compared to the previous form. The annual total burden estimates for the Federal Drug Testing Custody and Control Form, the NLCP application, the NLCP inspection checklist, and NLCP recordkeeping requirements are shown in the following table.

Number of form/respondents	Burden/ responses (hours)	Responses/ respondent	Total burden hours
Custody and Control Form:			
Donor	.08	6,150,000	512,500
Collector	.07	6,150,000	410,000
Laboratory	.05	6,150,000	307,500
Medical Review Officer	.05	6,150,000	307,500
Laboratory Application	3.0	3	9
Laboratory Inspection Checklist	2.0	35	70
Laboratory Recordkeeping	250.0	35	8750
Total			1,546,329

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *OR* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by July 1, 2013.

Summer King,

Statistician.

[FR Doc. 2013–10122 Filed 4–29–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2013–0029]

Privacy Act of 1974; Department of Homeland Security Federal Emergency Management Agency—008 Disaster Recovery Assistance Files System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and reissue a current Department of Homeland Security system of records titled, ''Department of Homeland Security/Federal Emergency Management Agency—008 Disaster Recovery Assistance Files System of Records.'' This system of records allows the Department of Homeland Security/ Federal Emergency Management Agency to collect and maintain records on applicants for its Disaster Assistance programs that provide financial and other tangible assistance to survivors of Presidentially-declared disasters. As a

result of a biennial review of this system, this system of records notice has been updated as follows: Legal authorities have been added to account for all assistance that applicants may be eligible for and receive from FEMA; categories of records and record source categories reference and reflect new FEMA form numbers and account for all relevant records of assistance received from FEMA and other entities; categories of individuals more accurately reflect the individuals covered by the various programs covered by this system and explain that, although anyone may apply for the Individuals and Households Program (IHP) assistance, there are citizenship requirements tied to IHP eligibility; the purpose has been clarified to include other assistance programs in addition to IHP and to also include customer satisfaction assessments; routine uses have been revised to name tribal government agencies as potential recipients to comport with section 1110 of the Sandy Recovery Improvement Act of 2013 (Pub. L. 113–2); ensure recipients of information are identified in a consistent manner; expand the universe of potential recipients identified in current routine uses; incorporate congressionally mandated routine uses per 42 U.S.C. 5714(f)(2) as to sharing information with the States; and to delete the requirement that all routine use requests be made in writing; changes have been made to the retention and disposal of the records; and the record source categories have been updated to reflect housing forms not previously listed.

Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This updated system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before May 30, 2013. This updated system will be effective May 30, 2013.

ADDRESSES: You may submit comments, identified by docket number DHS–2013–0029 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Eric M. Leckey, 202–212–5100, Privacy Officer, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC 20528. For privacy questions, please contact: Jonathan R. Cantor, 202–343–1717, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) proposes to update and reissue an existing system of records entitled, ''DHS/FEMA—008 Disaster Recovery Assistance Files System of Records,'' 74 FR 48763 (September 24, 2009).

This system of records notice is being published because FEMA collects, maintains, uses, retrieves, and disseminates the personally identifiable information (PII) of individuals who apply for FEMA disaster assistance in the aftermath of a Presidentially-declared disaster. FEMA's applicant records included in this system may contain income information, insurance information, housing inspection reports, and correspondence notations about the various types of assistance, including information about appeals, and other information.

The purpose of this system of records is to facilitate registration for FEMA's disaster assistance programs, to verify IHP applicant information, determine eligibility of the applicants, and to focus, direct, refer, and correspond applicants to all sources of disaster assistance. Additional purposes include identifying and implementing measures to reduce future disaster damage, preventing a duplication of federal government efforts and benefits, and identifying possible fraudulent activity after a Presidentially-declared disaster or emergency. Finally, information from this system of records may be used to facilitate FEMA's efforts to assess the customer service it provides to those receiving FEMA assistance.

FEMA collects, uses, maintains, retrieves, and disseminates the records within this system under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), Pub. L. No. 93–288, as amended (42 U.S.C. 5121–5207); 6 U.S.C. 776–77, and 795; the Debt Collection Improvement Act of 1996, 31 U.S.C. 3325(d) and 7701(c)(1); the Government Performance and Results Act, Pub. L. No. 103–62, as amended; Reorganization Plan No. 3 of 1978; Executive Order 13411, ''Improving Assistance for Disaster Victims,'' dated August 29, 2006; and Executive Order 12862 ''Setting Customer Service Standards,'' dated September 11, 2003, as described in this notice.

This updated system of records provides greater transparency by encompassing all of FEMA's disaster assistance records, including those records related to IHP, as well as the customer service survey assessments within a single system of records.

This system of records notice is being published pursuant to the biennial review requirement under the Privacy Act of 1974. Specific updates are described below:

First, FEMA is expanding the purpose of the system to account for all FEMA assistance that applicants may be eligible to receive, not just IHP records, and to explicitly include customer satisfaction assessments. This change is necessary to account for records of various FEMA assistance programs that individuals may receive within this system of records. Second, the categories of records have been updated to reflect the discontinuation of FEMA's Other Needs Assistance forms (specifically, forms numbered 76–27, 76–28, 76–30, 76–32, 76–34, 76–35, 76–38, and related forms). The accompanying approved collection (OMB ICR No. 1660–0018) has also been retired to reflect FEMA's discontinuation of these forms. The categories of records have been further revised to include information that FEMA maintains about disaster assistance applicants from other FEMA programs and third-parties concerning financial payments that applicants received from other sources for similar purposes. This is necessary to prevent a duplication of benefits as mandated by the Stafford Act, 42 U.S.C. 5174, and 44 CFR 206.191, to better address situations in which a private entity is wholly or partially responsible for a declared disaster under the Stafford Act, 42 U.S.C. 5160, and to ensure that applicants can receive assistance from additional and available sources. In addition, the categories of records no longer refers to a specific form entitled, ''Inspection Report FEMA Form 90–56.'' This has been replaced with the more inclusive ''Inspection Reports'' to reflect

FEMA's current practice of using an electronic device narrative as opposed to a paper form. Third, categories of individuals have been updated to more accurately reflect the individuals covered by this system and to explain that, although anyone may apply for and receive certain types of disaster assistance, not everyone will be eligible. For example, there is a citizenship requirement for IHP assistance and, in addition, not all applicants may be able to complete the full application initially for a variety of practical reasons. Fourth, the legal authorities have been revised to include the Government Performance and Results Act, Pub. Law No. 103–62, as amended; and Executive Order 12862 ''Setting Customer Service Standards,'' as additional authorities to augment the requirements of Executive Order 13411, ''Improving Assistance for Disaster Victims,'' related to its customer satisfaction assessments. Fifth, this update reflects the removal of the blanket requirement that all routine use requests be made in writing and revises several of the system's routine uses and added new routine uses as follows: Included a FEMA-state agreement as an acceptable sharing vehicle and includes contractors and sub-grantees that a state or federal agency may use to carry out programs in (H)(1); added the term ''Long Term Recovery Committee'' as a recipient in (H)(2); clarified that ''Long Term Recovery Committee'' is a recipient under (H)(3) and added ''local government agency,'' ''utility companies,'' and ''hospitals/health care providers'' as a recipients in (H)(3); removed the term ''Disability Coordinator'' and added the term ''assistive technology'' in (H)(4); added (H)(5) to further the FEMA Administrator's efforts to include and involve the private sector in disaster management pursuant to 6 U.S.C. 313(b)(2); added (H)(6) to facilitate the provision of medical equipment and assistive technology to IHP applicants; added (H)(7) to allow for sharing with federal, state, tribal, and local government agencies for purposes of performing surveys and/or studies; added language to (I) to specify the information that DHS/FEMA will share; and added ''phone number'' and ''number of household occupants'' in (M) to the information that will be shared. Sixth, the retention and disposal section has been revised to include the National Archives and Records Administration (NARA) authority and the retention schedule information for FEMA's customer satisfaction assessment records. Lastly, the record source categories have been updated to reflect current FEMA form number 010–0–12 and to include other housing forms not previously listed. FEMA has also made non-substantive grammatical changes throughout this notice for clarification purposes.

This updated system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/FEMA–008 Disaster Recovery Assistance Files System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget (OMB) and to Congress.

SYSTEM OF RECORDS

Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA)–008

SYSTEM NAME:

DHS/FEMA–008 Disaster Recovery Assistance Files System of Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

National Processing Service Centers (NPSC) located at FEMA MD–NPSC, 6511 America Boulevard, Hyattsville, MD 20782; FEMA VA–NPSC, 430 Market Street, Winchester, VA 22603; and FEMA TX–NPSC, 3900 Karina Lane, Denton, TX 76208. In addition, FEMA's Disaster Assistance Improvement Program (DAIP), National Emergency Management Information System–Individual Assistance (NEMIS–IA), and Enterprise Data Warehouse/Operational Data Store (EDW/ODS) information technology systems may contain these records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who apply for or express interest in applying for FEMA disaster assistance following a Presidentially-declared major disaster or emergency. (Note: FEMA will accept applications from any individual, however, an individual must be a United States citizen, non-citizen national, or qualified alien to meet the eligibility requirements for Individuals and Households Program assistance.)

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Registration Records (Disaster Assistance Pre-Registration Intake Form, Disaster Assistance Registration/Application, FEMA Form(s) 009–0–1, 009–0–2, 009–0–1t, 009–0–1int, and 009–0–2int):

- Individual applicant's full name;
- Applicant's Social Security Number, alien registration number, co-applicant's Social Security Number;
- Date of birth;
- Phone numbers;
- Email addresses;
- Addresses (damaged dwelling address and any other current address if different than damaged dwelling address);
- Geospatial location of dwelling;
- Language(s) spoken;
- Date of disaster and/or property loss including cause of damage and estimates of repair;
- Current location;
- Name of each disaster (disaster number);
- Income information;
- Acceptable forms of identification (e.g., driver's license, state/federal issued photo identification);
- Emergency or other needs of the individual (e.g., food, clothing, shelter, medical, dental, moving, storage, funeral, functional);
- Type of residence;
- Insurance coverage information including insurance type and insurance company name;
- Household size and composition including number, age, and dependent status;
- Bank name and account information including electronic funds transfer information; and
- Right of entry to property consent and other written consents.

(b) Inspection Reports:

- Inspection reports contain applicants' personally identifiable information (PII) and results of assessments of damaged real and personal property and goods, which may include applicant homes and personal items and notations of clearing of muck and debris by contractors and partnering agencies.

(c) Temporary Housing Assistance Eligibility Determinations (FEMA Forms 009–0–5, and 009–0–6) and Application for Continued Temporary Housing Assistance (FEMA Form 010–0–12), Request for Site Inspection (FEMA FORM 010–0–9), Landowners Ingress/Egress Agreement (FEMA FORM 010–0–10), as well as the following related information:

• Correspondence and documentation related to the approval and disapproval of temporary housing assistance including: General correspondence; complaints, appeals, and resolutions; requests for disbursement of payments; inquiries from tenants and landlords; general administrative and fiscal information; payment schedules and forms; termination notices; information shared with the temporary housing program staff from other agencies to prevent the duplication of benefits; leases; contracts; specifications for repair of disaster damaged residences; reasons for eviction or denial of aid; sales information after tenant purchase of housing units; and the status or disposition of housing applications.

(d) Assistance from Other Sources:

• Notations and reports of decisions for disaster or similar financial awards and assistance from other FEMA Programs, federal and state agencies, insurance companies, employer, bank, financial, power/utility companies, health care providers, safety/rescue services, and public or private entities as they relate to determinations of applicants' eligibility for IHP programs disaster assistance;

• Correspondence between the applicant and FEMA concerning disaster assistance determinations and subsequent appeals and/or arbitration of such determinations; and

• Other files independently kept by the state that contain records of persons who request disaster aid, specifically for the ''Other Needs'' assistance provision of the IHP administrative files and reports required by FEMA. As to individuals, the state keeps the same type of information as described above under registration, inspection, and temporary housing assistance records.

(e) Declaration and Release Form (009–0–3, 009–0–4).

(f) Customer service survey responses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), Public Law 93–288, as amended (42 U.S.C. 5121–5207); 6 U.S.C. 776–777, and 795; the Debt Collection Improvement Act of 1996, 31 U.S.C. 3325(d) and 7701(c)(1); the Government Performance and Results Act, Public Law 103–62, as amended; Executive Order 13411 ''Improving Assistance to Disaster Victims,'' dated August 29, 2006; and Executive Order 12862 ''Setting Customer Service Standards,'' dated September 11, 2003.

PURPOSE(S):

To register applicants seeking disaster assistance from FEMA, to verify IHP applicant information, determine eligibility of the applicants, to focus, direct, refer, and correspond applicants to all sources of disaster assistance, and to inspect damaged property. Additional purposes include: to identify and implement measures to reduce future disaster damage, to prevent a duplication of federal government efforts and benefits, identify possible fraudulent activity after a Presidentially-declared disaster or emergency, and to assess the customer satisfaction of FEMA disaster assistance applicants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS/FEMA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows upon request unless noted otherwise:

A. To the Department of Justice (DOJ), including U.S. Attorney Offices, or other federal agencies conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. any employee of DHS in his/her official capacity;

3. any employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. the U.S. or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FEMA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for FEMA, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to FEMA officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person receiving the information.

H. To certain government, private sector, and voluntary entities when FEMA may disclose applicant information necessary to prevent a duplication of efforts or a duplication of benefits in determining eligibility for disaster assistance, and/or to address unmet needs of eligible, ineligible, or partially eligible FEMA applicants. The receiving entity is not permitted to alter or to further disclose the information to other disaster organizations or outside third parties. FEMA may make such disclosures under the following circumstances:

1. To other federal agencies, and agencies of states, tribal, and local governments, including programs that make available any disaster assistance to individuals and households and/or give preference of priority to disaster applicants, including those that evacuate from a declared state to another state and to prevent a duplication of efforts or benefits. State agencies may request and receive information using the protocols established in an appropriate FEMA-state agreement as defined in 44 CFR 206.44. Federal and state government agencies may share information they receive from FEMA with their contractors/grantees, and/or agents that are administering a disaster related program on behalf of the Agency (e.g., other state, tribal, and local agencies working under the guise of the requesting state agency) according to the same protocols and safeguards protecting the information.

2. To local government agencies, voluntary organizations (as defined in 44 CFR 206.2(a)(27)), and FEMA- and/or state- recognized Long Term Recovery Committees (LTRC) and their members for a declared county charged through legislation or chartered with administering disaster relief/assistance programs. The written request from the entity shall include the applicant's name, date of birth, FEMA registration/application number, and damaged dwelling address (or geospatial location of dwelling). The entity must explain the type of tangible assistance being offered and the type of verification required before the assistance can be provided.

3. To local government agencies, utility companies, hospitals/health care providers, and voluntary organizations (as defined at 44 CFR 206.2(a)(27)). The voluntary organization must either have a national membership in good standing with the National Voluntary Organizations Active in Disaster (NVOAD), be a FEMA or state recognized Long-Term Recovery Committee (LTRC), or member of such committee for that disaster. The above-mentioned entities must have a disaster assistance program to address the unmet disaster-related needs of disaster survivors and be actively involved in the recovery efforts of the disaster. FEMA may disclose to the above mentioned entities lists of applicant names, contact information, their FEMA inspected loss amount, amounts received, award category, and Small Business Administration loan status for the purpose of providing additional disaster assistance and/or addressing unmet needs. FEMA may disclose the aforementioned data elements according to different sub-categories of disaster applicants (e.g., those that received maximum amounts, those that have flood insurance coverage, those with emergency needs, or those over a certain age). FEMA shall release this information only during the disaster period of assistance as defined in 44 CFR 206.110(e), plus 90 days to address any appeals (44 CFR 206.115(f)).

4. FEMA may immediately disclose, on a case by case basis, to an entity qualified under Routine Use (H)(3), and to entities that loan or donate new or reused durable medical equipment and assistive technology, information about applicants in need of such equipment or technology as a result of a declared disaster, if the applicant in question has an immediate need for durable medical equipment or assistive technology, and the qualifying entity is able to provide the assistance in question. An immediate need is one that is of such urgency or severity that one could reasonably expect the absence of the durable medical equipment or assistive technology to place the health of the applicant in serious jeopardy, to compromise the safety of the applicant, or prevent the applicant from relocating from a shelter facility to the next stage of recovery.

Specifically, FEMA may release the applicant's name and limited contact information (telephone number, email address, and if being delivered to a location other than a shelter, the current address and/or geospatial location data). A written request is not necessary in this situation; however, FEMA shall provide a written letter (or email) along with the information to the receiving entity, and in turn the receiving entity shall acknowledge receipt of message that it has received the information and has contacted the applicant. In addition, the entity will confirm that it has taken the steps to protect the information provided.

5. To a private sector entity/business for the purpose of administering, coordinating, and/or providing tangible assistance to the entity's employees who have applied for assistance to address their disaster-related losses. The request from the private sector entity/business must include its employees' names, dates of birth, damaged dwelling addresses, and the types of tangible assistance the entity is offering its employees. FEMA shall only release the contact information of those applicants who are employed by the requesting entity. FEMA shall release this information only during the disaster period of assistance as defined in 44 CFR § 206.110(e).

6. To organizations that are able to provide durable medical equipment and assistive technology to applicants in need of such devices as a result of a declared disaster. FEMA may disclose applicants' name and contact information to include the current address and phone number.

7. To federal, state, tribal, and local government agencies for the purpose of contacting FEMA IHP applicants to seek their voluntary participation in surveys or studies concerning effects of disasters, program effectiveness, and to identify possible ways to improve community preparedness and resiliency for future disasters.

I. To federal, state, tribal, or local government agencies; voluntary organizations; insurance companies; employers; any public or private entities; banks and financial institutions when an applicant's eligibility, in whole or in part, for FEMA's IHP depends upon financial benefits already received or available from that source for similar purposes as necessary to determine benefits; and to prevent duplication of disaster assistance benefits (as described in 42 U.S.C. 5155 of the Stafford Act). FEMA initiates the transaction by only disclosing the name, address, and date of birth of an applicant in order to properly identify the same and obtain desired relevant information from entities listed above.

J. To federal, state, tribal, or local government agencies charged with the implementation of hazard mitigation measures and the enforcement of hazard-specific provisions of building codes, standards, and ordinances. FEMA will only disclose information for the following purposes:

1. For hazard mitigation planning purposes, to assist federal, state, tribal, or local government agencies in identifying high-risk areas and preparing mitigation plans that target those areas for hazard mitigation projects implemented under federal, state, tribal, or local hazard mitigation programs.

2. For enforcement purposes, to enable federal, state, tribal, or local government agencies, to ensure that owners repair or rebuild structures in conformity with applicable hazard-specific building codes, standards, and ordinances.

K. To the Department of the Treasury, pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. 3325(d) and 7701(c)(1), as amended. An applicant's Social Security Number will be released in connection with a request that the Department of the Treasury provide a disaster assistance payment to an applicant under the IHP.

L. To a state, local, or tribal government agency in connection with billing that state, local, or tribal government for the applicable non-federal cost share under the IHP. Information shared shall only include applicants' names, contact information, and amounts of assistance received.

M. To state, tribal, or local government emergency managers, when an applicant is occupying a FEMA temporary housing unit, for the purposes of preparing, administering, coordinating, and/or monitoring emergency response, public safety, and evacuation plans. FEMA shall only release the applicants' phone numbers, address, and number of household occupants of the housing unit.

N. To the Department of the Treasury, Department of Justice, the United States Attorney's Office, or other third party for further collection action on any delinquent debt when circumstances warrant.

O. To federal, state, tribal, or local law enforcement authorities, or agencies, or other entities authorized to investigate and/or coordinate locating missing children and/or reuniting families.

P. To state, tribal, or local government election agencies/authorities that oversee the voting process within their respective municipalities, for the purpose of ensuring voting rights of individuals who have applied for FEMA assistance, limited to their own respective citizens who are displaced by a Presidentially-declared major disaster or emergency out of their voting jurisdiction.

Q. To certain federal, state, tribal, or local government agencies to update the applicant's current records (e.g., change of address, effective date of change of address) when that agency needs to update contact information (e.g., the Social Security Administration, a State Department of Motor Vehicles, or a State health agency).

R. To other federal, state, local, or tribal government agencies, and voluntary organizations under approved computer matching efforts.

S. To the news media and the public, with the approval of the DHS Chief Privacy Officer in consultation with the DHS General Counsel and FEMA Chief Counsel when there is a legitimate public interest in the disclosure of the information or when disclosure is necessary to inform the public or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure under 5 U.S.C. 552a(b)(12). DHS/FEMA may make disclosures from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), as amended; or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3), as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, digital/electronic media.

RETRIEVABILITY:

Records may be retrieved by an individual's name, address, Social Security Number, and case file number.

SAFEGUARDS:

FEMA safeguards the records in this system in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

Records pertaining to disaster assistance will be placed in inactive storage two years after FEMA receives the application and will be destroyed when they are six years and three months old, in accordance with NARA Authority N1–311–86–1, item 4C10a. Records pertaining to temporary housing will be destroyed three years after close of the operation in accordance with NARA Authority N1–311–86–1, item 4C10b. Closeout occurs when the disaster contract is terminated. Records pertaining to the IHP program will retire to the Federal Records Center (FRC) one year after closeout and be destroyed three years after closeout. Records pertaining to individual assistance customer satisfaction assessments are stored in accordance with NARA Authority N1–311–00–1. The customer service assessment forms that have been filled out and returned by disaster assistance applicants are temporary records that are destroyed upon transmission of the final report, per NARA Authority N1–311–00–1, item 1. The statistical and analytical reports resulting from these assessments are temporary records that are retired 3 years after the final report cutoff and destroyed 20 years after the report cutoff, per NARA Authority N1–311–00–1, item 2. The assessment results database are temporary records that are destroyed when no longer needed for analysis purposes, per NARA Authority N1–311–00–1, item 3.

SYSTEM MANAGER AND ADDRESS:

Division Director, Individual Assistance Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

NOTIFICATION PROCEDURE:

Individuals applying for IHP assistance may access their information online via the Disaster Assistance Center using the user ID, password, system generated PIN, and authentication that was established during the application process. Applicants may also call a NPSC representative to access their information by providing their registration ID.

In addition, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the FEMA Disclosure Officer, 500 C Street SW., Washington, DC 20472. If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0550, Washington, DC 20528.

When seeking records about yourself from this system of records or any other FEMA system of records your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

Explain why you believe the Department would have information on you;

• Identify which component(s) of the Department you believe may have the information about you;

• Specify when you believe the records would have been created; and

• Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

FEMA receives information from individuals who apply for disaster assistance through three different media: (1) Electronically via the Internet at *http://www.disasterassistance.gov* (FEMA Form 009–0–1 and FEMA Form 009–0–2); (2) by calling FEMA's toll-free number 1–800–621–3362 (FEMA Form 009–0–1t and FEMA Form 009–0–2t); and (3) through submission of a paper copy of pre-registration intake, FEMA Form 009–0–1 and its Spanish-language equivalent, FEMA Form 009–0–2, or via a pre-registration intake form. In addition, information in this system of records derives from Temporary Housing Assistance Eligibility Determinations (FEMA Forms 009–0–5, and 009–0–6) and Application for Continued Temporary Housing Assistance (FEMA Form 010–0–12), as well as related information (FEMA Forms 009–0–5 and 009–0–6). Information may also come from FEMA inspectors, financial institutions, insurance companies, state, local, tribal, and voluntary agencies providing disaster relief, and commercial databases (for verification purposes).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: April 19, 2013.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2013–10173 Filed 4–29–13; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2013–0016; OMB No. 1660–NEW]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. FEMA requests review and approval of this collection of information under the emergency processing procedures. FEMA is requesting that this information collection be approved by April 30, 2013. The approval will authorize FEMA to use the collection through September 30, 2013. FEMA plans to follow this emergency request with a request for a 3-year approval. The request will be processed under OMB's normal clearance procedures. FEMA invites the general public to comment on the proposed collection of information.

DATES: Comments must be submitted on or before May 30, 2013.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: Under the direction of Executive Order 13254 which directs FEMA's Individual and Community Preparedness Division (ICPD) acts under the authority of Executive Order 13254, ''Establishing the USA Freedom Corps.'' This Executive Order creates a council composed of Federal executive branch leaders, and directs members of that council to perform a range of functions, to include studying and tracking the progress of public service programs. This collection seeks experiential information from survivors of Hurricane Sandy via a telephone survey and a series of focus groups. This collection of information is necessary to ensure effectiveness and value of awareness and education campaigns, disaster messaging and other associated outreach efforts.

Collection of Information

Title: Post Hurricane Sandy Survivor Research.

Type of Information Collection: New information collection.

Form Titles and Numbers: FEMA Form 008–0–10, Sandy Focus Group Recruit/Screener; FEMA Form 008–0–9, Focus Group Moderator Guide; FEMA Form 008–0–11, In-Depth Case Study/Community Specific (Pulse Survey).

Abstract: FEMA's ICPD will engage in qualitative and quantitative research to investigate the effectiveness of preparedness behaviors before, during and after Hurricane Sandy. This research will inform evaluation of existing public messaging regarding disaster preparedness and response at the individual and household level.

Affected Public: Individuals and Households.

Number of Respondents: 4,470.

Estimated Time per Respondent: Sandy Focus Group Recruit/Screener, 3 minutes; Focus Group Moderator Guide, 1.5 hours; In-Depth Case Study Pulse Survey, 15 minutes.

Estimated Total Annual Burden Hours: 1,128 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Total number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average hourly wage rate	Total annual respondent cost
Individuals or Households	Sandy Focus Group Recruit/ Screener/FEMA Form 008–0–10.	1,260	1	1,260	.05 (3 mins.)	63	$22.78	$1,435.14
Individuals or Households	Focus Group Moderator Guide/ FEMA Form 008–0–9.	210	1	210	1.5 hrs. (90 mins.)	315	22.78	7,175.70
Individuals or Households	In-Depth Case Study Pulse Survey/FEMA Form 008–0–11.	3,000	1	3,000	.25 (15 mins.)	750	22.78	17,085.00
Total	.....	4,470	.....	4,470	.....	1,128	.....	25,695.84

• Note: The ''Avg. Hourly Wage Rate'' for each respondent includes a 1.4 multiplier to reflect a fully-loaded wage rate.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $25,695.84. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The annual cost to the Federal Government is $563,000.00.

Frequency of Response: On occasion.

Dated: April 22, 2013.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2013–10129 Filed 4–29–13; 8:45 am]

BILLING CODE 9111–27–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0010]

Board of Visitors for the National Fire Academy Teleconference

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Open Federal Advisory Committee Teleconference.

SUMMARY: The Board of Visitors for the National Fire Academy (Board) will meet via teleconference on Wednesday, May 15, 2013. The meeting will be open to the public.

DATE: The Board of Visitors for the National Fire Academy will meet on Wednesday, May 15, 2013, from 1:30 to 4:00 p.m. Eastern Daylight Time. Please note that the meeting may close early if the Board has completed its business.

ADDRESSES: Members of the public who wish to participate in the teleconference should contact Cindy Wivell as listed below in the **FOR FURTHER INFORMATION CONTACT** section by close of business May 8, 2013, to obtain the call-in number and access code. For information on services for individuals with disabilities or to request special assistance, contact Cindy Wivell as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Board as listed below in the **SUPPLEMENTARY INFORMATION** section. Comments must be submitted in writing no later than May 8, 2013, and must be identified by docket ID FEMA–2008–0010 and may be submitted by *one* of the following methods:

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

• *Mail/Hand Delivery:* Cindy Wivell, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket ID for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Fire Academy Board of Visitors, go to *http://www.regulations.gov.* The documents will be posted on *http://www.regulations.gov* as soon as they are available.

There will be a 6-minute comment period after each agenda item; each speaker will be given no more than 2 minutes to speak. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact Cindy Wivell to register as a speaker.

FOR FURTHER INFORMATION CONTACT:

Alternate Designated Federal Officer: Denis G. Onieal, telephone (301) 447–1117.

Logistical Information: Cindy Wivell, telephone (301) 447–1157, fax (301) 447–1834, and email *Cindy.Wivell@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

Purpose of the Board

The purpose of the Board is to review annually the programs of the National Fire Academy (Academy) and advise the Administrator of the Federal Emergency Management Agency (FEMA), through the United States Fire Administrator, of the operation of the Academy and any improvements therein that the Board deems appropriate. The Board makes interim advisories to the Administrator of FEMA, through the United States Fire Administrator, whenever there is an indicated urgency to do so in fulfilling its duties. In carrying out its responsibilities, the Board examines Academy programs to determine whether these programs further the basic missions which are approved by the Administrator of FEMA, examines the physical plant of the Academy to determine the adequacy of the Academy's facilities, and examines the funding levels for Academy programs. The Board submits an annual report through the United States Fire Administrator to the Administrator of FEMA, in writing. The report provides detailed comments and recommendations regarding the operation of the Academy.

Agenda

The Board will review and approve the minutes of the December 5, 2012, teleconference meeting. The Board will discuss deferred maintenance and capital improvements on the National Emergency Training Center (NETC) campus, to include FY 2013 Budget Planning. The Board will receive a status report on U.S. Fire Administration data, research and response support initiatives. The Board

will review and give feedback on Academy program activities including Executive Fire Officer Program (EFOP) prerequisites/accreditation update, FY 2013 curriculum developments update, EFOP Symposium, transition to electronic student manuals, and follow up to state training system/semi-annual course call.

The Board will discuss the Fire and Emergency Services Higher Education (FESHE)/Professional Development Subcommittee activities, including the FESHE committee's realignment, National Professional Development Symposium, and FESHE Recognition Update.

The Board will discuss dates and agenda items for upcoming meetings and the logistics for completing the 2012 BOV NFA annual report.

The public will have an opportunity to comment on these issues prior to deliberation and final action by the Board. After deliberation, the Board will recommend actions to the Superintendent of the National Fire Academy and the Administrator of FEMA.

Dated: April 25, 2013.

Denis G. Onieal,

Superintendent, National Fire Academy, United States Fire Administration, Federal Emergency Management Agency.

[FR Doc. 2013–10131 Filed 4–29–13; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5692–N–02]

Notice of Proposed Information Collection: Comment Request; HUD Standard Grant Application Forms: Detailed Budget Form (HUD–424–CB), Budget Worksheet (HUD–424CBW), Application for Federal Assistance (SF–424), and the Third-Party Documentation Facsimile Transmittal Form (HUD–96011)

AGENCY: Office of Strategic Planning and Management, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: Comment Due Date: July 1, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval numbers (2535–0017), (2525–0018), (4040–0004) and should be sent to: Colette Pollard, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; Telephone (202) 402–4300, (this is not a toll-free number) or email Ms. Pollard at *Colette.Pollard@hud.gov;* for a copy of the proposed form and other available information.

FOR FURTHER INFORMATION CONTACT: Dorthera Yorkshire, AJT, Grants Management and Oversight Division, Department of Housing and Urban Development, 451 Seventh Street SW., Room 3156, Washington, DC 20410; email: *Dorthera.Yorkshire@hud.gov;* telephone (202) 402–4336; Fax (202) 708–0531 (this is not a toll-free number) for other available information. If you are a hearing-or-speech-impaired person, you may reach the above telephone numbers through TTY by calling the toll-free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: HUD will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice lists the following information:

Grant Application Detailed Budget Form (HUD–424–CB).

Grant Application Detailed Budget Worksheet (HUD–424–CBW). OMB Control Number: 2501–0017.

Facsimile Transmittal Form (HUD–96011). OMB Control Number: 2535–0118.

Application for Federal Assistance (SF–424). OMB Control Number: 4040–0004.

Description of the need for the information and proposed use: HUD-Common Budget Form and Worksheet intended to offer consolidated and streamlined grant application processes in accordance with the provisions of Public Law 106–107, The Federal Financial Assistance Improvement Act of 1999.

Agency form numbers, if applicable: HUD–424CB and HUD–424CBW.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total number of hours needed to prepare the forms for each grant application is one (1) hour, however, the burden will be assessed against each individual grant program submission under the Paperwork Reduction Act; number of respondents is 9,091; frequency of response is on the occasion of application for benefits.

Status of the proposed information collection: Reinstatement, without change, of previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Description of the need for the information and proposed use: The use of the Third-Party Documentation Facsimile Transmittal Form allows the Department to collect the same information electronically as we would for a paper-based application. It also produces an electronic version of the document that will be matched with the electronic application submitted through *grants.gov* to HUD.

Agency form numbers, if applicable: Third-Party Documentation Facsimile Transmittal Form (HUD–96011)

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total number of hours needed to prepare the forms for each grant application is 5 minutes per response, however, the burden will be assessed against each individual grant program submission under the Paperwork Reduction Act; number of respondents is 33,000 frequency of response is on the occasion of application for benefits.

Status of the proposed information collection: Reinstatement, without change, of previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Description of the need for the information and proposed use: This is a standard form required for use as a cover sheet for submission of pre-applications and applications and related information under discretionary programs. Some of the items are required and some are optional at the discretion of the applicant or the federal agency (agency). Required fields on the form are identified with an asterisk (*) and are also specified as ''Required'' in the instructions below. In addition to these instructions, applicants must consult agency instructions to determine other specific requirements.

Agency form numbers, if applicable: SF–424 Application for Federal Assistance

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response.

An estimation of the total number of hours needed to prepare the forms for each grant application is estimated to average 30 minutes per response however, the burden will be assessed against each individual grant program submission under the Paperwork Reduction Act; number of respondents is 33,000 frequency of response is on the occasion of application for benefits.

Status of the proposed information collection: Reinstatement, without change, of previously approved collection for which approval has expired.

Authority: PL: Public Law 106–107 468 Name of Law: Federal Financial Assistance Management Improvement Act of 1999. PL: Public Law 109–282 2590 Name of Law: Federal Funding Accountability and Transparency Act of 2006.

Dated: April 24, 2013.

Anne Morillon,

Director, Office of Strategic Planning and Management, Grants Management and Oversight.

[FR Doc. 2013–10062 Filed 4–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5415–FA–37]

Announcement of Funding Awards; Section 3 Program Coordination and Implementation; Fiscal Year 2010

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the Notice of Funding Availability (NOFA) for the Section 3 Program Coordination and Implementation for Fiscal Year (FY) 2010. This announcement contains the names and addresses of the award recipients selected for funding based on the rating and ranking of all applications and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Staci Gilliam, Director, Economic Opportunity Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street SW., Room 5236, Washington, DC 20410. Telephone number (202) 402–3468 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended, and the implementing regulation at 24 CFR part 135 ensures that employment, training, and contracting opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.

The Department published the Section 3 Coordination and Implementation Notice of Funding Availability (Section 3 NOFA) on June 7, 2011 announcing the availability of approximately $600,000 out of the Department's FY 2010 appropriation, to be utilized to help agencies that receive covered HUD funding build their capacity to meet the regulatory requirements of Section 3 by providing funds for the salary, fringe benefits, and other expenses associated with hiring one full-time Section 3 Coordinator for one year. Funding availability for discretionary grants included: Approximately 12 qualified applicants to receive awards of $50,000 via a lottery by region. Accordingly, HUD was able to fund at least one application within each of its ten regional offices. This Notice announces grant awards of approximately $600,000 to 12 grantees.

For the FY 2010 NOFA, the Department reviewed, evaluated and scored the applications received based on the criteria in the FY 2010 NOFA. As a result, HUD has funded the applications announced in Appendix A, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is hereby publishing details concerning the recipients of funding awards in Appendix A.

(The Catalog of Federal Domestic Assistance Number for currently funded Initiatives under the Section 3 Program is 14.412.)

Dated: April 18, 2013.

John D. Trasviña,

Assistant Secretary for Fair Housing and Equal Opportunity.

APPENDIX A—FY2010 SECTION 3 PROGRAM COORDINATION AND IMPLEMENTATION AWARDS

Applicant Name	Contact	Region	Award Amt.
Section 3 Program Coordination and Implementation Grantees			
City of Springfield, 36 Court Street, Springfield, MA 01103–1602.	Geraldine McCaffery, 413–787–6500	1	$50,000.00
Housing Authority of the City of Trenton, 875 New Willow Street, Trenton, NJ 08638–1111.	Herbert Brown, 609–278–5026	2	50,000.00
Norfolk Redevelopment & Housing Authority, 201 Granby Street, 380 N. Bumby Avenue, Norfolk, VA 23510–1820.	Linda Davenport, 757–314–2026	3	50,000.00

APPENDIX A—FY2010 SECTION 3 PROGRAM COORDINATION AND IMPLEMENTATION AWARDS—Continued

Applicant Name	Contact	Region	Award Amt.
Housing Authority of the City of Orlando, Orlando, FL 32803–6026.	Cynthia Curry, 407–895–3300 ext4002	4	$50,000.00
Housing Authority of Joliet, 6 South Broadway Street, Joliet, IL 60436–1753.	Lisa Johnson, 815–727–0611 ext155	5	50,000.00
Housing Authority of the City of San Antonio, 818 S. Flores Street, San Antonio, TX 78204–1430.	Josefa Zatarain Flournoy, 210–477–6257	6	50,000.00
Housing Authority of Kansas City, 301 East Armour Boulevard, Jackson, MO 64112–1254.	Valentine Reid, 816–777–2390	7	50,000.00
Section 3 Program Coordination and Implementation			
Housing Authority of the City, County of Denver, 777 Grant Street, Denver, CO 80230–3521.	Lynne Picard, 720–932–3052	8	$50,000.00
Housing Authority of the County of San Joaquin, 448 S. Center Street, Stockton, CA 95203–3426.	Barbara Kauss, 209–460–5065	9	50,000.00
Housing Authority of Portland, 135 SW Ash Street, Portland, OR 97204–3540.	Cinna'mon Williams, 503–802–8533	10	50,000.00
Statesville Housing Authority, 110 W. Allison Street, Statesville, NC 28677–6616.	Zelda Turner, 704–761–4752	4	50,000.00
Sanford Housing Authority, 1000 Carthage Street, Sanford, NC 27330–4415.	Ken Armstrong, 919–776–7655	4	50,000.00

[FR Doc. 2013–10053 Filed 4–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5600–FA–37]

Announcement of Funding Awards; Office of Native American Programs Training and Technical Assistance; Fiscal Year 2012

AGENCY: Office of Native American Programs, Office of Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Fiscal Year 2012 (FY 2012) Notice of Funding Availability (NOFA) for the Office of Native American Programs Training and Technical Assistance (ONAP T&TA). This announcement contains the consolidated names of this year's award recipients under the NOFA.

FOR FURTHER INFORMATION CONTACT: Mike Andrews, Director, Office of Native Programs, 451 Seventh Street SW., Washington, DC 20410, telephone number 202–402–6329. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: This program provides grants to Indian tribes and Alaska Native Villages to provide training and technical assistance to Indian, Alaska Native, and Native Hawaiian communities on topics pertinent to the Native American Housing and Self-Determination Act (NAHASDA), the Indian Housing Block Grant program, and the Native Hawaiian Housing Block Grant (NHHBG) program, including the creation of decent housing, suitable living environments, and economic opportunities primarily for persons with low and moderate incomes as defined in 24 CFR 1003.4.

The FY 2012 awards announced in this notice were selected for funding in a competition posted on the Grants.gov Web site on August 30, 2012. Applications were scored and selected for funding based on the selection criteria in that NOFA. The amount allocated in FY 2012 to fund the NOFA was $7.35 million, divided into 3 categories: $2 million for national or regional organizations representing Native American housing interests, $5 million for national or regional organizations representing Native American housing interests and for-profit entities, and $350,000 for national and regional nonprofit organizations, as well as for-profit entities to provide Training & Technical Assistance to the Department of Hawaiian Homelands (DHHL) and sub-recipients of NHHBG.

In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), today's **Federal Register** publication lists in Appendix A the names, addresses, and amounts to which awards were made under the FY 2012 ONAP Training and Technical Assistance NOFA.

Dated: April 24, 2013.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

APPENDIX A

Name/Address of applicant	Category	Amount funded
Association of Alaskan Housing Authorities, 4300 Boniface Parkway, Suite 190, Anchorage, AK 99504–4317, (907) 338–3970.	National or regional organization representing Native American housing interest.	$1,500,000.00
National American Indian Housing Council, 900 2nd St NE., Suite 107, Washington, DC 20002–3558, (202) 789–1754.	National or regional organization representing Native American housing interest.	1,350,000.00

Name/Address of applicant	Category	Amount funded
ICF Incorporated, LLC, 9300 Lee Highway, Fairfax, VA 22031–1207, (425) 747–6963.	National or regional organization representing Native American housing interest and for-profit entities.	1,000,000.00
FirstPic, 2614 Chapel Lake Drive, Gambrills, MD 21054–1637, (202) 393–6400.	National or regional organization representing Native American housing interest and for-profit entities.	1,000,000.00
Econometrica, 4416 East West Highway, Suite 215, Bethesda, MD 20814–4572, (240) 333–4807.	National or regional organization representing Native American housing interest and for-profit entities.	1,000,000.00
National Congress of American Indians, 1516 P Street NW., Washington, DC 20005–1910, (202) 466–7767.	National or regional organization representing Native American housing interest and for-profit entities.	750,000.00
Red Lake Reservation Housing Authority, 23884 Highway 1 East, Red Lake, MN 56671–0219, (218) 679–3368.	National or regional organization representing Native American housing interest and for-profit entities.	400,000.00
Pacific American Foundation, 146 Hekili Street, #203, Kailua, HI 96734–2873, (808) 263–0083.	National or regional nonprofit organizations, or for-profit entities equipped to provide Training & Technical Assistance to DHHL and sub-recipients of NHHBG.	350,000.00

[FR Doc. 2013–10052 Filed 4–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5714–N–01]

Notice of Intent To Change HUD-Wide the Operating Model of the Office of Multifamily Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice advises the public that HUD's Office of Multifamily Housing intends to make changes to its field and Headquarters operating model. Specifically, the Office of Multifamily Housing will streamline its organizational structure by consolidating 6 Headquarters business offices into 4 offices and consolidating its field structure of 17 Hubs to 5 Hub offices and 5 satellite offices reporting to the Hubs. The other 7 Hubs and 34 program centers will be consolidated into the remaining 10 offices (5 Hubs and 5 satellite offices). The 2 existing property disposition centers will be consolidated into one. Affected offices that will be consolidated include: Hartford CT, Manchester NH, Providence RI, Newark NJ, Buffalo NY, Philadelphia PA, Washington DC (field office only), Baltimore MD, Pittsburgh PA, Richmond VA, Charleston WV, Birmingham AL, Miami FL, Louisville KY, Jackson MS, Greensboro NC, San Juan PR, Columbia SC, Knoxville TN, Nashville TN, Indianapolis IN, Minneapolis MN, Cleveland OH, Milwaukee WI, Little Rock AK, New Orleans LA, Albuquerque NM, Oklahoma City OK, Houston TX, San Antonio TX, Des Moines IA, St. Louis MO, Omaha NE, Phoenix AZ, Los Angeles CA, Honolulu HI, Las Vegas NV, Anchorage AK, and Portland OR. The Seattle WA office will remain open however; Office of Multifamily Housing employees will be transferred into like positions and provide support to the Office of Healthcare Programs. HUD provides this notice in accordance with section 7(p) of the Department of Housing and Urban Development Act.

FOR FURTHER INFORMATION CONTACT: Joseph Dubose, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6138, Washington, DC 20410; *Joseph.Dubose@hud.gov,* telephone (202) 402–6886; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION: In accordance section 7(p) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(p)), a plan for the reorganization of any HUD regional, area, insuring, or other field office may take effect only upon the expiration of 90 days after publication in the **Federal Register** of a cost-benefit analysis of the effects of the plan on each HUD office involved. Such cost-benefit analysis shall include, but not be limited to (1) an estimate of cost savings supported by background information detailing the source and substantiating the amount of the savings; (2) an estimate of the additional cost which will result from the reorganization; (3) a study of the impact on the local economy; and (4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services. Where any of the factors cannot be quantified, the HUD shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.

Cost Benefit Analysis

A. Background

In order to most effectively use its human capital and other resources, the Office of Multifamily Housing (MFH) has been actively working to make fundamental changes to its operating model to improve effectiveness and efficiency and to maximize opportunities to reshape and realign its workforce. Important progress has been made to date, including improving productivity, reducing loan cycle times, increasing employee engagement, and introducing a more risk-based approach to asset management activities. However, several fundamental challenges remain, including a fragmented and unwieldy organizational structure antiquated systems and processes, and role specification which allows for little flexibility in allowing employees to perform various roles while responding to spikes and ebbs in workload.

MFH proposes implementation of 3 categories of changes that will significantly improve the delivery model, help better manage risk and lead to an annual cost savings of an estimated $47M upon complete implementation. These changes include the following:

(1) Streamline the organizational structure;

(2) Introduce risk-based processing across MFH and launch greater workload sharing and balancing;

(3) Create new roles and abolish outdated or under-utilized positions.

The goal is to fully implement these changes by the end of fiscal year (FY) 2016. The reorganization is expected to enhance operational efficiency, as well as improve the service provided to HUD's customers.

B. Description of Proposed Changes

Under the proposed structure, Headquarters' business units will be consolidated and reduced from 6 separate offices to 4. In the field, MFH will consolidate 17 Hubs to 5 Hub offices and 5 satellite offices reporting to the Hubs. The other 7 Hubs and 34 program centers will be consolidated into the remaining 10 offices (5 Hub offices and 5 satellite offices). The 2 existing property disposition centers

will be consolidated into one. Affected offices that will be consolidated include: Hartford CT, Manchester NH, Providence RI, Newark NJ, Buffalo NY, Philadelphia PA, Washington DC (field office only), Baltimore MD, Pittsburgh PA, Richmond VA, Charleston WV, Birmingham AL, Miami FL, Louisville KY, Jackson MS, Greensboro NC, San Juan PR, Columbia SC, Knoxville TN, Nashville TN, Indianapolis IN, Minneapolis MN, Cleveland OH, Milwaukee WI, Little Rock AK, New Orleans LA, Albuquerque NM, Oklahoma City OK, Houston TX, San Antonio TX, Des Moines IA, St. Louis MO, Omaha NE, Phoenix AZ, Los Angeles CA, Honolulu HI, Las Vegas NV, Anchorage AK, and Portland OR. The Seattle WA office will remain open however; MFH employees will be transferred into like positions in that office to support the Office of Healthcare Programs. The 5 remaining Hubs will be in Atlanta GA, New York NY, Chicago IL, Fort Worth TX, and San Francisco CA. The satellite offices will be in Denver CO, Kansas City MO, Jacksonville FL, Detroit MI and Boston MA.

This new model will help establish better spans of control and establish clear reporting lines in the field. The new structure will allow for more active workload balancing which will enable MFH to provide more consistent servicing to its customers which will ultimately enhance the level of customer service received. Employees in affected offices will have the option to either take a buyout or continue their HUD careers in one of the 10 remaining locations via directed reassignments with relocation entitlements.

To ensure that effective program delivery is maintained for all customers, MFH will introduce risk-based processing and workload sharing and will create new roles and abolish outdated or under-utilized positions. To increase processing consistency and enhance efficiency, workload will be spread virtually across the remaining Hubs based on utilization. This will result in increased efficiency gains in both Asset Management and Asset Development, and help to maintain level work across the remaining hubs. More importantly, reducing the field footprint will increase the consistency of MFH processing across the country and provide a standard platform to introduce ongoing enhancements and efficiencies.

MFH will segment its lenders and loans by key risk factors, spending less time on low-risk applications to ensure sufficient focus can be placed on the more high-risk ones. This will improve processing time and allow MFH to better manage risk within the organization. Additionally, MFH assets will be segmented by troubled and non-troubled, which will provide the ability to designate specific staff to focus on more complex-time-consuming work.

Additionally, MFH currently has defined roles and positions that are outdated and poorly designed in relationship to specification. Roles are overspecialized in the Asset Development arena while they are under specialized in Asset Management. This creates bottlenecks in processing (not enough of a particular role to meet workload demands or processing breakdowns when key players are absent). Overspecialization reduces the ability of employees to perform various functions as workload demand ebbs and peaks. Under specialization oftentimes reduces the ability to effectively manage risk.

Under the new operating model, MFH will create two new models, an Underwriter position to support Asset Development and an Account Executive model for Asset Management. The creation of these models will improve efficiency and help to better manage risk. Review of underwriting applications will shift from a team approach with specialists each having their own defined role, to a single reviewer (underwriter) who will pull in technical expertise only as needed. This will improve efficiency and productivity by reducing processing time as review of applications is passed through several reviewers, and eliminating duplication and re-work. The Account Executive (AE) model will define two levels of AEs. There will be a general AE that will focus on non-troubled applications and a troubled asset specialist who will be assigned more complex, time-consuming applications. Additionally, AEs will be assigned portfolios segmented by region/lender to enhance the level of customer service provided to MFH clients. These changes are not only expected to bring significant benefits to MFH, but will pave the way to HUD's overall vision for transforming rental assistance.

(1) Estimate of Cost Savings

Approximately 90 days following the date of publication of this notice, MFH will begin consolidating offices and reducing its operating footprint, anticipating full implementation of the proposed changes by the end of FY 2016. It is anticipated that overall staffing in MFH will be reduced from 1,547 employees in FY 2012 to 1,173 by the end of FY 2016.

It is difficult to project the number of employees who will take advantage of the buyout, choose to relocate, or resign because these are individual decisions. However, it is estimated that 50–75 percent of the affected employees will take the buyout while 25–50 percent may opt to relocate. MFH is anticipating that limited recruiting will be needed in the remaining 10 offices to supplement the existing workforce and skills needed if staffing is below required levels. The total savings will be about $47M annually once implementation is complete. The savings is directly related to a reduction in salary and benefit costs due to reducing overall MFH staffing from 1,547 in FY 2012 to 1,173 by the end of FY 2016.

	Staffing levels	Total salaries and expenses
FY 2012	1547	$184,161,792
FY 2016	1173	146,666,808
Estimated (S&E) Savings	(374)	* (46,748,504)

* Savings calculated on FY16 average cost per FTE.

(2) Estimate of the Additional Cost

a. *One Time Costs:*

i. *Buyout cost (approximately $13.9M–$20.8M).* It is estimated that 50–75 percent of employees in the affected offices will take the buyout. The anticipated total cost includes the buyout ($25,000) and estimated terminal leave costs ($10,000).

ii. *Personnel relocation cost (approximately $16.8M–$33.6.1M).* It is estimated that 25–50 percent of employees in the affected offices will opt to continue their HUD careers in other locations via directed reassignments, and certain relocation costs will be paid.

iii. *Severance or unemployment compensation costs ($0).* No severance costs are associated with this initiative since termination of any staff is not expected.

iv. *Net Office closure costs ($6.1M).* No offices will be closed as part of the MFH realignment, only MFH personnel will be removed from certain offices; however this may require reconfiguration of existing space or lease modifications to accommodate the smaller footprint. One time cost estimates for this reconfiguration in the 40 offices that will no longer have a MFH presence are estimated at $14.1M. Factoring in an estimated savings of $8M as leases begin to expire, this equates to a one-time cost of approximately $6.1M. Note: These costs

will be incurred as offices are realigned, not all at once.

v. *Space alteration costs in the ten remaining offices ($20M).* There will be a one-time cost to reconfigure the space in the remaining MFH offices, or locate alternate facilities if space alterations are not feasible, to accommodate the increase in staff. These costs are estimated at $20M and will incur throughout the various phases of the realignment.

vi. *Training costs ($500,000).* Employees will be provided with training on performing the new roles under the enhanced operating model.

b. *Reoccurring Costs:*

Operating Costs ($0). It is anticipated that the MFH reorganization impact on travel funding will be minimal.

(3) Study of the Impact on the Local Economy

It is anticipated that 25–50 percent of impacted employees (197–395) will be reassigned to an alternate location. Any impact on the local economies in terms of housing, schools, public services, taxes, employment and traffic congestion will be minimal.

(4) Estimate of the Effect of the Reorganization

As mentioned above, workload will be spread virtually across the remaining Hubs and satellite offices based on utilization. This will result in increased efficiency gains in both Asset Management and Asset Development and help to balance workload across the remaining Hubs and satellite offices. Additionally, developing new, more generalized roles that can perform multiple functions, will allow employees to more effectively support processing and perform multiple functions as workload ebbs and peaks. Program delivery will not be impacted as workload will be shared across remaining locations and employees will become more flexible in performing multiple tasks.

Dated: April 24, 2013

Carol J. Galante

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2013–10057 Filed 4–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5648–N–04]

Final Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2013; Revised

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Final Fiscal Year (FY) 2013 Fair Market Rents (FMRs), Update.

SUMMARY: Today's notice updates the FY 2013 FMRs for Cheyenne, WY, and Odessa, TX, based on surveys conducted in September 2012 and for Burlington, VT, Mountrail County, ND, Ward County, ND, and Williams County, ND based on surveys conducted in November 2012. The FY 2013 FMRs for these areas reflect the estimated 40th percentile rent levels trended to April 1, 2013.

DATES: *Effective Date:* The FMRs published in this notice are effective on April 30, 2013.

FOR FURTHER INFORMATION CONTACT: For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800–245–2691 or access the information on the HUD USER Web site: *http://www.huduser.org/portal/datasets/fmr.html.* FMRs are listed at the 40th or 50th percentile in Schedule B. For informational purposes, 40th percentile recent-mover rents for the areas with 50th percentile FMRs will be provided in the HUD FY 2013 FMR documentation system at *http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr13* and 50th percentile rents for all FMR areas are published at *http://www.huduser.org/portal/datasets/50per.html.*

Questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff. Questions on how to conduct FMR surveys or concerning further methodological explanations may be addressed to Marie L. Lihn or Peter B. Kahn, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone 202–708–0590. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. (Other than the HUD USER information line and TDD numbers, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In response to comments submitted to the FY 2012 and FY 2013 FMRs, surveys were conducted of the following areas: Cheyenne, WY, and Odessa, TX, Burlington-South Burlington, VT and a three-county group in northwest North Dakota, Mountrail County, Ward County, and Williams County. HUD was evaluating a new survey methodology and could not conduct any surveys in time for the publication of the final FY 2013 FMRs. Cheyenne and Odessa were surveyed in September and Burlington and the three-county group in North Dakota were surveyed in November.

The FMRs appearing in the following table supersede the values found in Schedule B that became effective on October 1, 2012, and were printed in the October 5, 2012. **Federal Register** (available from HUD at: *http://www.huduser.org/portal/datasets/fmr/fmr2013f/FY2013F_SCHEDULE_B.pdf).*

The FMRs for the six affected areas are revised as follows:

2013 Fair market rent area	FMR by number of bedrooms in unit				
	0 BR	1 BR	2 BR	3 BR	4 BR
Burlington-South Burlington, VT MSA	902	980	1280	1604	1881
Cheyenne, WY MSA	508	578	781	1071	1251
Odessa, TX MSA	659	764	983	1251	1313
Mountrail County, ND	841	878	1041	1306	1817
Ward County, ND	773	825	1087	1602	1667
Williams County, ND	771	841	1026	1278	1371

Dated: April 25, 2013.

Erika C. Poethig,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 2013–10171 Filed 4–29–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2013–N100: FXIA16710900000P5–123–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before May 30, 2013.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES.** If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: Busch Gardens, Tampa, FL; PRT–93277A

The applicant requests a permit to re-import one live Asian elephant (*Elephas maximus*) born in captivity from Calgary Zoo, Garden & Prehistoric Park, Alberta, Canada, for the purpose of enhancing the survival of the species.

Applicant: Minnesota Zoological Gardens, Apple Valley, MN; PRT–676793

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families
- *Bovidae*
- *Cebidae*
- *Camelidae*
- *Cathartidae*
- *Cercopithecidae*
- *Cervidae*
- *Equidae*
- *Felidae* (*does not* include jaguar, margay or ocelot)
- *Hylobatidae*
- *Lemuridae*
- *Tapiridae*
- *Tarsiidae*
- *Sturnidae* (*does not* include *Aplonis pelzelni*)
- *Crocodylidae* (*does not* include American crocodile)
- *Varanidae*

Species
- Lesser slow loris (*Nycticebus pygmaeus)*
- Dhole (*Cuon alpinus*)
- Golden parakeet (*Guarouba guarouba*)
- African penguin (*Spheniscus demersus*)
- Radiated tortoise (*Astrochelys radiata)*

Applicant: Sedgwick County Zoo, Wichita, KS; PRT–673458

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families
- *Bovidae*
- *Canidae*
- *Cebidae*
- *Cervidae*
- *Equidae*
- *Felidae* (does not include jaguar, ocelot or margay)
- *Lemuridae*
- *Hominidae*
- *Rhinocerotidae*
- *Tapiridae*
- *Psittacidae*
- *Iguanidae*

Varanidae

Applicant: Armando Bazaldua, Ventura, CA; PRT–203351

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Terry Shinn, Yukon, OK; PRT–228672

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: David Hanson, Bend, OR; PRT–701525

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for Bengal tiger (*Panthera tigris tigris*), leopard (*Panthera pardus*) and snow leopard (*Uncia uncia*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Patterson Energy of Texas LLC, Hondo, TX; PRT–71533A

The applicant requests amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) to add the Barasingha (*Rucervus duvaucelii*), Eld's deer (Rucervus eldii), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Patterson Energy of Texas LLC, Hondo, TX; PRT–03577B

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Tiemann Land and Cattle Development Inc., Pflugerville, TX; PRT–03591B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), red lechwe (*Kobus leche*), bontebok (*Damaliscus pygargus pygargus*), slender-horned gazelle (*Gazella leptoceros*), Grevy's zebra (*Equus grevyi*) and Hartmann's mountain zebra (*Equus zebra hartmannae*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Coastal Exotics Inc., Jacksonville, FL; PRT–03596B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata)* and black and white ruffed lemur (*Varecia variegata*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Susan Minor, Medina, TX; PRT–03445B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Four A Ranch, Oglesby, TX; PRT–03434B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Four A Ranch, Oglesby, TX; PRT–03435B

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Zoological Society of San Diego, San Diego, CA; PRT–057398

The applicant requests renewal of their permit to authorize the import of wild live specimens, viable and non-viable eggs, biological samples and salvaged materials of California condors (*Gymnogyps californianus*) originating in Mexico, as well as the re-import of captive-bred/captive hatched live specimens, viable and non-viable eggs, biological samples and salvaged materials of condors originating in the United States, to enhance the survival of the species through completion of identified tasks and objectives mandated under the U.S. Fish and Wildlife Service California Condor Recovery Plan. This notification covers activities to be conducted by the applicant over a 5-year period.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2013–10128 Filed 4–29–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2013–N052; FXRS12650400000S3–123–FF04R02000]

Programmatic Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: We, the Fish and Wildlife Service (Service), intend to prepare a programmatic environmental assessment (PEA) to evaluate the effects of the cultivation and use of genetically modified crops (GMCs) on lands that are part of the National Wildlife Refuge System in the Southeast Region (Refuge System lands). The Service's Southeast Region includes: Alabama, Arkansas, Tennessee, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and the Caribbean. We provide this notice to advise other Federal and State agencies, Native American tribes, non-governmental organizations, and the public of our intention as well as to obtain suggestions and information on the scope of issues to consider during the PEA planning process.

These actions are part of our effort to comply with the general provisions of the National Environmental Policy Act of 1969, as amended (NEPA); NEPA regulations; other appropriate Federal

laws and regulations; and our policies and procedures for compliance with those laws and regulations. As a requirement of NEPA, we must identify resource issues, develop alternatives for the use of GMCs, and evaluate the effects of each of our chosen alternatives on the human environment.

DATES: To ensure consideration, we must receive your written comments by July 29, 2013.

ADDRESSES: A private consultant, Environmental Management and Planning Solutions, Inc. (EMPSi), will support the Internet Web site associated with the PEA and collect and organize comments.

You may send comments, questions, and requests for information by one of the following methods:

Email: fw4_gmcpea@fws.gov (this email address will transmit comments directly to the Service as well as to EMPSi's database);

Online portal: https://sites.google.com/site/fwsregion4gmcpeis/home (this Internet Web site, which will serve as the primary source of information to the public on the PEA, includes a portal for sending comments directly to the Service through EMPSi);

U.S. mail: Richard Warner, NEPA Coordinator, GMCPEA, 1875 Century Boulevard, Suite 420, Atlanta, GA 30345.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Warner, NEPA Coordinator, at 404–679–7110 (telephone).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate the process for developing a PEA on the cultivation and use of genetically modified crops (GMCs) on our Refuge System lands. Our PEA will concentrate on the refuges in our Region that have used farming in the recent past and are likely to do so in the foreseeable future. The overall analysis in the PEA is intended, however, to apply to the entire Southeast Region.

The specific GMCs that will be analyzed in our PEA are varieties of corn and soybean that could be used to provide a sufficient amount of food for migratory waterfowl and satisfy the conservation goals of our refuges. The proposed use of any other GMCs will require a separate NEPA analysis on a case-by-case basis.

Background

As part of a settlement in *Center for Food Safety* v. *Salazar,* Case No. 1:11 cv 01457 (D.D.C. 2011), which challenged the cultivation and use of GMCs on our Refuge System lands, we agreed to cease using GMCs after the 2012 planting season and to refrain from doing so until we completed the appropriate level of NEPA analysis. Up through the end of the 2012 planting season, certain of our refuges cultivated and used GMCs as a management tool to provide food for millions of ducks, geese, doves, cranes, and other migrating waterfowl and shorebirds that inhabit our Refuge System lands.

At this juncture, we have determined that a PEA is appropriate to sufficiently analyze the environmental impacts of the cultivation and use of GMCs on our Refuge System lands. If we determine during preparation of the PEA that it is not appropriate for our NEPA analysis or if we are unable to make a finding of no significant impact at the conclusion of our analysis via the PEA, we will prepare an environmental impact statement (EIS) in accordance with NEPA.

Refuge farming in the Southeast Region primarily occurs through cooperative farming agreements that are entered into by a refuge manager and a farmer. Via the agreement, the farmer is authorized to grow crops on a designated number of acres on the refuge. In return, the farmer agrees to harvest an agreed upon percentage share of the crop and to leave the remaining crop in the fields as a food source for migrating birds.

The only GMCs that have been cultivated and used on our Refuge System lands are those that have been evaluated and deregulated by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture, as described in 7 CFR 340.6. Each of these GMCs was subjected to extensive scientific evaluation and regulatory processes before being granted non-regulated status, as described at *http://www.aphis.usda.gov/regulations/index.shtml.* Each proposal to grant non-regulated status to the GMCs underwent a NEPA analysis via an environmental assessment. These environmental assessments are posted on the APHIS Web site at *http://www.aphis.usda.gov/biotechnology/not_reg.html.* In addition, the U.S. Environmental Protection Agency evaluates all pesticides associated with GMCs for general environmental effects, while the Food and Drug Administration evaluates the potential impact of the GMC on food safety.

The authority for approving GMCs on refuge lands, nationwide, was delegated by the Director of the Fish and Wildlife Service to the Regional Chiefs of the National Wildlife Refuge System in April 2007. This policy may be found at *http://www.fws.gov/policy/601fw3.html.*

We will conduct six public scoping meetings to solicit input on the issues, concerns, and alternatives for the cultivation and use of GMCs on refuges in the Region. Meetings will be conducted at the following locations: Pocosin Lakes National Wildlife Refuge (North Carolina); Wheeler National Wildlife Refuge (Alabama); Tennessee National Wildlife Refuge (Tennessee); Vicksburg, Mississippi; and Alexandria, Louisiana. The addresses, dates, and times of meetings will be announced through local and regional media.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, suggestion or correspondence, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is published under the authority of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

Dated: March 27, 2013.

Cynthia K. Dohner,

Regional Director.

[FR Doc. 2013–09898 Filed 4–29–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS–GX13LR000F60100]

Agency Information Collection Activities: Comment Request for the Comprehensive Test Ban Treaty (1 Form)

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension of a currently approved information collection (1028–0059).

SUMMARY: We (the USGS) will ask the Office of Management and Budget (OMB) to approve the information collection request (ICR) described below. This collection consists of 1 form. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we

invite the general public and other Federal agencies to take this opportunity to comment on this ICR. This collection is scheduled to expire on September 30, 2013.

DATES: To ensure that your comments on this IC are considered, we must receive them on or before July 1, 2013.

ADDRESSES: Please submit a copy of your comments to the Information Collection Clearance Officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192 (mail); 703–648–7195 (fax); or *dgovoni@usgs.gov* (email). Reference Information Collection 1028–0059 in the subject line.

FOR FURTHER INFORMATION CONTACT: Lori E. Apodaca at 703–648–7724 (telephone); *lapodaca@usgs.gov* (email); or by mail at U.S. Geological Survey, 989 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192.

SUPPLEMENTARY INFORMATION:

I. Abstract

The collection of this information is required by the Comprehensive Test Ban Treaty (CTBT), and will, upon request, provide the CTBT Technical Secretariat with geographic locations of sites where chemical explosions greater than 300 tons TNT-equivalent have occurred.

II. Data

OMB Control Number: 1028–0059.

Form Number: 9–4040–A.

Title: Comprehensive Test Ban Treaty.

Type of Request: Extension of a currently approved collection.

Affected Public: Business or Other-For-Profit Institutions: U.S. nonfuel minerals producers.

Respondent Obligation: Voluntary.

Frequency of Collection: Annually.

Estimated Number of Annual Responses: 2,500.

Annual Burden Hours: 625 hours. We expect to receive 2,500 annual responses. We estimate an average of 15 minutes per response.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have not identified any ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, et seq.) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

Comments: We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden time to the proposed collection of information; (c) how to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology. Please note that the comments submitted in response to this notice are a matter of public record. 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 we will be able to do so.

Dated: April 18, 2013.

John H. DeYoung, Jr.,

Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2013–10118 Filed 4–29–13; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZG02200.L16100000. DO0000.LXSS206A0000]

Notice of Intent To Prepare a Resource Management Plan for the San Pedro Riparian National Conservation Area and Associated Environmental Impact Statement, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and the Arizona-Idaho Conservation Act of 1988 (creating the San Pedro National Conservation Area), the Bureau of Land Management (BLM) Tucson Field Office, Tucson, Arizona, intends to prepare a Resource Management Plan (RMP) with an associated Environmental Impact Statement (EIS) for the San Pedro Riparian National Conservation Area (SPRNCA) and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues. The RMP will replace the existing Safford RMP decisions for the BLM land within the planning area.

DATES: This notice initiates the public scoping process for the RMP with associated EIS. Scoping will begin when the notice is published and extend for at least 90 days. The date(s) and location(s) of any scoping meetings have not yet been determined. All public meetings will be announced at least 15 days in advance through local media, newspapers, and the BLM Web site at: *http://www.blm.gov/az/st/en/fo/tucson_field_office.html*. The BLM will accept scoping comments throughout the planning effort. However, in order to be included in the Scoping Report, comments must be received prior to the close of the 90-day scoping period. Documentation of public meetings and all scoping comments received will be available in the public room of the BLM Tucson Field Office for public inspection and for any participant who wishes to clarify the views they have expressed. Additional opportunities for public participation will be provided throughout the process.

ADDRESSES: You may submit comments on issues and planning criteria related to the SPRNCA RMP/EIS by any of the following methods:

- *Email:* *blm_az_tfo_sprnca_rmp@blm.gov*.
- *Fax:* 520–258–7238.
- *Mail:* Bureau of Land Management Tucson Field Office, 3201 East Universal Way, Tucson, AZ 85756.

Documents pertinent to this proposal may be examined at the Tucson Field Office.

FOR FURTHER INFORMATION CONTACT: Amy Markstein, Assistant Planner, telephone 520–258–7231; address 3201 East Universal Way, Tucson, AZ 85756; email *amarkstein@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Tucson Field Office, Tucson, Arizona, intends to prepare an RMP with an associated EIS for the SPRNCA, announces the beginning of the scoping process, and seeks public input on issues and planning criteria. The planning effort is focused on the SPRNCA, which encompasses 56,431 acres of public land located within

Cochise County, Arizona. The planning area boundary (geographic extent of the planning area) has not yet been determined, and is an issue that will be considered during scoping. Decisions in the RMP will be limited to BLM-administered land within the planning area boundary. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis including the planning area boundary and alternatives to be considered. Preliminary issues for the planning area have been identified by the BLM personnel; Federal, State, and local agencies; and other stakeholders.

The planning effort is needed to provide direction for the long-range management and protection of the SPRNCA's resources, including aquatic; wildlife; archaeological; paleontological; scientific; cultural; educational; and recreational resources and values, as stated in Public Law 100–696 and codified at 16 U.S.C. 460xx.

The purpose of the RMP is to identify the current management situation, desired future conditions to be maintained or achieved, and management actions necessary to achieve those objectives for the aforementioned resources.

The issues include:

- The geographic extent of the planning area (the planning area boundary);
- Desired future conditions for water quantity;
- Desired future conditions for riparian and upland plant communities;
- Management of riparian vegetation along the San Pedro River;
- SPRNCA's designation as a Globally Important Bird Area;
- Determining which areas should be open and closed to grazing;
- Use restrictions for resource protection; and
- Management of resources near the urban interface.

Preliminary planning criteria include:

- The RMP will comply with FLPMA, NEPA, and all other applicable laws, regulations, and policies.
- Program specific guidance for decisions at the land use planning level. The process will follow the BLM's policies in Appendix C of the Land Use Planning Handbook, H–1610–1.
- The RMP will recognize all valid existing rights.
- The RMP will meet the requirements of the Arizona-Idaho Conservation Act of 1988 (Pub. L. 100–696) to conserve, protect, and enhance the riparian area and the aquatic, wildlife, archaeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area.
- The RMP will not address any National Conservation Area boundary adjustments or proposals to change Public Law 100–696.
- The BLM will conduct government to government consultation with affiliated Native American tribes in accordance with Executive Order 13175.
- The planning process will include the consideration of any impacts on Native American Trust assets.
- The RMP decisions will comply with the Endangered Species Act (and be consistent with BLM Manual 6840 Special Status Species) and follow interagency agreements with the Fish and Wildlife Service regarding Section 7 Consultation and species recovery process.
- Coordination with the Arizona State Historic Preservation Office will be conducted throughout the planning process.
- The RMP will recognize Arizona Game and Fish Department's authority to manage wildlife, including hunting and fishing, within the planning area pursuant to the master memorandum of understanding (MOU) with the Arizona Game and Fish Commission establishing coordination and cooperation between agencies.

You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. The BLM will accept scoping comments throughout the planning effort. However, in order to be included in the Scoping Report, comments must be received prior to the close of the 90-day scoping period. Documentation of public meetings and all scoping comments received will be available in the public room of the BLM Tucson Field Office for public inspection and for any participant who wishes to clarify the views they have expressed. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. The BLM will evaluate identified issues to be addressed in the plan and will place them into one of three categories:

1. Issues to be resolved in the plan;

2. Issues to be resolved through policy or administrative action; or

3. Issues beyond the scope of this plan.

The BLM will provide an explanation in the Draft RMP/Draft EIS as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The BLM will use information about historic and cultural resources within the planning area in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

The BLM will use an interdisciplinary approach to develop the plan in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: Rangeland management, outdoor recreation, archaeology, paleontology, wildlife, fisheries, lands and realty, hydrology, sociology, and economics.

Authority: 40 CFR 1501.7, 43 CFR 1610.2

Raymond Suazo,

State Director.

[FR Doc. 2013–10058 Filed 4–29–13; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV930000 L5101000.ER0000 LVRWF09F8570 241A; 13–08807; MO#4500049868; TAS: 14X5017]

Notice of Intent To Prepare a Draft Supplemental Environmental Impact Statement for the Ruby Pipeline Project, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: As directed by the United States Court of Appeals for the Ninth Circuit, the Bureau of Land Management (BLM) is preparing a Draft Supplemental Environmental Impact Statement (EIS) for the Ruby Pipeline Project to respond to the court's direction and provide a revised cumulative-effects analysis under the National Environmental Policy Act (NEPA).

FOR FURTHER INFORMATION CONTACT: Mark Mackiewicz, Project Manager, at 435–636–3616, Bureau of Land Management Price Field Office, 125 South 600 West, Price, Utah 84501; email *mmackiew@blm.gov*.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (FERC) is responsible for authorizing construction and operation of interstate natural gas pipelines. The FERC issues Certificates of Public Convenience and Necessity (Certificate) for natural gas pipelines under Section 7 of the Natural Gas Act of 1938 (NGA), as amended, and authorizes construction and siting of facilities for the import or export of natural gas under Section 3 of the NGA. The FERC also authorizes construction and operation of natural gas pipelines per the Natural Gas Policy Act of 1978 (15 U.S.C. 3341–3348).

Accordingly, the FERC served as the Lead Agency for Ruby Pipeline, LLC.'s (Ruby) application for the Ruby Pipeline Project. The FERC used the Final EIS it prepared according to the NEPA (January 28, 2010) to issue its Certificate for the Ruby Pipeline Project on April 5, 2010. The Certificate authorized Ruby to construct an approximately 678 mile, 42-inch interstate natural gas pipeline that crosses 368 miles of Federal land beginning near Opal, Wyoming, extending through northern Utah and northern Nevada, and terminating near Malin, Oregon.

The BLM has primary responsibility for issuing right-of-way (ROW) grants and temporary use permits for natural gas pipelines across most Federal lands pursuant to Section 28 of the Mineral Leasing Act of 1920 (MLA), as amended (30 U.S.C. 185 *et seq.*). Ruby applied to the BLM for a ROW grant for the Ruby Pipeline Project on December 3, 2007. The Federal lands crossed or used as access for the project include lands managed by the BLM; Bureau of Reclamation (Reclamation); and the United States Department of Agriculture, Forest Service (USFS), specifically the Fremont-Winema National Forests, the Uinta-Wasatch-Cache National Forest, and the Modoc National Forest; and the United States Fish and Wildlife Service, specifically the Sheldon National Wildlife Refuge. Based on the Final EIS issued by the FERC, the BLM issued a Ruby Pipeline Project Record of Decision (ROD) and ROW grant for the use of lands under the administration of the BLM, Reclamation and the USFS on July 7, 2010.

The project has been constructed and is currently in operation. However, the BLM Ruby Pipeline Project ROD was challenged, and on January 4, 2013, the Ninth Circuit Court of Appeals found that the Ruby Pipeline Final EIS does not provide sufficient quantified or detailed data about the cumulative loss of sagebrush steppe vegetation and habitat. The court remanded the 2010 ROD to the BLM to undertake a revised cumulative effects analysis (*Center for Biological Diversity, et al.* v. *U.S. Bureau of Land Mgmt, et al.*).

The BLM is preparing a Draft Supplemental EIS to correct the deficiencies identified by the court. The Draft Supplemental EIS will include supplemental information about the original and present condition of the sagebrush steppe habitat and analyze the cumulative impacts of the project based on the supplemental information.

The BLM will follow the process generally described in 40 CFR 1502.9, which requires preparation of a draft and final Supplemental EIS with the exception of a formal scoping period. A 45-day public comment period will be provided and will be announced in a Notice of Availability for the Draft Supplemental EIS.

If appropriate, the BLM will utilize and coordinate the NEPA commenting process to satisfy the public involvement process for Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) as provided for in 36 CFR 800.2(d)(3) and Secretarial Order 3317. Native American tribal consultations will be conducted in accordance with policy, and tribal concerns will be given due consideration, including impacts on Indian trust assets. In accordance with 40 CFR 1502.9(c)(4) formal scoping will not be conducted.

Federal, State, and local agencies with expertise regarding the sagebrush-steppe ecosystem or ROW concurrence authority may request cooperating agency status.

Authority: 40 CFR 1502.9, 43 CFR part 2880.

Amy Lueders,

Nevada State Director.

[FR Doc. 2013–10120 Filed 4–29–13; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON020000 L14300000.FR0000; COC–73927]

Notice of Realty Action: Recreation and Public Purposes Act Classification and Conveyance of Public Land; Jackson County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification and conveyance to Jackson County, under the provisions of the Recreation and Public Purposes Act (R&PP), as amended, and the Taylor Grazing Act, approximately 127.63 acres of public land in Jackson County, Colorado. The Jackson County Commissioners propose to use the land for a public shooting range.

DATES: Interested parties may submit written comments regarding the proposed classification for conveyance until June 14, 2013.

ADDRESSES: Please submit your written comments to the Field Manager, BLM Kremmling Field Office, P.O. Box 68, Kremmling, CO 80459. Comments received in electronic form such as email or facsimile will not be considered.

FOR FURTHER INFORMATION CONTACT: Annie Sperandio, Realty Specialist, by telephone 970–724–3062, or at the address above. 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: In accordance with Section 7 of the Taylor Grazing Act, (43 U.S.C. 315(f)) and Executive Order No. 6910, the following described public land in Jackson County, Colorado, has been examined and found suitable for classification and conveyance under the provisions of the R&PP Act, as amended, (43 U.S.C. 869 *et seq.*):

Sixth Principal Meridian

T. 9 N., R. 78 W.,
Sec. 19, lots 22, 26, 27, 29, and 31.
T. 9 N., R. 79 W.,
Sec. 24, lots 1 and 6.
The area described contains 127.63 acres in Jackson County, Colorado. A cadastral dependent resurvey was approved and accepted on July 15, 2011.

In accordance with the R&PP Act, the Jackson County Commissioners filed an R&PP application to develop the above-described land as a public shooting range. The BLM conducted a Phase I Environmental Site Assessment on December 10, 2012. No hazardous substances, petroleum products, or recognized environmental conditions were identified on the parcel; no further inquiry is needed to assess Recognized Environmental Conditions. The land is not needed for any Federal purpose. The classification is consistent with the BLM Kremmling Record of Decision and Approved Resource Management Plan dated December 19, 1984, and is in the public interest. The BLM has prepared an environmental assessment analyzing the Jackson County application and the proposed development and management plans.

Conveyance of the land would complement Jackson County's plans to have a public shooting range for its citizens and out-of-county, out-of-state visitors who come seasonally to North Park to hunt water fowl, upland small game and birds, or big game. A conveyance will be subject to the provisions of the R&PP Act, applicable regulations prescribed by the Secretary of the Interior, and the following reservations to the United States:

1. A reservation to the United States for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe, along with all necessary access rights and exit rights.

A conveyance will be subject to the following terms and conditions:

1. All valid existing rights documented on the official public land records at the time of patent issuance.

2. A right-of-way across the above-described lands for a road granted to the BLM, its successors or assigns, by right-of-way COC–57865 pursuant to the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761).

3. Any other valid rights-of-way that may exist at the time of conveyance.

4. A limited reversionary provision that states title shall revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially developed the land in accordance with the approved plan of development 5 years after the date of patent. No portion of the land shall under any circumstances revert to the United States if any such portion had been used for solid waste disposal or for any other purpose that may result in disposal, placement, or release of any hazardous substances.

5. An indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the land.

6. Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9620(h)), as amended by the Superfund Amendments and Reauthorization Act of 1988 (100 Stat. 1670), a notice that states the land has been examined and found to have in the past received potentially hazardous materials in the form of lead from target shooting; however, the material has been removed and a Phase I Environmental Site Assessment performed indicates that no hazardous substances remain on the subject property.

Upon publication of this notice in the **Federal Register**, the parcel will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the R&PP Act. This notice will serve as the two-year notification to the grazing permittees in grazing allotment 07023.

Classification Comments: Interested persons may submit comments on the application of the lands as suitable for development/management as a public shooting range. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or whether the use is consistent with State and Federal programs.

Application Comments: Interested persons may also submit comments on the application, including the notification of the BLM of any encumbrances or other claim relating to the parcel, and regarding the specific use proposed in the application and plan of development; whether the BLM followed proper administrative procedures in reaching the decision to convey the land under the R&PP Act; or any other factors not directly related to the suitability of the land for a public shooting range.

Before including your address, phone number, email address, or any 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.

Any adverse comments will be reviewed by the BLM Colorado State Director. In the absence of any adverse comments, this realty action will become effective on July 1, 2013.

The land will not be available for conveyance until after the classification becomes effective.

Authority: 43 CFR 2741.5.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2013–10086 Filed 4–29–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB00000.L1430000.ES0000 241A; N–46271, N–51416, N–75424; 13–08807; MO# 4500048559; TAS: 14X1109]

Notice of Realty Action: Termination of Recreation and Public Purposes Act Classifications and Opening of Lands in Nye and Esmeralda Counties; NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates the existing classifications in their entirety

for public lands at three locations that were classified as suitable for lease/disposal under the Recreation and Public Purposes (R&PP) Act of June 14, 1926, as amended. Additionally, this notice opens these public lands to the operation of the public land laws generally, including the 1872 Mining Law. The classification termination and opening order will affect 30 acres of public lands within Nye County, Nevada, and 40 acres of public lands within Esmeralda County, Nevada.

DATES: The effective date is April 30, 2013.

FOR FURTHER INFORMATION CONTACT: Mark Ennes, Assistant Field Manager, Non-Renewable Resources, Tonopah Field Office, 1553 South Main, P.O. Box 911, Tonopah, NV; phone: 775–482–7800; or email: *mennes@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual. 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: On November 19, 1987, the Bureau of Land Management (BLM) published a notice in the **Federal Register** (52 FR 44492) announcing the classification of 20 acres of public land under its jurisdiction as suitable for lease/disposal pursuant to the R&PP Act. Upon classification, the BLM leased the land to Nye County for construction, operation, and maintenance of a recreation site consisting of a fish pond and picnic area at Rye Patch Creek, near Tonopah, Nevada under BLM Serial Number N–46271. This lease expired on December 18, 2008. Nye County requested relinquishment of the lease, and the BLM accepted relinquishment on September 27, 2011.

Pursuant to 43 CFR 2091.2–2 and 2461.5(c)(2), and upon publication of this notice in the **Federal Register**, the BLM is terminating the classification N–46271 in its entirety for the subject land, which is described as follows:

Mount Diablo Meridian

T. 4 N., R. 44 E.,
Sec. 19, SE¼NW¼SE¼, NE¼SW¼SE¼.

The area described contains 20 acres in Nye County, Nevada.

In the **Federal Register** on August 2, 1990 (55 FR 31450), the BLM classified 10 acres of public land under its jurisdiction as suitable for lease/disposal pursuant to the R&PP Act. Upon classification, the BLM leased the land to the Beatty General Improvement District for construction, operation, and maintenance of a public park, located in Beatty, Nevada under BLM Serial Number N–51416. On December 19, 2010, the lease expired. The site had not been developed in accordance with the terms and conditions of the lease. Therefore, the lease was terminated on November 16, 2011.

Pursuant to 43 CFR 2091.2–2 and 2461.5(c)(2), and upon publication of this notice in the **Federal Register**, the BLM is terminating the classification N–51416 in its entirety for the subject land, which is described as follows:

Mount Diablo Meridian

T. 12 S., R. 47 E.,
Sec. 7, Lots 22, 23, 26, and 27.

The area described contains 10 acres in Nye County, Nevada.

The two areas described aggregate 30 acres in Nye County, Nevada.

In the **Federal Register** on April 17, 2003 (68 FR 19001), the BLM classified 40 acres of public land under its jurisdiction as suitable for lease/disposal pursuant to the R&PP Act. Upon classification, the BLM leased the land to Esmeralda County for construction, operation, and maintenance of an Emergency Services Training Center, located in Silver Peak, Nevada under BLM Serial Number N–75424. On August 15, 2011, Esmeralda County requested relinquishment of the lease, and the BLM accepted the relinquishment on September 16, 2011.

Pursuant to 43 CFR 2091.2–2 and 2461.5(c)(2), and upon publication of this notice in the **Federal Register**, the BLM is terminating the classification N–75424 in its entirety for the subject land, which is described as follows:

Mount Diablo Meridian

T. 2 S., R. 39 E.,
Sec. 21, E½SE¼SE¼;
Sec. 27, NW¼NW¼NW¼;
Sec. 28, NE¼NE¼NE¼.

The area described contains 40 acres in Esmeralda County, Nevada.

At 8:30 a.m., on April 30, 2013, the 70 acres of public lands described above will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid existing applications received at or prior to 8:30 a.m. on April 30, 2013, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

At 8:30 a.m. on April 30, 2013, the 70 acres of public lands described above will be opened to location and entry under the United States mining laws. Appropriation under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The BLM will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Authority: 43 CFR 2091.2–2 and 43 CFR 2461.5(c)(2).

Thomas J. Seley,

Manager, Tonopah Field Office.

[FR Doc. 2013–10108 Filed 4–29–13; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1207–1209 (Preliminary)]

Prestressed Concrete Steel Rail Tie Wire From China, Mexico, and Thailand

Institution of antidumping duty investigations and scheduling of preliminary phase investigations.

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations No. 731–TA–1207–1209 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from prestressed concrete steel rail tie wire from China, Mexico, and Thailand, provided for in subheading 7217.10.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by June 7, 2013. The Commission's views are due within five business days thereafter, or by June 14, 2013.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* April 23, 2013.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on April 23, 2013, by Davis Wire Corp. of Kent, WA and Insteel Wire Product Co. of Mount Airy, NC.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on May 14, 2013, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be filed with *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before May 9, 2013. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 17, 2013, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 Fed. Reg. 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 Fed. Reg. 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: April 24, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–10071 Filed 4–29–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,292]

Siemens Medical Solutions, USA, Inc., Oncology Care Systems (Radiation Oncology), Including On-Site Leased Workers From Source Right Solutions, Concord, California, Now Located in Martinez, California; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 5, 2012, applicable to workers of Siemens Medical Solutions, USA, Inc., Oncology Care Systems (Radiation Oncology), including on-site leased workers from Source Right Solutions, Concord, California. The workers are engaged in activities related to the supply of medical engineering services and other related services. The notice was published in the **Federal Register** on April 18, 2012 (75 FR 23289).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. New information from the company shows that as of February 2013, Siemens Medical Solutions, USA, Inc., Oncology Care Systems (Radiation Oncology), including on-site leased workers from Source Right Solutions, originally located at 4040 Nelson Avenue, Concord, California is now located at 757A Arnold Drive, Martinez, California.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in the supply of medical engineering services and other related services to Erlangen, Germany.

Based on these findings, the Department is amending this certification to show that Siemens Medical Solutions, USA, Inc., Oncology Care Systems (Radiation Oncology), including on-site leased workers from Source Right Solutions originally located in Concord, California is now located in Martinez, California.

The amended notice applicable to TA–W–81,292 is hereby issued as follows:

All workers from Siemens Medical Solutions, USA, Inc., Oncology Care Systems (Radiation Oncology), including on-site leased workers from Source Right Solutions, Concord, California, now located in Martinez, California, who became totally or partially separated from employment on or after February 1, 2011, through April 5, 2014, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 8th day of April 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–10109 Filed 4–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *April 1, 2013 through April 5, 2013.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in

subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,411	FPL Food, LLC	Augusta, GA	February 4, 2012.
82,482	ArcelorMittal Georgetown, SC, Arcelormittal, USA	Georgetown, SC	February 19, 2012.
82,492	Creation Technologies Kentucky, Inc., Manpower and Kelly Services.	Lexington, KY	February 21, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,221	Plexus Corporation, Neenah Operations, Kelly Services, Inc	Neenah, WI	December 5, 2011.
82,344	The Wm. Powell Company, Foundry Division	Cincinnati, OH	January 3, 2012.
82,448	Parker School Uniforms, LLC, Robert Half International, Inc. and Link Staffing Services.	Houston, TX	February 11, 2012.
82,456	NXP Semiconductors, Sales Support Team, Randstad General Partner LLC and Targetcw.	Cary, NC	February 12, 2012.
82,486	L & W Supply, Inc., USG Corporation, Accounts Payable & Receivable Division.	Pico Rivera, CA	February 20, 2012.
82,506	Experian, Experian Healthcare, (etc.) Tapfin, Manpower and Experis.	Austin, TX	February 26, 2012.
82,506A	Experian, Information Technology & Operations, (etc.), Tapfin, Manpower and Experis.	Allen, TX	February 26, 2012.
82,506B	Experian, Information Technology & Operations, (etc.), Tapfin, Manpower and Experis.	Allen, TX	February 26, 2012.
82,506C	Experian, Business Information Services, (etc.), Tapfin, Manpower and Experis.	Atlanta, GA	February 26, 2012.
82,506D	Experian, QAS (Experian Marketing Services), etc., Tapfin, Manpower and Experis.	Boston, MA	February 26, 2012.
82,506E	Experian, Decision Analytics, (formerly Baker Hill), Tapfin, Manpower and Experis.	Carmel, IN	February 26, 2012.
82,506F	Experian, Experian U.S. Headquarters: (etc.), Tapfin, Manpower and Experis.	Costa Mesa, CA	February 26, 2012.
82,506G	Experian, Experian Consumer Direct (etc.), Tapfin, Manpower and Experis.	Costa Mesa, CA	February 26, 2012.
82,506H	Experian, Marketing Services, Tapfin, Manpower and Experis	El Segundo, CA	February 26, 2012.
82,506I	Experian, Marketswitch (Decision Analytics), Tapfin, Manpower and Experis.	Herndon, VA	February 26, 2012.
82,506J	Experian, Experian Healthcare, (etc.), Tapfin, Manpower and Experis.	Maple Groove, MN	February 26, 2012.
82,506K	Experian, Marketing Services, Tapfin, Manpower and Experis	New York, NY	February 26, 2012.
82,506L	Experian, Global Product & Technology Services, etc., Tapfin, Manpower and Experis.	New York, NY	February 26, 2012.
82,506M	Experian, Experian Marketing Services, Tapfin, Manpower and Experis.	New York, NY	February 26, 2012.
82,506N	Experian, Credit Services, Marketing Services, Tapfin, Manpower and Experis.	Parsippany, NJ	February 26, 2012.
82,506O	Experian, Experian Healthcare, (etc.), Tapfin, Manpower and Experis.	Plymouth, MA	February 26, 2012.
82,506P	Experian, Experian Healthcare, (etc.), Tapfin, Manpower and Experis.	San Antonio, TX	February 26, 2012.
82,506Q	Experian, Fraud Solutions, Decision Analytics, (etc.), Tapfin, Manpower and Experis.	San Diego, CA	February 26, 2012.
82,506R	Experian, Credit Services, Experian Automotive, (etc.), Tapfin, Manpower and Experis.	Schaumburg, IL	February 26, 2012.
82,508	JP Morgan Chase Bank, NA, Commercial Banking Loan Operation	Louisville, KY	February 27, 2012.
82,536	IBM Corporation, Systems Operations Division	Boulder, CO	March 5, 2012.
82,537	Monta Vista Software, LLC, Cavium, Inc	Arlington, TX	March 5, 2012.
82,537A	Monta Vista Software, LLC, Cavium, Inc	San Jose, CA	March 5, 2012.
82,537B	Monta Vista Software, LLC, Cavium, Inc	Tempe, AZ	March 5, 2012.
82,557	Ericsson Inc., Wireline Network Ops Building Maintenance (etc.), J.M. Neil and Associates.	Overland Park, KS	March 12, 2012.

TA–W No.	Subject firm	Location	Impact date
82,557A	Ericsson Inc., Network Platforms Group	Overland Park, KS	March 12, 2012.
82,590	Cinram Wireless LLC, Cinram International/Cinram U.S. Holdings, Onin Staffing, etc.	Fort Worth, TX	March 12, 2012.
82,617	YP Southeast Advertising & Publishing LLC, YP Holdings LLC, Insight Global, Inc., Collabera, Epitec, etc.	Tucker, GA	March 27, 2012.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,373	Gerdau Ameristeel US Inc., BARR, Rumpca, G4S, First Class Mill, North American Refractory, etc.	Saint Paul, MN	January 25, 2012.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
82,491	Allstate Insurance Company, Customer Enterprise Services, Policy Processing Service, Kelly Services	Roanoke, VA.	

I hereby certify that the aforementioned determinations were issued during the period of *April 1, 2013 through April 5, 2013.* These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: April 9, 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–10111 Filed 4–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 10, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 10, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 10th day of April 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

17 TAA petitions instituted between 4/1/13 and 4/5/13

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82618	Covidien, Formerly Known as Tyco Healthcare (State/One-Stop).	Chicopee, MA	04/01/13	03/28/13
82619	Connextions—Olympus Technical Support (Workers)	Concord, NC	04/01/13	04/01/13

APPENDIX—Continued

17 TAA petitions instituted between 4/1/13 and 4/5/13

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82620	Hewlett-Packard Software Business Unit (State/One-Stop)	Andover, MA	04/01/13	03/29/13
82621	Lionbridge Technologies (State/One-Stop)	Vancouver, WA	04/01/13	03/15/13
82622	ETI Precision Corp (Company)	Gordonsville, TN	04/02/13	04/01/13
82623	Advanced Solar Photonics (ASP) (State/One-Stop)	Lake Mary, FL	04/03/13	04/02/13
82624	Heraeus Materials Technology LLC (Company)	Chandler, AZ	04/03/13	03/26/13
82625	CDI Corporation (Company)	Virginia Beach, VA	04/04/13	04/03/13
82626	General Motors (Union)	Flint, MI	04/04/13	04/03/13
82627	Imation (State/One-Stop)	Oakdale, MN	04/04/13	04/03/13
82628	Archetype Design, LLC (State/One-Stop)	Huntington Park, CA	04/05/13	04/03/13
82629	Boeing Information Technology Infrastructure (State/One-Stop).	Bellevue, WA	04/05/13	04/03/13
82630	Astromed, Inc. Grass Technologies Division (Company)	Rockland, MA	04/05/13	04/03/13
82631	Humana Insurance Company (Workers)	DePere, WI	04/05/13	04/04/13
82632	Mass Design Incorporated (Company)	Nashua, NH	04/05/13	04/01/13
82633	AK Steel—Zanesville Works (Union)	Zanesville, OH	04/05/13	03/21/13
82634	Prudential Financial (Workers)	Newark, NJ	04/05/13	04/04/13

[FR Doc. 2013–10110 Filed 4–29–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Collection; Comment Request; Coal Mine Dust Sampling Devices

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: 60-Day Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: All comments must be postmarked or received by midnight Eastern Standard Time on July 1, 2013.

ADDRESSES: Comments concerning the information collection requirements of this notice must be clearly identified with ''OMB 1219–0001'' and sent to the Mine Safety and Health Administration (MSHA). Comments may be sent by any of the methods listed below.

• *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number [MSHA–2013–0008].

• *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, 21st floor, Room 2350, Arlington, VA 22209–3939.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Deputy Director, Office of Standards, Regulations, and Variances, MSHA, at *McConnell.Sheila.A@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Continuous Personal Dust Monitors (CPDMs) determine the concentration of respirable dust in coal mines. CPDMs must be designed and constructed for coal miners to wear and operate without impeding their ability to perform their work safely and effectively, and must be durable to perform reliably in normal working conditions of coal mines. Requirements for MSHA and NIOSH approval of the manufacture of CPDMs are defined in 30 CFR part 74. Paperwork requirements imposed on applicants are related to the application process and CPDM testing procedures.

II. Desired Focus of Comments

The Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to Coal Mine Dust Sampling Devices. MSHA is particularly interested in comments that:

• Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

• Evaluate the accuracy of the MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

• Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and

• Address 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), to minimize the burden of the collection of information on those who are to respond.

OMB clearance requests are available on MSHA's Web site at *http://www.msha.gov* under ''**Federal Register** Documents'' on the right side of the screen by selecting ''New and Existing Information Collections and Supporting Statements''. The document will be available on MSHA's Web site for 60 days after the publication date of this notice, and on regulations.gov. Comments submitted in writing or in electronic form will be made available for public inspection on regulations.gov. Because comments will not be edited to remove any identifying information, MSHA cautions the commenter against including any information in the submission that should not be publicly disclosed.

The public also may examine publicly available documents, including the public comment version of the supporting statement, at MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER**

INFORMATION CONTACT section of this notice.

III. Current Actions

The information obtained from applicants will be used to determine compliance with 30 CFR part 74.

MSHA has updated the number of respondents and responses, as well as the total burden hours and burden costs supporting this information collection request.

MSHA does not intend to publish the results from this information collection and is not seeking approval to either display or not display the expiration date for the OMB approval of this information collection.

There are no certification exceptions identified with this information collection and the collection of this information does not employ statistical methods.

Summary

Type of Review: Extension of a currently approved information collection.

Agency: Mine Safety and Health Administration.

Title: Coal Mine Dust Sampling Devices.

OMB Number: 1219–0147.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc: 30 CFR 74.7, 74.8, 74.11, 74.13 and 74.16.

Total Number of Respondents: 1.

Frequency: Various.

Total Number of Responses: 1.

Total Burden Hours: 41 hours.

Total Annual Respondent or Recordkeeper Cost Burden: $291,139.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Authority: 44 U.S.C. 3506(c)(2)(A).

Dated: April 25th, 2013.

George F. Triebsch,

Certifying Officer.

[FR Doc. 2013–10145 Filed 4–29–13; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as a.m.ended), the National Science Foundation announces the following meeting.

Name: Joint Quantum Institute (JQI) Site Visit, #1208.

Date and Time:

May 14, 2013 8:30 a.m.–6:30 p.m.

May 15, 2013 8:30 a.m.–6:00 p.m.

Place: University of Maryland, College Park, MD.

Type of Meeting: Partially Closed.

Contact Person: Jean Cottam-Allen, Program Director for Physics Frontier Center; National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–8783.

Purpose of Meeting: To review the progress of the Center for the Physics of Living Cells, and a proposed in for supplemental funding.

Agenda

Tuesday, May 14, 2013

9:00 a.m.–10:00 a.m. Open—Welcome and Presentation of PFC.

10:00 a.m.–12:00 noon Closed—Science and Future plans reports.

12:00 noon–1:00 p.m. Open—Lunch with students and postdoctoral students from the PFC at JQI CSS 2115.

1:00 p.m.–5:00 p.m. Closed—Executive Sessions: Science and Future Plans Presentations, Outreach and Education, and meeting with PFC executive committee.

5:00 p.m.–6:00 p.m. Open—Poster Session Poster session in the hallways of second floor of the CSS.

6:30 p.m. Closed—Working Dinner.

Wednesday, May 15, 2013

9:00 a.m.–10:30 a.m. Closed—Executive Sessions: Meeting with Administration and PFC executive committee.

10:30 a.m.–6:00 p.m. Closed—Executive Session: Review and drafting report.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary data for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 24, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–10081 Filed 4–29–13; 8:45 a.m.]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION ADVISORY

Advisory Committee for Social, Behavioral and Economic Sciences; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Social, Behavioral and Economic Sciences (#1171)

Date/Time:

May 20, 2013; 9:00 a.m. to 5:15 p.m.

May 21, 2013; 9:00 a.m. to 12:15 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Stafford I, Room 1235, Arlington, VA 22230

Type of Meeting: Open

Contact Person: Ms. Lisa Jones, Office of the Assistant Director, Directorate for Social, Behavioral and Economic Sciences, National Science Foundation, 4201 Wilson Boulevard, Room 905, Arlington, Virginia 22230, 703–292–8700

Summary of Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation on major goals and policies pertaining to Social, Behavioral and Economic Sciences Directorate programs and activities.

Agenda:

Monday, May 20, 2013

- Directorate Update: Dr. Myron Gutmann.
- Report on BCS Committee of Visitors (COV).
- Report from SBE AC—Subcommittee on Youth Violence.
- Report from SBE AC—Subcommittee on Advancing SBE Survey Research.
- Discussion with NSF Leadership.

Tuesday, May 21, 2013

- Report from SBE AC—Subcommittee on the Future of the Science and Learning.
- Report from NSF Ad-hoc Advisory Committee on the CAREER Program.
- NSF Strategic Plan.
- Agenda for Future Meeting Dates, Assignments, Concluding Remarks.

Dated: April 24, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–10082 Filed 4–29–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, May 14, 2013.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The two-item meeting is open to the public.

MATTERS TO BE CONSIDERED:

8482 *Safety Report—Reaching Zero: Actions to Eliminate Alcohol-Impaired Driving*

8417A *Marine Accident Report—Allision of the Cargo Vessel M/V* Delta Mariner *with Eggner's Ferry Bridge, Tennessee River near Aurora, Kentucky, January 26, 2012*

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Friday, May 10, 2013.

The public may view the meeting via a live or archived Webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Candi Bing, at (202) 314–6403 or by email at *bingc@ntsb.gov.*

FOR MEDIA INFORMATION CONTACT: Peter Knudson, at (202) 314–6100 or by email at *peter.knudson@ntsb.gov* for the Safety Report—Reaching Zero: Actions to Eliminate Alcohol-Impaired Driving and Terry Williams, at (202) 314–6100 or by email at *terry.williams@ntsb.gov* for the Marine Accident Report—Allision of the Cargo Vessel M/V Delta Mariner.

Dated: April 26, 2013.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2013–10251 Filed 4–26–13; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0074]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 4, 2013 to April 17, 2013. The last biweekly notice was published on April 16, 2013 (78 FR 22563).

ADDRESSES: Please refer to Docket ID NRC–2013–0074 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0074. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0074 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 the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0074.
- *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.* Documents may be viewed in ADAMS by performing a search on the document date and docket number.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2013–0074 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 your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering 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.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in Section 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of

publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in the NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the

participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by email at *MSHD.Resource@nrc.gov*, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the following three factors in 10 CFR 2.309(c)(1): (i) The information upon which the filing is based was not previously available; (ii) the information upon which the filing is based is materially different from information previously available; and (iii) the filing has been submitted in a timely fashion based on the availability of the subsequent information.

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

Entergy Gulf States Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1 (RBS), West Feliciana Parish, Louisiana

Date of amendment request: February 7, 2013.

Description of amendment request: Entergy Operations, Inc. (the licensee), proposes to revise RBS Technical Specification (TS) 3.8.4, ''DC [Direct Current] Sources—Operating,'' Surveillance Requirements (SRs) 3.8.4.2 and 3.8.4.5. The changes to the SRs will add new acceptance criteria to address possible non-conservative conditions when the battery connection resistances are at maximum values.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes are to the surveillance requirements only. The ability of the TS surveillance to ensure that the batteries have the capacity to perform their specified safety functions with regard to accident mitigation or meeting their licensing design basis requirements is not reduced/diminished.

There are no design changes associated with this TS amendment. The DC power system/batteries will retain adequate independency, redundancy, capacity and testability to permit the functioning required of the engineered safety features. The batteries will each continue to independently

provide this capacity assuming a failure of a single active component. The proposed change will not affect accident initiators or precursors, or adversely alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated. The proposed change will not alter the ability of structures, systems and components to perform their intended functions to mitigate the consequences of an initiating event. The proposed change does not physically alter safety related systems nor affect the way in which safety related systems perform their function.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change involves only surveillance test acceptance criteria. The ability of the TS surveillance to ensure that the batteries have the capacity to perform their specified safety functions with regard to accident mitigation or meeting their licensing design basis requirements is not reduced/diminished.

There are no proposed design changes, nor are there any changes in the method by which any safety related plant structure, system, or component (SSC) performs its specified safety function. The proposed change will not affect the normal method of plant operation or change any operating parameters. Equipment performance necessary to fulfill safety analysis missions will be unaffected. The proposed change will not alter any assumptions required to meet the safety analysis acceptance criteria. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced because of this amendment. There will be no adverse effect or challenges imposed on any safety related system because of this amendment.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not reduce the ability of the TS surveillance requirements to ensure that the station batteries have adequate capacity to perform their engineered safety features functions with regard to accident mitigation and meeting their licensing design basis requirements. The lower battery inter-cell connection resistance values are more restrictive, consistent with design basis calculations and appropriately identified in maintenance procedures. The proposed changes do not physically alter safety related systems. There will be no effect on those plant systems necessary to assure the accomplishment of protection functions. The applicable radiological dose consequence acceptance criteria will continue to be met.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Michael T. Markley.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit 1 (ANO–1), Pope County, Arkansas

Date of amendment request: January 28, 2013.

Description of amendment request: The ANO–1 Technical Specification (TS) requirements are revised from requirements on battery cells to requirements on the battery. This focuses the requirements on the assumed safety function of the battery. The proposed amendment would revise TS requirements related to direct current (DC) electrical systems in TS Limiting Condition for Operation (LCO) 3.8.4, ''DC Sources—Operating,'' LCO 3.8.5, ''DC Sources—Shutdown,'' and LCO 3.8.6, ''Battery Parameters.'' A new ''Battery Monitoring and Maintenance Program'' is being proposed for Section 5.5, ''Administrative Controls—Programs and Manuals.''

These changes are consistent with the NRC-approved Technical Specifications Task Force (TSTF) Traveler TSTF–500, Revision 2, ''DC Electrical Rewrite—Update to TSTF–360.'' The availability of this TS improvement was announced in the **Federal Register** on September 1, 2011 (76 FR 54510), as part of the consolidated line item improvement process (CLIIP).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes restructure the Technical Specifications (TS) for the direct current (DC) electrical power system and are consistent with TSTF–500, Revision 2. The proposed changes modify TS Actions relating to battery and battery charger operability requirements. The DC electrical power system, including associated battery chargers, is not an initiator of any accident sequence analyzed in the Safety Analysis Report (SAR). Rather, the DC electrical power system supports equipment used to mitigate accidents. The proposed changes to restructure TS and change surveillances for batteries and chargers to incorporate the applicable updates included in TSTF–500, Revision 2, will maintain the same level of equipment performance required for mitigating accidents assumed in the SAR. Operation in accordance with the proposed TS would ensure that the DC electrical power system is capable of performing its specified safety function as described in the SAR. Therefore, the mitigating functions supported by the DC electrical power system will continue to provide the protection assumed by the analysis. A new licensee-controlled Battery Monitoring and Maintenance Program will ensure appropriate monitoring and maintenance that is consistent with industry standards. In addition, the DC electrical power system is within the scope of 10 CFR 50.65, ''Requirements for monitoring the effectiveness of maintenance at nuclear power plants,'' which will ensure the control of maintenance activities associated with the DC electrical power system.

The integrity of fission product barriers, plant configuration, and operating procedures as described in the SAR will not be affected by the proposed changes. Therefore, the consequences of previously analyzed accidents will not increase by implementing these changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes involve restructuring the TS for the DC electrical power system. The DC electrical power system, including associated battery chargers, is not an initiator to any accident sequence analyzed in the SAR. Rather, the DC electrical power system supports equipment used to mitigate accidents. The proposed changes to restructure the TS and change surveillances for batteries and chargers to incorporate the applicable updates included in TSTF–500, Revision 2, will maintain the same level of equipment performance required for mitigating accidents assumed in the SAR. Administrative and mechanical controls are in place to ensure the design and operation of the DC systems continues to meet the plant design basis described in the SAR.

Therefore, operation of the facility in accordance with this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The equipment margins will be

maintained in accordance with the plant-specific design bases as a result of the proposed changes. The proposed changes will not adversely affect operation of plant equipment. These changes will not result in a change to the setpoints at which protective actions are initiated. Sufficient DC capacity to support operation of mitigation equipment is ensured. The changes associated with the new Battery Maintenance and Monitoring Program will ensure that the station batteries are maintained in a highly reliable manner. The equipment fed by the DC electrical sources will continue to provide adequate power to safety-related loads in accordance with analysis assumptions.

TS changes made in accordance with TSTF–500, Revision 2, maintain the same level of equipment performance stated in the SAR and the current TSs.

Therefore, the proposed changes do not involve a significant reduction of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Michael T. Markley.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2 (ANO–2), Pope County, Arkansas

Date of amendment request: January 28, 2013.

Description of amendment request: The ANO–2 Technical Specification (TS) requirements are revised from requirements on battery cells to requirements on the battery. This focuses the requirements on the assumed safety function of the battery. The proposed amendment would revise the TS requirements related to direct current (DC) electrical systems in TS Limiting Condition for Operation (LCO) 3.8.2.3, ''DC Distribution—Operating,'' and LCO 3.8.2.4, ''DC Distribution—Shutdown.'' Because ANO–2 is a custom TS plant, a new TS 3.8.3, ''Battery Parameters,'' would be created to capture the intent of Standard TS (STS) LCO 3.8.6, ''Battery Parameters,'' as modified by TSTF–500. A new ''Battery Monitoring and Maintenance Program'' is also being proposed for Section 6.5, ''Administrative Controls—Programs and Manuals.''

These changes are consistent with the NRC-approved Technical Specifications Task Force (TSTF) Traveler TSTF–500, Revision 2, ''DC Electrical Rewrite—Update to TSTF–360.'' The availability of this TS improvement was announced in the **Federal Register** on September 1, 2011 (76 FR 54510), as part of the consolidated line item improvement process (CLIIP).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes restructure the Technical Specifications (TS) for the direct current (DC) electrical power system and are consistent with TSTF–500, Revision 2. The proposed changes modify TS Actions relating to battery and battery charger operability. The DC electrical power system, including associated battery chargers, is not an initiator of any accident sequence analyzed in the Safety Analysis Report (SAR). Rather, the DC electrical power system supports equipment used to mitigate accidents. The proposed changes to restructure TS and change surveillances for batteries and chargers to incorporate the applicable updates included in TSTF–500, Revision 2, will maintain the same level of equipment performance required for mitigating accidents assumed in the SAR. Operation in accordance with the proposed TS would ensure that the DC electrical power system is capable of performing its specified safety function as described in the SAR. Therefore, the mitigating functions supported by the DC electrical power system will continue to provide the protection assumed by the analysis. A new licensee-controlled Battery Monitoring and Maintenance Program will ensure appropriate monitoring and maintenance that is consistent with industry standards. In addition, the DC electrical power system is within the scope of 10 CFR 50.65, ''Requirements for monitoring the effectiveness of maintenance at nuclear power plants,'' which will ensure the control of maintenance activities associated with the DC electrical power system.

The integrity of fission product barriers, plant configuration, and operating procedures as described in the SAR will not be affected by the proposed changes. Therefore, the consequences of previously analyzed accidents will not increase by implementing these changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes involve restructuring the TS for the DC electrical power system. The DC electrical power system, including associated battery chargers, is not an initiator to any accident sequence analyzed in the SAR. Rather, the DC electrical power system supports equipment used to mitigate accidents. The proposed changes to restructure the TS and change surveillances for batteries and chargers to incorporate the applicable updates included in TSTF–500, Revision 2, will maintain the same level of equipment performance required for mitigating accidents assumed in the SAR. Administrative and mechanical controls are in place to ensure the design and operation of the DC systems continues to meet the plant design basis described in the SAR.

Therefore, operation of the facility in accordance with this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The equipment margins will be maintained in accordance with the plant-specific design bases as a result of the proposed changes. The proposed changes will not adversely affect operation of plant equipment. These changes will not result in a change to the setpoints at which protective actions are initiated. Sufficient DC capacity to support operation of mitigation equipment is ensured. The changes associated with the new Battery Maintenance and Monitoring Program will ensure that the station batteries are maintained in a highly reliable manner. The equipment fed by the DC electrical sources will continue to provide adequate power to safety-related loads in accordance with analysis assumptions.

TS changes made in accordance with TSTF–500, Revision 2, maintain the same level of equipment performance stated in the SAR and the current TSs.

Therefore, the proposed changes do not involve a significant reduction of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Michael T. Markley.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit 3, Nuclear Generating Plant (CR–3), Citrus County, Florida

Date of amendment request: March 20, 2013.

Description of amendment request: Due to the pending corporate name

change for the licensee of CR–3, the licensee is requesting that an amendment be made to this license to reflect the change in the name of the licensee from Florida Power Corporation to Duke Energy Florida, Inc.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed amendment involves a change of the corporate name from Florida Power Corporation to Duke Energy Florida, Inc. The proposed amendment does not involve any change in the technical qualifications of the licensee or the plant's design, configuration, or operation. All Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the CR–3 Improved Technical Specifications remain unchanged. Also, the Physical Security Plan and related plans, the Operator Training and Requalification Program, the Quality Assurance Program, and the Emergency Plan will not be materially changed by the proposed name change. The corporate name change amendment will not affect the executive oversight provided by the Chief Nuclear Officer and his staff.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed amendment does not involve any change in the plant's design, configuration, or operation. The current plant design, design bases, and plant safety analysis will remain the same.

The Limiting Conditions for Operations, Limiting Safety System Settings and Safety Limits specified in the CR–3 Improved Technical Specifications are not affected by the proposed corporate name change. As such, the plant conditions for which the design basis accident analysis was performed remain valid.

The proposed amendment does not introduce a new mode of plant operation or new accident precursors, does not involve any physical alterations to plant configuration, or make changes to system set points that could initiate a new or different kind of accident.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed amendment does not involve a change in the plant's design, configuration, or operation. The proposed amendment does not affect either the way in which the plant structures, systems, and components perform their safety function or its design and licensing bases.

Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications. Because there is no change to the physical design of the plant, there is no change to any of these margins.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, 550 South Tryon Street, Charlotte NC 28202.

NRC Branch Chief: Jessie Quichocho.

NextEra Energy Seabrook, LLC., Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Date of amendment request: March 13, 2013.

Description of amendment request: The proposed amendment will revise the Seabrook Technical Specifications (TSs). Specifically, the proposed amendment will modify the circuitry that initiates high-head safety injection (SI) by adding a new permissive, cold leg injection permissive. This permissive prevents opening of the high head SI valves until the reactor coolant system pressure decreases to the cold leg injection permissive set point.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below, along with NRC edits in square brackets:

1. *The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed change adds an additional permissive before high head safety injection is initiated to assist the operators in mitigating the consequences of an inadvertent initiation of the emergency core cooling system (ECCS). This change in the ECCS actuation circuitry does not increase the probability of any accident previously evaluated because:

- There is no effect on any of the systems, structures, or components that are used for normal operation of the plant,
- There is no effect on any of the fission product barriers,
- This change will not affect the normal operating procedures,

The revised circuitry will delay the initiation of high head SI until reactor coolant pressure is below the CLIP [cold leg injection permissive] setpoint; however, the proposed change does not significantly increase the consequences of accidents previously evaluated. The proposed change does not alter ECCS flow. The delayed opening of the high head SI valves has been evaluated for the effect on the consequences of the following:

- Mass and energy release for steam line break accidents,
- Steam line break—UFSAR section 15.1.5 (specifically hot zero-power conditions)
- Feedwater line break—UFSAR section 15.2.8
- Inadvertent operation of emergency core cooling system during power operation—UFSAR section 15.5.1
- Chemical and volume control system malfunction that increases reactor coolant inventory—UFSAR section 15.5.2

For all of the above evaluated accidents, the analysis results continue to meet all the safety limits. For the inadvertent initiation of ECCS event, the proposed change assists the operators in mitigating the event by significantly extending the time for the pressurizer to fill. Additional evaluations of small break LOCA [loss-of-coolant accident], best estimate large break LOCA, long term cooling, LOCA forces, cold overpressure mitigation/low temperature over pressure protection, steam generator tube rupture, and LOCA mass and energy release were performed and it was concluded that they were not affected by this change.

In addition evaluations were performed for the centrifugal charging pumps and reactor vessel internals; and for the NSSS [nuclear steam supply system] design transients to determine if the change in the timing of the high head injection would have an effect and it was concluded that these components and transients are not adversely affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.*

The proposed change adds new components to the process protection racks and solid state protection system similar to the components and configurations that are already installed. The sequence of operation of equipment used to mitigate the consequences of an accident is changed; however, it does not add any different types of equipment. The proposed change is a change to the protection circuitry for the plant and not to the system or equipment used for normal operation of the plant. It does not alter any fluid flow paths or fission product barriers and does not change the method of control of any plant systems used for normal operations. The proposed change does not alter or prevent the ability of the ECCS to perform its specified function to mitigate the consequences of an initiating event within assumed acceptance limits. The evaluation of the centrifugal charging pumps, reactor internals, control systems and NSSS design transients confirmed that new failure modes were not created.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *The proposed changes do not involve a significant reduction in the margin of safety.*

Margin of safety is associated with confidence in the ability of the fission product barriers (i.e., fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed changes will not relax any criteria used to establish safety limits and will not relax any safety system settings. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis.

The proposed change does involve a change in the timing of the mitigation of inadvertent ECCS actuation and steam line break.

This change provides additional time for mitigating the inadvertent operation of emergency core cooling system during power operation event prior to filling the pressurizer water solid, by preventing the injection of high head safety injection when it is not required.

This change delays the injection of high head safety injection on a steam line break. The delay has no effect on the steamline break mass and energy releases and the limiting analysis of record hot zero power steam line break as discussed below.

An evaluation was performed to address the impact of the CLIP modification on the steamline break (SLB) mass and energy release stretch power uprate (SPU) analyses, the current analysis of record. For the steamline break mass and energy analyses, the CLIP modification has the potential to delay initiation of ECCS injection by inhibiting auto-open of the cold leg injection valves until both an S-signal and a CLIP signal are present. There are three parts to the evaluation: Part 1 addresses the licensing-basis cases for steamline break mass and energy release inside containment, part 2 addresses the licensing-basis cases for steamline break mass and energy release outside containment, and part 3 addresses steamline break s smaller than those analyzed for the updated final safety analysis report (UFSAR) for which there may be an S-signal but no signal associated with the CLIP.

Steamline break inside containment. For these breaks, two different break types are analyzed: double-ended ruptures and split breaks. All cases from the SPU analysis were reviewed with respect to the timing of SI flow actuation from the analysis of record and when SI flow delivery with CLIP occurs.

In the SPU steamline break mass and energy release analysis for double-ended ruptures, the first signal is low steam pressure for all cases. Using the SPU analysis output results, the assumed time of SI flow delivery is compared to the time when SI flow delivery with CLIP occurs. The results are that for all of the double-ended ruptures, SI flow delivery with CLIP is not reached until after the time assumed for SI flow delivery in the SPU analysis. Although an increase in safety injection delay is considered nonconservative, a sensitivity calculation was specifically performed to evaluate the impact of safety injection and the results show that mass and energy releases are not impacted by the increased delay time for safety injection. These results were expected as the ECCS injection occurs at relatively low flow rates due to high reactor coolant system pressure, and boron injection occurs long after the return to power has been mitigated by increasing reactor coolant system temperature. Any delay in initiation of ECCS injection has a negligible effect on core cooling throughout the event and core reactivity during the initial return to power.

In the SPU steamline break mass and energy release analysis for split breaks, the first signal is the time of the first high containment pressure setpoint. Using the SPU analysis output results, the assumed time of SI flow delivery is compared to the time when SI flow delivery with CLIP occurs. The results are that for all of the split breaks, SI flow delivery with CLIP is not reached until after the time assumed for SI flow delivery in the SPU analysis. Although an increase in safety injection delay is considered non-conservative, a sensitivity calculation was specifically performed to evaluate the impact of safety injection and the results show that mass and energy releases are not impacted by the increased delay time for Safety Injection. These results were expected as the ECCS injection occurs at relatively low flow rates due to high reactor coolant system pressure, and boron injection occurs long after the return to power has been mitigated by increasing reactor coolant system temperature. Any delay in initiation of ECCS injection has a negligible effect on core cooling throughout the event and core reactivity during the initial return to power.

Steamline break outside containment. The SPU analysis for the steamline break mass and energy release outside containment was also evaluated for the CLIP modification. Each steamline break case actuated ECCS flow on a low-low pressurizer pressure S-signal. The CLIP modification requires an S-signal and a CLIP signal. The results show that the credited S-signal is much later than the CLIP signal. The results from the SPU analysis remain valid and bounding for the CLIP modification.

Smaller Steamline breaks. For the condition involving an S-signal actuation with pressurizer pressure above the CLIP setpoint, sensitivity cases varying the start time for ECCS injection, including no ECCS injection have concluded that the instantaneous and integrated mass and energy releases are insensitive to the injection start time. These results were expected as the ECCS injection occurs at relatively low flow rates due to high reactor coolant system pressure, and boron injection occurs long after the return to power has been mitigated by increasing reactor coolant system temperature. Any delay in initiation of ECCS injection has a negligible effect on core cooling throughout the event and core reactivity during the initial return to power.

The hot zero-power steamline break event remains bounding for operation at the current uprate conditions. The CLIP modification does not impact the limiting case for hot zero-power steamline break results because the cold leg injection valves will be fully open before the as-modeled high head safety injection flow starts. In addition, sensitivity studies confirm that the maximum break size remains bounding for the hot zero-power steamline break event with the CLIP modification.

The above evaluation shows that the installation of a CLIP would not impact the Seabrook steamline break mass and energy release licensing basis or the hot zero-power steam line break results.

The feedline break (FLB) has been reanalyzed with the additional conservatism, with respect to the SPU FLB analysis, of assuming no safety injection flow. The results of the analysis show that all the safety limits continue to be met even with the additional conservatism of no safety injection assumed. The assumption that operator action is required to mitigate the consequences of a chemical and volume control malfunction is not changed by this modification. Before CLIP, the event was bounded by the inadvertent ECCS actuation event and its associated operator action. With CLIP, the event requires operator action to terminate charging and seal injection flows. As discussed above, the consequences of the other accidents evaluated remain bounded by the analyses of record. The results of analyses and evaluations supporting the proposed change demonstrate acceptance criteria continue to be met.

Therefore, these proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. James Petro, Managing Attorney, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: Meena Khanna.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Date of amendment request: March 27, 2013.

Description of amendment request: The proposed amendment will revise the Seabrook Technical Specifications (TSs). Specifically, the proposed amendment will modify TS requirements regarding steam generator tube inspections and reporting as described in TS Task Force (TSTF)-510, Revision 2, ''Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection,'' using the Consolidated Line Item Improvement Process (CLIIP). The

changes are consistent with Industry/TSTF Standard Technical Specification Change Traveler, TSTF–510. The availability of this TS improvement was announced in the **Federal Register** on October 27, 2011 (76 FR 66763), as part of the CLIIP.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the Steam Generator (SG) Program to modify the frequency of verification of SG tube integrity and SG tube sample selection. A steam generator tube rupture (SGTR) event is one of the design basis accidents that is analyzed as part of a plant's licensing basis. The proposed SG tube inspection frequency and sample selection criteria will continue to ensure that the SG tubes are inspected such that the probability of a SGTR is not increased. The consequences of a SGTR are bounded by the conservative assumptions in the design basis accident analysis. The proposed change will not cause the consequences of a SGTR to exceed those assumptions.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to the Steam Generator Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The proposed change does not affect the design of the SGs or their method of operation. In addition, the proposed change does not impact any other plant system or component.

Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes also isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of a SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change will continue to require monitoring of the physical condition of the SG tubes such that there will not be a reduction in the margin of safety compared to the current requirements.

Therefore, it is concluded that the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: James Petro, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: Meena Khanna.

Virginia Electric and Power Company, Docket No. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of amendment request: February 22, 2013.

Description of amendment request: The proposed change will allow the sequence and overlap limits to be exceeded and TS 3.1.6.C Action entered if a failure is identified during the performance of Surveillance Requirement (SR) 3.1.4.2, which verifies control rod freedom of movement. This will align the sequence and overlap limit of Condition A with the control bank insertion limit Condition B. The control bank insertion limit of Condition B was modified with this same change in Amendments 179 and 160. The subsequent change to Improved Technical Specifications (ITS) added the Condition for sequence and overlap limits but failed to include the exception if a failure is identified during control rod freedom of movement testing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1—Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed amendment would modify the North Anna Power Station current licensing basis by increasing the time that a single rod bank may be permitted to be outside of sequence and overlap limits. The new allowance only applies to minor sequence and overlap limit differences. The proposed change will result in a small increase in the probability that, at any given time, a control bank will be inserted outside of sequence and overlap limits. However, the probability of occurrence of previously evaluated accidents is not affected, since the existing TS already permit a similar deviation with respect to insertion limit. Only the allowed duration of the sequence and overlap limits' exceedance is being changed.

The allowed misalignment is not a malfunction of equipment important to safety; therefore, the probability of such a malfunction is not increased. A single rod bank's position within 18 steps of its sequence and overlap limits does not significantly increase the probability of a malfunction of a component important to safety. This change does not impact the requirement that the rod bank shall be operable (i.e., trippable); as such, it remains able to fulfill its safety function. Therefore, the proposed amendment does not involve a significant increase in the consequences of a previously evaluated accident.

Therefore, neither the probability of occurrence nor the consequences of an accident previously evaluated is significantly increased.

Criterion 2—Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed amendment does not create any new allowances for operating the plant. Only the duration of an existing allowance is being lengthened, with additional restrictions being applied during the extended allowance. No physical changes are being made to any portion of the plant, so no new accident causal mechanisms are being introduced. The proposed change does not result in any new mechanisms that could initiate damage to the reactor or its principal safety barriers (i.e., fuel cladding, reactor coolant system, or primary containment).

Therefore, the possibility for a new or different kind of accident from any accident previously evaluated is not created.

Criterion 3—Does this change involve a significant reduction in a margin of safety?

The proposed amendment does not affect the inputs or assumptions of any of the design basis analyses that demonstrate the integrity of the fuel cladding, reactor coolant system, or containment during accident conditions. Operation within the proposed limits will not cause unacceptable core radial peaking factors that could result in exceeding departure from nucleate boiling (DNB) limits. Operation within the sequence and overlap limit differences will not result in shutdown margins lower than assumed in the accident analyses. Control and Shutdown rods will remain fully operable (i.e., trippable) during the duration of the proposed extended allowance.

Therefore, it is concluded that this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: Robert Pascarelli.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Southern California Edison, Docket No. 50–361, San Onofre Nuclear Generating Station, Unit 2, San Diego County, California

Date of amendment request: April 5, 2013, as supplemented by letter dated April 9, 2013.

Brief description of amendment request: The proposed amendment makes a temporary change to the steam generator management program and the license condition for maximum power. For the duration of Unit 2, Cycle 17, the proposed amendment would change the terms ''full range of normal operating conditions'' and ''normal steady state full power operation'' and restricts operation to 70 percent of the maximum authorized power level. ''Full range of normal operating conditions'' and ''normal steady state full power operation'' shall be based upon the steam generators being operated under conditions associated with reactor core power levels up to 70 percent Rated Thermal Power (2406.6 megawatts thermal).

Date of publication of individual notice in ***Federal Register:*** April 16, 2013 (78 FR 22576).

Expiration date of individual notice: May 16, 2013 (public comments) and June 17, 2013 (hearing requests).

Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible online through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr.resource@nrc.gov.*

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendment: June 22, 2011, as supplemented by letters dated December 9, 2011, January 27, 2012, and January 30, 2013.

Brief description of amendment: The amendments revised Technical Specification (TS) 3.7.4, ''Atmospheric Dump Valves (ADVs).'' Specifically, the amendments revised the Limiting Condition for Operation for TS 3.7.4, with corresponding revisions to the TS Conditions, Required Actions, and Completion Times associated with one or more inoperable ADV lines.

Date of issuance: April 11, 2013.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: Unit 1–191; Unit 2–191; Unit 3–191.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendment revised the Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** October 4, 2011 (76 FR 61394). The supplemental letters dated December 9, 2011, January 27, 2012, and January 30, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 11, 2013.

No significant hazards consideration comments received: No.

Carolina Power and Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: October 22, 2012.

Brief Description of amendment: The amendment revised the Technical Specification (TS) surveillance requirements for addressing missed surveillances, and is consistent with the Nuclear Regulatory Commission approved Revision 6 of Technical Specification Task Force (TSTF) Standard TSs Change Traveler TSTF–358, ''Missed Surveillance Requirements.''

Date of issuance: April 11, 2013.

Effective date: As of date of issuance and shall be implemented within 90 days.

Amendment No.: 141.

Renewed Facility Operating License No. NPF–63: Amendment revised the TSs.

Date of initial notice in ***Federal Register:*** November 27, 2012 (77 FR 70839).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 11, 2013.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit 3, Westchester County, New York

Date of application for amendment: May 23, 2012, as supplemented on August 3, 2012.

Brief description of amendment: The amendment revises Technical Specification 3.7.4, ''Atmospheric Dump Valves (ADVs),'' Limiting Condition for Operation 3.7.4 to require four operable ADVs instead of three.

Date of issuance: April 15, 2013.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 251.

Facility Operating License Nos. DPR–26 and DPR–64: The amendment revised the License and the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 14, 2012 (77 FR 56880).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 15, 2013.

No significant hazards consideration comments received: No.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station (VYNPS), Vernon, Vermont

Date of amendment request: March 5, 2012, as supplemented on November 20, 2012, March 26, March 29, and April 5, 2013.

Brief description of amendment: The amendment revised the VYNPS License Condition 3.P and 3.Q to clarify that the information in the updated final safety analysis report (UFSAR) supplement submitted pursuant to Section 54.21(d) of Title 10 of the *Code of Federal Regulations* (10 CFR), as revised during the license renewal application review process, and as supplemented by commitments of Appendix A of Supplement 2 of NUREG–1907, can be incorporated as part of the UFSAR and may be changed without prior NRC approval provided the requirements of 10 CFR 50.59 have been previously satisfied.

Date of Issuance: April 17, 2013.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 256.

Facility Operating License No. DPR–28: The amendment revised the License.

Date of initial notice in ***Federal Register:*** April 3, 2012 (77 FR 20074). The supplemental correspondence dated November 20, 2012, March 26, March 29, and April 5, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 17, 2013.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Date of application for amendment: March 22, 2012, as supplemented by letter dated. December 3, 2012.

Brief description of amendment: The amendment modifies technical specification (TS) requirements regarding steam generator tube inspections and reporting as described in Technical Specifications Task Force (TSTF)–510, ''Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection,'' with proposed variations and deviations.

Date of issuance: March 21, 2013.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 172 and 172, respectively.

Facility Operating License Nos. NPF–72 and NPF–77: The amendment revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** (77 FR 31660; May 29, 2012).

The December 3, 2012, supplement did not increase the scope of the application and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 21, 2013.

No significant hazards consideration comments received: No.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Date of amendment request: December 20, 2012.

Description of amendment request: The amendment revised the Seabrook Technical Specifications (TS) TS 6.7.6.m, ''Reactor Coolant Pump Flywheel Inspection Program.'' The amendment extends the reactor coolant pump (RCP) motor flywheel examination frequency from the currently approved 10-year inspection interval, to an interval not to exceed 20 years. The changes are consistent with Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–421, ''Revision to RCP Flywheel Inspection Program (WCAP–15666).'' The availability of this TS improvement was announced in the **Federal Register** on October 22, 2003, as part of the consolidated line item improvement process (CLIIP).

Date of issuance: April 4, 2013.

Effective date: As of its date of issuance and shall be implemented within 60 days.

Amendment No.: 134.

Facility Operating License No. NPF–86: The amendment revised the License and TS.

Date of initial notice in ***Federal Register:*** January 22, 2013 (78 FR 4473).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 4, 2013.

No significant hazards consideration comments received: No.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Date of amendment request: November 17, 2011, as supplemented by letters dated December 3, 2012, and January 9, 2013.

Description of amendment request: The change revised the applicability of the figures in the Technical Specifications for the reactor coolant system pressure-temperature limits and the cold overpressure protection setpoints. The change revised the applicability of the figures from 20 effective full-power years (EFPY) to 23.7 EFPY.

Date of issuance: April 15, 2013.

Effective date: As of its date of issuance and shall be implemented within 60 days.

Amendment No.: 135.

Facility Operating License No. NPF–86: The amendment revised the TS and the License.

Date of initial notice in ***Federal Register:*** January 10, 2012 (77 FR 1519). The supplements dated December 3, 2012, and January 9, 2013, provided additional information that clarified the application, did not expand

the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 15, 2013.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: November 30, 2011, as supplemented by letters dated August 16 and December 7, 2012, and March 3, 2013.

Brief description of amendment: The amendment revised the Technical Specification 3.8.1, ''AC [Alternating Current] Sources—Operating,'' Surveillance Requirements related to Diesel Generator test loads, voltage, and frequency. The changes correct non-conservative Diesel Generator load values that are currently under administrative controls.

Date of issuance: April 11, 2013.

Effective date: As of its date of issuance and shall be implemented within 90 days of the date of issuance.

Amendment No.: 204.

Renewed Facility Operating License No. NPF–42. The amendment revised the Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** June 12, 2012 (77 FR 35078). The supplemental letters dated August 16 and December 7, 2012, and March 3, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 11, 2013.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 22nd day of April 2013.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–10020 Filed 4–29–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene a teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on June 18, 2013, to discuss the committee's analysis of reported medical events involving yttrium-90 microspheres. Meeting information, including a copy of the agenda and handouts, will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2013.html.* The agenda and handouts may also be obtained by contacting Ms. Sophie Holiday using the information below.

DATES: The teleconference meeting will be held on Tuesday, June 18, 2013, 2:00 p.m. to 4:00 p.m. Eastern Daylight Time (EDT).

Public Participation: Any member of the public who wishes to participate in the teleconference should contact Ms. Holiday using the contact information below.

Contact Information: Sophie Holiday, email: sophie.holiday@nrc.gov, telephone: (301) 415–7865.

Conduct of the Meeting

Dr. Milton Guiberteau, ACMUI Vice Chairman, will preside over the meeting in the ACMUI Chairman's, absence. Dr. Guiberteau will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Holiday at the contact information listed above. All submittals must be received by June 13, 2013, three business days prior to the meeting, and must pertain to the topic on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meetings, at the discretion of the acting Chairman.

3. The transcript and meeting summary will be available at (*http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2013.html*) approximately 30 business days following the meeting.

The meetings will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *U.S. Code of Federal Regulations,* Part 7.

Dated: April 24, 2013.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2013–10116 Filed 4–29–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission [NRC–2013–0001].

DATES: Weeks of April 29, May 6, 13, 20, 27, June 3, 2013.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of April 29, 2013

There are no meetings scheduled for the week of April 29, 2013.

Week of May 6, 2013—Tentative

There are no meetings scheduled for the week of May 6, 2013.

Week of May 13, 2013—Tentative

There are no meetings scheduled for the week of May 13, 2013.

Week of May 20, 2013—Tentative

Monday, May 20, 2013

9:30 a.m. Briefing on Human Capital and Equal Employment Opportunity (EEO) (Public Meeting) (Contact: Kristin Davis, 301–287–0707)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of May 27, 2013—Tentative

Wednesday, May 29, 2013

9:00 a.m. Briefing on Results of the Agency Action Review Meeting (AARM) (Public Meeting) (Contact: Rani Franovich, 301–415–1868)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of June 3, 2013 –Tentative

There are no meetings scheduled for the week of June 3, 2013.

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* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *kimberly.meyer-chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

Dated: April 25, 2013.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2013–10253 Filed 4–26–13; 4:15 pm]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

In accordance with Executive Order 12862, the Railroad Retirement Board (RRB) conducts a number of customer surveys designed to determine the kinds and quality of services our beneficiaries, claimants, employers and members of the public want and expect, as well as their satisfaction with existing RRB services. The information collected is used by RRB management to monitor customer satisfaction by determining to what extent services are satisfactory and where and to what extent services can be improved. The surveys are limited to data collections that solicit strictly voluntary opinions, and do not collect information which is required or regulated. The information collection, which was first approved by the OMB in 1997, provides the RRB with a *generic clearance authority.* This generic authority allows the RRB to submit a variety of new or revised customer survey instruments (needed to timely implement customer monitoring activities) to OMB for expedited review and approval. Our ICR describes the information we seek to collect from the public.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (78 FR 13914 on March 1, 2013) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Customer Surveys in Accordance with E.O. 12862.

OMB Control Number: 3220–0192.

Form(s) submitted: G–201, Customer Assessment Survey.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households, Business or other for profit.

Abstract: The Railroad Retirement Board (RRB) utilizes voluntary customer surveys to ascertain customer satisfaction with the RRB in terms of timeliness, appropriateness, access, and other measures of quality service. Surveys involve individuals that are direct or indirect beneficiaries of RRB services as well as railroad employers who must report changes.

Changes proposed: The RRB proposes no changes to the information collection.

The burden estimate for the ICR is as follows:

The average burden per response for customer satisfaction activities is estimated to range from 2 minutes for a Web site questionnaire to 2 hours for participation in a focus group. The RRB estimates an annual burden of 1,750 annual responses totaling 735 hours for the generic customer survey clearance.

Additional Information or Comments: Copies of the form and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2013–09890 Filed 4–29–13; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 204A–1, OMB Control No. 3235–0596, SEC File No. 270–536.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

The title for the collection of information is ''Rule 204A–1 (17 CFR 275.204A–1) under the Investment Advisers Act of 1940'' (15 U.S.C. 80b–1 *et seq.*) Rule 204A–1 (the ''Code of Ethics Rule'') requires investment advisers registered with the Commission to (i) set forth standards of conduct expected of advisory personnel (including compliance with the federal securities laws); (ii) safeguard material nonpublic information about client transactions; and (iii) require the adviser's ''access persons'' to report their personal securities transactions, including transactions in any mutual fund managed by the adviser. The Code of Ethics Rule requires access persons to obtain the adviser's approval before investing in an initial public offering or

private placement. The Code of Ethics Rule also requires prompt reporting, to the adviser's chief compliance officer or another person designated in the code of ethics, of any violations of the code. Finally, the Code of Ethics Rule requires the adviser to provide each supervised person with a copy of the code and any amendments, and require the supervised persons to acknowledge, in writing, their receipt of these copies.

The purposes of the information collection requirements are to: (i) Ensure that advisers maintain codes of ethics applicable to their supervised persons; (ii) provide advisers with information about the personal securities transactions of their access persons for purposes of monitoring such transactions; (iii) provide advisory clients with information with which to evaluate advisers' codes of ethics; and (iv) assist the Commission's examination staff in assessing the adequacy of advisers' codes of ethics and assessing personal trading activity by advisers' supervised persons.

The respondents to this information collection are investment advisers registered with the Commission. The Commission has estimated that compliance with rule 204A–1 imposes a burden of approximately 118 hours per adviser annually for an estimated total annual burden of 1,255,342 hours.

An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov*.

Dated: April 24, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10144 Filed 4–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Form S–8; OMB Control No. 3235–0066, SEC File No. 270–66

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form S–8 (17 CFR 239.16b) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) is the primary registration statement used by eligible registrants to register securities to be issued in connection with an employee benefit plan. We estimate that Form S–8 takes approximately 24 hours per response to prepare and is filed by approximately 2,200 respondents. In addition, we estimate that 50% of the preparation time (12 hours) is completed in-house by the filer for a total annual reporting burden of 26,400 (12 hours per response × 2,200 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: April 24, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10146 Filed 4–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Rule 17e–1, OMB Control No. 3235–0217, SEC File No. 270–224.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''Paperwork Reduction Act''), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17e–1 (17 CFR 270.17e–1) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the ''Investment Company Act'') deems a remuneration as ''not exceeding the usual and customary broker's commission'' for purposes of Section 17(e)(2)(A) if, among other things, a registered investment company's (''fund's'') board of directors has adopted procedures reasonably designed to provide that the remuneration to an affiliated broker is a reasonable and fair amount compared to that received by other brokers in connection with comparable transactions involving similar securities being purchased or sold on a securities exchange during a comparable period of time and the board makes and approves such changes as it deems necessary. In addition, each quarter, the board must determine that all transactions effected under the rule during the preceding quarter complied with the established procedures. Rule 17e–1 also requires the

fund to (i) maintain permanently a written copy of the procedures adopted by the board for complying with the requirements of the rule; and (ii) maintain for a period of six years, the first two in an easily accessible place, a written record of each transaction subject to the rule, setting forth the amount and source of the commission, fee, or other remuneration received; the identity of the broker; the terms of the transaction; and the materials used to determine that the transactions were effected in compliance with the procedures adopted by the board. The recordkeeping requirements under rule 17e–1 enable the Commission to ensure that affiliated brokers receive compensation that does not exceed the usual and customary broker's commission. Without the recordkeeping requirements, Commission inspectors would have difficulty ascertaining whether funds were complying with rule 17e–1.

Based on an analysis of fund filings, the staff estimates that approximately 775 fund portfolios enter into subadvisory agreements each year.[1] Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 17e–1. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 12d3–1, 10f–3, and 17a–10, and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally to all four rules. Therefore, we estimate that the burden allocated to rule 17e–1 for this contract change would be 0.75 hours.[2] Assuming that all 775 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 581 burden hours annually.

Based on an analysis of fund filings, the staff estimates that approximately 1,768 funds use at least one affiliated broker. Based on conversations with fund representatives, the staff estimates approximately 40 percent of transactions that occur under rule 17e–1 would be exempt from its recordkeeping and review requirements. This would leave approximately 1,061 funds[3] still subject to the rule's recordkeeping and review requirements. Based on conversations with fund representatives, we estimate that the burden of compliance with the review and recordkeeping requirements of rule 17e–1 is approximately 40 hours per fund per year. This time is spent, for example, reviewing the applicable transactions and maintaining records. Accordingly, we calculate the total estimated annual internal burden of complying with the review and recordkeeping requirements of rule 17e–1 to be approximately 42,440 hours,[4] and the total annual burden of the rule's paperwork requirements is 43,021 hours.[5]

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. The collection of information under rule 17e–1 is mandatory. The information provided under rule 17e–1 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: April 25, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10151 Filed 4–29–13; 8:45 am]

BILLING CODE 8011–01–P

[1] Based on information in Commission filings, we estimate that 44.4 percent of funds are advised by subadvisers.

[2] 3 hours ÷ 4 rules = 0.75 hours.

[3] 1,768 funds × 0.6 = 1,061 funds.

[4] 1,061 funds × 40 hours per fund = 42,440 hours.

[5] 581 hours + 42,440 hours = 43,021 hours.

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rules 7a–15 thru 7a–37, OMB Control No. 3235–0132, SEC File No. 270–115.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rules 7a–15 through 7a–37 (17 CFR 260.7a–15—260.7a–37) under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*) set forth the general requirements as to form and content of applications, statements and reports that must be filed under the Trust Indenture Act. The respondents are persons and entities subject to requirements of the Trust Indenture Act. Trust Indenture Act Rules 7a–15 through 7a–37 are disclosure guidelines and do not directly result in any collection of information. The rules are assigned only one burden hour for administrative convenience.

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-

Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: April 24, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10149 Filed 4–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation S; OMB Control No. 3235–0357, SEC File No. 270–315.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation S (17 CFR 230.901 through 230.905) sets forth rules governing offers and sales of securities made outside the United States without registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). Regulation S clarifies the extent to which Section 5 of the Securities Act applies to offers and sales of securities outside of the United States. Regulation S is assigned one burden hour for administrative convenience.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: April 24, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10148 Filed 4–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 0–2; OMB Control No. 3235–0636, SEC File No. 270–572.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Several sections of the Investment Company Act of 1940 (''Act'' or ''Investment Company Act'')[1] give the Commission the authority to issue orders granting exemptions from the Act's provisions. The section that grants broadest authority is section 6(c), which provides the Commission with authority to conditionally or unconditionally exempt persons, securities or transactions from any provision of the Investment Company Act, or the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.[2]

Rule 0–2 under the Investment Company Act,[3] entitled ''General Requirements of Papers and Applications,'' prescribes general instructions for filing an application seeking exemptive relief with the Commission for which a form is not specifically prescribed. Rule 0–2 requires that each application filed with the commission have (a) a statement of authorization to file and sign the application on behalf of the applicant, (b) a verification of application and statements of fact, (c) a brief statement of the grounds for application, and (d) the name and address of each applicant and of any person to whom questions should be directed. The Commission uses the information required by rule 0–2 to decide whether the applicant should be deemed to be entitled to the action requested by the application.

Applicants for orders can include registered investment companies, affiliated persons of registered investment companies, and issuers seeking to avoid investment company status, among other entities. Commission staff estimates that it receives approximately 110 applications per year under the Act. Although each application typically is submitted on behalf of multiple entities, the entities in the vast majority of cases are related companies and are treated as a single respondent for purposes of this analysis.

The time to prepare an application depends on the complexity and/or novelty of the issues covered by the application. We estimate that the Commission receives 15 of the most time-consuming applications annually, 75 applications of medium difficulty, and 20 of the least difficult applications. Based on conversations with applicants, we estimate that in-house counsel would spend from ten to fifty hours helping to draft and review an application. We estimate a total annual hour burden to all respondents of 3,200 hours [(50 hours × 15 applications) + (30 hours × 75 applications) + (10 hours × 20 applications)].

Much of the work of preparing an application is performed by outside counsel. The cost outside counsel charges applicants depends on the complexity of the issues covered by the application and the time required for preparation. Based on conversations with attorneys who serve as outside counsel, the cost ranges from approximately $10,000 for preparing a well-precedented, routine application to approximately $150,000 to prepare a complex and/or novel application. This distribution gives a total estimated annual cost burden to applicants of filing all applications of $8,450,000 [(15 × $150,000) + (75 × $80,000) + (20 × $10,000)].

We request written comment on: (a) Whether the collections of information are necessary for the proper

[1] 15 U.S.C. 80a–1 *et seq.*

[2] 15 U.S.C. 80a–6(c).

[3] 17 CFR 270.0–2.

performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: April 24, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10147 Filed 4–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation A (Forms 1–A and 2–A); OMB Control No. 3235–0286, SEC File No. 270–110.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation A (17 CFR 230.251 through 230.263) provides an exemption from registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) for certain limited offerings of securities by issuers who do not otherwise file reports with the Commission. Form 1–A is an offering statement filed under Regulation A. Form 2–A is filed to report the sale of securities in a Regulation A offering and the use of the proceeds raised in the offering. The paperwork burden from Regulation A is imposed through the forms that are subject to the disclosure requirements in Regulation A and is reflected in the analysis of these forms. To avoid a Paperwork Reduction Act inventory reflecting duplicative burdens, for administrative convenience we estimate the burden imposed by Regulation A to be a total of one hour. We estimate that approximately 100 issuers file Forms 1–A and 2–A annually. We estimate that Form 1–A takes approximately 608 hours to prepare, Form 2–A takes approximately 12 hours to prepare for a total 621 hours per response (including the one hour for Regulation A). We estimate that 75% of the 621 hours per response (465.75 hours) is prepared by the company for a total annual burden of 46,575 hours (465.75 hours per response × 100 responses).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: April 24, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10150 Filed 4–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69445; File No. SR–NASDAQ–2013–069]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate the Free Period for the Limit Up/Limit Down Band Lookup Add-On Service to TradeInfo Under Rule 7015(f)

April 24, 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 April 19, 2013 The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is proposing a rule change to eliminate the free period for the Limit Up/Limit Down Band Lookup add-on service to TradeInfo under Rule 7015(f). The text of the proposed rule change is below. Proposed deletions are in brackets.

* * * * *

7015. Access Services

The following charges are assessed by Nasdaq for connectivity to systems operated by NASDAQ, including the Nasdaq Market Center, the FINRA/NASDAQ Trade Reporting Facility, and FINRA's OTCBB Service. The following fees are not applicable to the NASDAQ Options Market LLC. For related options fees for Access Services refer to Chapter XV, Section 3 of the Options Rules.

(a)–(e) No change.

(F) TradeInfo

Members not subscribing to the Nasdaq Workstation using TradeInfo will be charged a fee of $95 per user per month.

A member firm that has a TradeInfo user subscription may subscribe to the Limit Up/Limit Down Band Lookup add-on service [at no cost beginning April 15, 2013 and] for a fee of $200 per user per month beginning May 1, 2013. The Limit Up/Limit Down Band Lookup

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

[2] 17 CFR 240.19b–4.

add-on service provides a subscribing member firm with intraday and historical limit up/limit down price band information for individual securities that are subject to limit up/limit down price bands.

(g)–(h) No change.

* Eligible for 25% discount under the Qualified Market Maker Program during a pilot period expiring on April 30, 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, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to eliminate the free period of the recently-adopted [3] Limit Up/Limit Down Band Lookup add-on service to TradeInfo due to technical issues discovered in the launch of the service. As a consequence of these issues, NASDAQ was unable to launch the service and must make changes to its software to enable members to subscribe. NASDAQ will offer the service beginning May 1, 2013, at which time the monthly fee will be assessed on subscribers consistent with the rule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [4] in general, and with Section 6(b)(4) [5] of the Act, in particular. The Exchange believes it is consistent with Section 6(b)(4) of the Act because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. NASDAQ is eliminating the period during which the service is available at no cost because it has encountered technical issues that prevent it from offering the service until May 1, 2013. NASDAQ is eliminating the free period for all member firms, and no member firms will have access to the service until it is offered on May 1, 2013, at which time the fee will apply. To date, no member firms have subscribed to the service, and as a consequence no member firms will be required to unsubscribe from the service. As such, the Exchange believes that the elimination of the free period is reasonable.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. NASDAQ notes that no member firms have subscribed to the service to date, and as a consequence no member firms will be affected by the elimination of the free period for the service. NASDAQ further notes that the member firms may access the information provided by the service through other means, so to the extent that there is a burden on competition resulting from the delay in offering the service, it is appropriate in furtherance of the purposes of the Act, as amended.

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 change has become effective pursuant to Section 19(b)(3)(A) of the Act,[6] and paragraph (f) [7] of Rule 19b–4, thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–NASDAQ–2013–069 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–NASDAQ–2013–069. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–069, and should be submitted on or before May 21, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10103 Filed 4–29–13; 8:45 am]

BILLING CODE 8011–01–P

[3] *See* SR–NASDAQ–2013–066, Securities Exchange Act Release No. 34–69444 (April 24, 2013).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69441; File No. SR–NYSE–2013–29]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Deleting NYSE Rule 476(a)(8), Which Addresses Wash Sales, in Order To Harmonize the Exchange's Rules With the Rules of the Financial Industry Regulatory Authority

April 24, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 10, 2013, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete NYSE Rule 476(a)(8), which addresses wash sales, in order to harmonize the Exchange's rules with the rules of the Financial Industry Regulatory Authority (''FINRA''). The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to delete NYSE Rule 476(a)(8), which addresses wash sales, in order to harmonize the Exchange's rules with the rules of FINRA.

Background

On July 30, 2007, FINRA's predecessor, the National Association of Securities Dealers, Inc. (''NASD''), and NYSE Regulation, Inc. (''NYSER'') consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934, as amended (the ''Act''), NYSE, NYSER and FINRA entered into an agreement (the ''Agreement'') to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for certain NYSE rules and rule interpretations (''FINRA Incorporated NYSE Rules''). NYSE MKT LLC (''NYSE MKT'') became a party to the Agreement effective December 15, 2008.[4]

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, NYSE, and NYSE MKT of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.[5]

Proposed Rule Change

Current NYSE Rule 476(a)(8) prohibits a member, member organization, principal executive, approved person, registered or non-registered employee of a member or member organization, or person otherwise subject to the jurisdiction of the Exchange from (i) making a fictitious bid, offer, or transaction, (ii) giving an order for the purchase or sale of securities the execution of which would involve no change of beneficial ownership, or (iii) executing such an order with knowledge of its character. In 2009, the Exchange adopted NYSE Rules 6140(a) and (b), which are substantially the same as FINRA Rules 6140(a) and (b) [6] and also address wash sale activity. NYSE Rule 6140(a) provides that no member or member organization may execute or cause to be executed or participate in an account for which there are executed purchases of any NMS stock as defined in Rule 600(b)(47) of SEC Regulation NMS (''designated security'') at successively higher prices, or sales of any such security at successively lower prices, for the purpose of creating or inducing a false, misleading or artificial appearance of activity in such security or for the purpose of unduly or improperly influencing the market price for such security or for the purpose of establishing a price that does not reflect the true state of the market in such security. NYSE Rule 6140(b) prohibits a member or member organization, for the purpose of creating or inducing a false or misleading appearance of activity in a designated security or creating or inducing a false or misleading appearance with respect to the market in such security, from:

(1) Executing any transaction in such security which involves no change in the beneficial ownership thereof;

(2) entering any order or orders for the purchase of such security with the knowledge that an order or orders of substantially the same size, and at substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties; or

(3) entering any order or orders for the sale of any such security with the knowledge that an order or orders of substantially the same size, and at substantially the same price, for the purchase of such security, has been or will be entered by or for the same or different parties.

The Exchange notes that NYSE Rule 476(a)(8), which was adopted at a time when the Exchange was operating in a manual on-Floor trading environment, has a different scienter standard than NYSE Rule 6140 and FINRA Rule 6140. These rules provide that a market participant is prohibited from engaging in wash sales that have the purpose of

[4] *See* Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR–NASD–2007–054) (order approving the incorporation of certain NYSE Rules as ''Common Rules''); and 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (order approving the amended and restated Agreement, adding NYSE MKT LLC as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or NYSE MKT to the substance of any of the Common Rules.

[5] FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, *see* FINRA Information Notice, March 12, 2008.

[6] *See* Securities Exchange Act Release No. 59965 (May 21, 2009), 74 FR 25783 (May 29, 2009) (SR–NYSE–2009–25).

creating or inducing a false or misleading appearance of activity in a designated security. The ''purpose'' or scienter requirement in NYSE Rule 6140 and FINRA Rule 6140 recognizes that in today's markets there can be certain instances of trading activity that may inadvertently and unknowingly result in executions with no change in beneficial ownership, for example trades entered from an off-Floor participant that experience latency issues over which the participant has little or no control, and that such conduct should not always be treated as a wash sale violation if the market participant did not act with purpose.

On the other hand, NYSE Rule 476(a)(8) prohibits (i) making a fictitious bid, offer, or transaction, (ii) giving an order for the purchase or sale of securities the execution of which would involve no change of beneficial ownership, or (iii) executing such an order with knowledge of its character. The second prong can be read as having no scienter requirement.[7] As such, the example given above involving an off-Floor market participant's algorithmic orders that inadvertently execute against themselves due to latency issues could be deemed a violation of the second prong of NYSE Rule 476(a)(8). The Exchange believes that such conduct should not be treated as a wash sale violation in all instances and therefore proposes to eliminate NYSE Rule 476(a)(8) and instead utilize NYSE Rule 6140 for wash sale disciplinary actions. The proposed rule change would achieve a greater level of consistency with FINRA's rules and promote harmonization, consistency, transparency, and clarity with respect to the Exchange's rules and thereby facilitate FINRA's enforcement of them.[8]

The proposed rule change would not result in any material diminution of the Exchange's enforcement authority or any material change in surveillance of potentially violative activity. The Exchange may still bring a disciplinary action in appropriate cases where a market participant engages in a significant amount of trades without change of beneficial ownership, even if such activity does not violate Rule 6140(b) per se because the participant did not act with ''purpose.'' Such conduct could also give rise to other violations, such as a failure to supervise under NYSE Rule 342, and the Exchange has brought at least one such case.[9] Such conduct could also violate just and equitable principles of trade or otherwise constitute unethical activity under NYSE Rule 2010.[10]

So that there is no change in the scope of persons subject to disciplinary action for wash sales, the Exchange proposes to make a conforming amendment to NYSE Rules 6140(a) and (b) to provide that the rules apply not only to members and member organizations but also to principal executives, approved persons, registered or non-registered employees of a member or member organization or persons otherwise subject to the jurisdiction of the Exchange.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5),[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change supports the objectives of the Act by addressing an inconsistency in the scienter requirements between NYSE Rule 476(a)(8) on the one hand and NYSE Rule 6140 and FINRA Rule 6140 on the other. Eliminating this inconsistency would provide member firms with better notice of prohibited wash sale activities and promote transparency and clarity with respect to the Exchange's rules, thereby facilitating FINRA's enforcement of them. Moreover, the proposed rule change would not result in any material diminution of the Exchange's overall enforcement authority or any material change in surveillance of potentially problematic trading activity. The Exchange may still bring a disciplinary action in appropriate cases where a market participant engages in a significant amount of trades without change of beneficial ownership, even if such activity does not violate Rule 6140(b) per se because the participant did not act with ''purpose,'' because such conduct could violate supervision rules, just and equitable principles of trade, or other Exchange rules prohibiting unethical conduct. As such, the Exchange's rules would continue to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather to achieve greater consistency both within NYSE's rules and between NYSE and FINRA rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

[7] In at least one case, a hearing panel was divided as to whether scienter is required in order to find a violation of the second prong of NYSE Rule 476(a)(8) and adjudged the respondent not guilty. *See* In the Matter of X, NYSE Hearing Panel Decision 92–163 (Oct. 23, 1992).

[8] The Exchange notes that it can bring disciplinary actions under NYSE Rule 476(a)(8) for conduct that occurred prior to the time the rule is deleted. Thus, the proposed rule change would have no impact on ongoing disciplinary actions involving violations of NYSE Rule 476(a)(8).

[9] *See* In the Matter of Goldman Sachs & Co., NYSE Hearing Board Decision 12–3 (Apr. 4, 2012) (between January 2009 and at least September 2011, member firm violated NYSE Rule 342 in its capacity as a NYSE Supplemental Liquidity Provider by failing to maintain supervisory procedures that were reasonably designed to detect and prevent potentially violative wash trading activity).

[10] *See* Calvin David Fox, 56 S.E.C. 1371, 1376 (2003) (''With respect to a charge that conduct was inconsistent with just and equitable principles of trade, we have held that a self-regulatory organization need not find that the respondent acted with scienter, but must find that the respondent acted in bad faith or unethically.''). NYSE Rule 2110 [sic] is a broad ethical concept that covers all unethical business-related conduct. *See also* In the Matter of Merrill Lynch, Pierce, Fenner & Smith Incorporated, NYSE Hearing Board Decision 10–13 (May 14, 2010) (firm violated just and equitable principles of trade in that it introduced prearranged or wash sales in the round-lot portion of a partial round lot order); In the Matter of Robert Cutter Matlock, Jr., NYSE Hearing Board Decision 06–19 (March 27, 2006) (Exchange need not prove scienter for violations of just and equitable principles of trade, but rather is required to show the respondent acted in bad faith or unethically); In the Matter of Mary Roy Wong, NYSE Hearing Board Decision 06–187 (February 13, 2007) (Exchange need not prove scienter for violations of just and equitable principles of trade, but rather is required to show the respondent acted in bad faith or unethically).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSE–2013–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSE–2013–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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 No. SR–NYSE–2013–29 and should be submitted on or before May 21, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–10051 Filed 4–29–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69444; File No. SR–NASDAQ–2013–066]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the Limit Up/Limit Down Band Lookup Add-On Service to TradeInfo and Assess a Related Subscription Fee

April 24, 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 April 15, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to establish the Limit Up/Limit Down Band Lookup add-on service to TradeInfo and assess a related subscription fee. The Exchange is proposing to offer the proposed service at no cost to members beginning April 15, 2013 [3] and for a monthly fee of $200 per user beginning May 1, 2013.

The text of the proposed rule change is below. Proposed new language is *italicized.*

* * * * *

7015. Access Services

The following charges are assessed by Nasdaq for connectivity to systems operated by NASDAQ, including the Nasdaq Market Center, the FINRA/NASDAQ Trade Reporting Facility, and FINRA's OTCBB Service. The following fees are not applicable to the NASDAQ Options Market LLC. For related options fees for Access Services refer to Chapter XV, Section 3 of the Options Rules.

(a)–(e) No change.

(f) TradeInfo

Members not subscribing to the Nasdaq Workstation using TradeInfo will be charged a fee of $95 per user per month.

A member firm that has a TradeInfo user subscription may subscribe to the Limit Up/Limit Down Band Lookup add-on service at no cost beginning April 15, 2013 and for a fee of $200 per user per month beginning May 1, 2013. The Limit Up/Limit Down Band Lookup add-on service provides a subscribing member firm with intraday and historical limit up/limit down price band information for individual securities that are subject to limit up/limit down price bands.

(g)–(h) No change.

* Eligible for 25% discount under the Qualified Market Maker Program during a pilot period expiring on April 30, 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, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to offer member firms a means to review the Limit Up/Limit Down (''LULD'') price bands for individual securities. The National Market System Plan to Address Extraordinary Market Volatility [4] (the

[13] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *But see* Securities Exchange Act Release No. 69445 (Aril 24, 2013) (proposed rule change eliminating the free period for the Limit Up/Limit Down Band Lookup add-on service; NASDAQ will offer the service for $200 on May 1, 2013).

[4] On April 5, 2011, the Exchange, together with other self-regulatory organizations, filed with the Commission a national market system plan to adopt a market-wide limit up/limit down system to reduce the negative impacts of sudden, unanticipated price movements in NMS Stocks, like that which was experienced on May 6, 2010. Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631). The Plan was approved by the Commission on a pilot basis on May 31, 2012. Securities Exchange

Continued

''Plan'') provides a limit up/limit down mechanism designed to prevent trades in NMS securities from occurring outside of specified price bands. The bands will be set a percentage level above and below the average reference price of the security over the immediately preceding five-minute period, and are calculated on a continuous basis during regular trading hours. If the National Best Offer (''NBO'') equals the lower price band without crossing the NBO, or National Best Bid (''NBB'') equals the upper price band without crossing the NBB, then the stock will enter a limit state quotation period of 15 seconds during which no new reference prices or price bands will be calculated. A stock will exit the limit state when the entire size of all quotations are [sic] either executed or cancelled. If the limit state exists and trading continues to occur at the price band, or no trading occurs within the price band, for more than 15 seconds, then a five minute trading pause will be enacted. The Plan requires that member firms establish, maintain, and enforce written policies and procedures that are reasonably designed to ensure that the firm complies with the limit up-limit down and trading pause requirements specified in the Plan.

LULD price band information is disseminated via the Securities Information Processor feeds (''SIPs''). If a member firm wishes to know what a particular security's price band parameters were during a particular day, including the current day, it must develop a system that will capture and store the data disseminated by the SIPs. Member firms have requested that NASDAQ provide a service that displays LULD price band information for individual securities for both the current day and historically. To meet this need, NASDAQ OMX included a Band Lookup feature in the Limit Locator [5] compliance tool available for NASDAQ Workstation and Weblink ACT users. NASDAQ proposes to offer virtually the same Band Lookup functionality as an add-on service to TradeInfo to allow a broader audience access to intraday and historical LULD price band information for individual securities.[6] A subscribing member firm may retrieve a list of all of the historical price bands for a selected security on a selected day, up to 30-days prior. The service displays both the upper and lower price bands, and the time at which the price bands became effective. The service also provides subscribing member firms with the option to export the data provided by the service in CSV format.

To subscribe to the Limit Up/Limit Down Band Lookup service a member firm must also subscribe to TradeInfo. TradeInfo allows a subscribing member firm to query for their [sic] orders submitted to the NASDAQ System and perform certain actions concerning the queried orders, such as canceling open orders. TradeInfo is the means by which a member firm accesses the proposed service.[7] Each TradeInfo user account provides an access point to Limit Up/Limit Down Band Lookup service, therefore a member firm that subscribes to multiple TradeInfo accounts may access Limit Up/Limit Down Band Lookup service through each of its TradeInfo user accounts concurrently. The Exchange is proposing to offer the proposed service at no cost to members beginning April 15, 2013 and for a monthly fee of $200 per user beginning May 1, 2013.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [8] in general, and with Section 6(b)(4) [9] of the Act, in particular. The Exchange believes it is consistent with Section 6(b)(4) of the Act because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange determined that the proposed fee is reasonable based on member firm interest in the service, costs associated with developing and supporting the service, and the value that the Limit Up/Limit Down Band Lookup service provides to subscribing member firms.

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes the proposed rule change is consistent with these requirements because the proposed service provides a subscribing member firm with a useful analytical tool with which it may determine where the limit up/limit down price bands of individual securities are both currently and historically on a rolling 30-day basis. With this information, a subscribing member firm is able to analyze historical trade executions and reports, and conduct back-testing scenarios.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed service provides useful information to member firms with which they may analyze historical trade executions and reports, and conduct back-testing scenarios. The proposed fee allows NASDAQ to recapture the costs associated with developing and supporting the service, and may provide NASDAQ with a profit to the extent its costs are covered.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). On April 8, 2013, Phase I of the Plan went into effect. Phase I of the Plan applies only to Tier 1 NMS Stocks. The Limit Up/Limit Down Band Lookup service will support all securities subject to the Plan as they are phased in.

[5] NASDAQ Rule 7061.

[6] The Band Lookup feature of Limit Locator provides subscribers with the same information as the proposed Band Lookup feature of TradeInfo, presented in [sic] slightly different manner.

[7] TradeInfo is offered complimentary as part of the NASDAQ Workstation or separately for a fee of $95 per user, per month. *See* Rule 7015(f).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(4).

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

[12] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii), the Exchange is required to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because Phase I of the Plan has become effective and the Band Lookup feature will benefit the Exchange's member firms if made available by the Exchange as soon as possible. For this reason, the Commission designates the proposed rule change to be operative upon filing.[15]

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–NASDAQ–2013–066 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–NASDAQ–2013–066. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–066, and should be submitted on or before May 21, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

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change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the requirement that NASDAQ provide the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

[13] 17 CFR 240.19b–4(f)(6).

[14] Rule 19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69440; File No. SR–FINRA–2013–002]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Withdrawal of Proposed Rule Change To Amend FINRA Rule 2267 (Investor Education and Protection)

April 24, 2013.

On January 7, 2013, Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA Rule 2267 (Investor Education and Protection) to require that members include a prominent description of and link to FINRA BrokerCheck, as prescribed by FINRA, on their Web sites, social media pages, and any comparable Internet presence, and on Web sites, social media pages, and any comparable Internet presence relating to a member's investment banking or securities business maintained by or on behalf of any person associated with a member. The proposed rule change was published for comment in the **Federal Register** on January 25, 2013.[3] The Commission received 24 comment letters on the proposal.[4] On March 7,

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68700 (Jan. 18, 2013), 78 FR 5542.

[4] *See* Letter from Charles Barker, dated Jan. 29, 2013; Letter from David M. Sobel, Esq., Abel/Noser Corp., dated Jan. 30, 2013; Letter from Pamela Albanese, Legal Intern, and Christine Lazaro, Esq., Acting Director, St. John's University School of Law, Securities Arbitration Clinic, dated Feb. 4, 2013; Letter from Peter J. Chepucavage, General Counsel, Plexus Consulting Group, LLC, dated Feb. 6, 2013; Letter from Jonathan W. Evans and Michael S. Edmiston, Jonathan W. Evans Associates, dated Feb. 10, 2013; Letter from Scott R. Shewan, Pape Shewan, LLP, dated Feb. 11, 2013; Letter from David Neuman, Stoltmann Law Offices, dated Feb. 12, 2013; Letter from Barry D. Estell, dated Feb. 12, 2013; Letter from Scott C. Ilgenfritz, President, Public Investors Arbitration Bar Association, dated Feb. 13, 2013; Letter from Bert Savage, dated Feb. 13, 2013; Letter from William A. Jacobson, Esq., Associate Clinical Professor, Cornell Law School, Director, Securities Law Clinic, and Alexander Wingate, Cornell Law School, dated Feb. 14, 2013; Letter from A. Heath Abshure, President, North American Securities Administrators Association, Inc., dated Feb. 15, 2013; Letter from Robert J. McCarthy, Director of Regulatory Policy, Wells Fargo Advisors, LLC, dated Feb. 15, 2013; Letter from Tamara K. Salmon, Senior Associate Counsel, Investment Company Institute, dated Feb. 15, 2013; Letter from David T. Bellaire, Esq., Executive Vice President & General Counsel, Financial Services Institute, dated Feb. 15, 2013; Letter from Scott A.

Continued

2013, the Commission extended the time period in which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change, to April 25, 2013.[5] On April 18, 2013, FINRA withdrew the proposed rule change (SR–FINRA–2013–002).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10079 Filed 4–29–13; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69443; File No. SR–NYSEArca-2013–39]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending NYSE Arca Equities Rule 7.31 To Add a Moving Average Check for Incoming Market Orders and Marketable Limit Orders

Dated: April 24, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 11, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 7.31 to add a Moving Average Check for incoming Market Orders and marketable limit orders. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 7.31(a) to add a Moving Average Check that would prevent incoming Market Orders and marketable Limit Orders, as defined in NYSE Arca Equities Rule 7.31(b), from trading if the order size exceeded certain thresholds. The Exchange believes that the proposed Moving Average Check would serve as an additional safeguard that could help limit potential harm from extreme price volatility by preventing executions of potentially erroneously sized orders.

Specifically, the proposed Moving Average Check would reduce the potential for a single order to disrupt trading in that security by comparing the size of the incoming order to a measure of historical trading activity in that security. The Exchange believes that if an incoming order represents a significant volume as compared to the historical trading activity in that security, that order is likely to be erroneous and should be rejected before it has an opportunity to impact the market. As proposed, the Exchange would perform the following Moving Average Check for all incoming Market Orders and marketable Limit Orders:

- If the size of an incoming Market Order or marketable Limit Order is less than or equal to 50% of the projected 30-day moving average volume for that security, the order would be processed normally.
- If the size of an incoming Market Order or marketable Limit Order is greater than 50% but less than or equal to 75% of the projected 30-day moving average volume for the security, the Exchange would process the order normally and also notify the ETP Holder that the order size was greater than 50% of the projected 30-day moving average volume for the security.
- If the size of an incoming Market Order or marketable limit order is greater than 75% of the projected 30-day moving average volume for the security, the Exchange would reject the order and notify ETP Holder of the reason why the order was rejected.

As proposed, the projected 30-day moving average volume for each security would be calculated by: (i) Taking the prior day's 30-day moving average volume and multiplying that number by 29; (ii) adding to that number the total consolidated last sale volume in that security for the prior trading day; and (iii) dividing the combined number by 30.[4] If a security does not yet have a projected 30-day moving average volume, the default projected 30-day moving average volume shall be 10,000 shares. For example:

- Day 0

1. Seed the projected 30-day moving average volume for Day 0 with the default projected 30-day moving average volume (10,000 shares).

2. Total consolidated last sales volume in XYZ on Day 0 of 20,000 shares.

- Day 1

1. Projected 30-day moving average volume for Day 1 Moving Average Check = 10,333 shares ((10,000 x 29) + 20,000)/30.

2. Total consolidated last sales volume for XYZ on Day 1 of 10,000 shares.

- Day 2

1. Projected 30-day moving average volume for Day 2 Moving Average Check = 10,322 shares ((10,333 x 29) + 10,000)/30.

Eichhorn, Supervising Attorney, and Julianne S. Bisceglia, Legal Intern, University of Miami School of Law, Investor Rights Clinic, dated Feb. 15, 2013; Letter from Melissa MacGregor, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated Feb. 15, 2013; Letter from Brendan Daly, Legal and Compliance Counsel, Commonwealth Financial Network, dated Feb. 15, 2013; Letter from James Cooper, Chief Operating Officer, Zions Direct, dated Feb. 15, 2013; Letter from Melissa Callison, Vice President, Compliance, Charles Schwab & Co., Inc, dated Feb. 15, 2013; Letter from James Smith, Chief Compliance Officer, BlackRock Investments, LLC, Ned Montenecourt, Chief Compliance Officer, BlackRock Capital Markets, LLC, BlackRock Execution Services, and Joanne Medero, Managing Director, BlackRock, Inc., dated Feb. 15, 2013; Letter from Clifford E. Kirsch and Eric A. Arnold, Sutherland Asbill & Brennan LLP, for the Committee of Annuity Insurers, dated Feb. 15, 2013; Letter from Steven B. Caruso, Maddox Hargett Caruso, P.C., dated Feb. 16, 2013; and Letter from Lisa Catalano, Esq., dated Feb. 18, 2013.

[5] *See* Securities Exchange Act Release No. 69063, 78 FR 15994 (Mar. 13, 2013).

[6] 17 CFR 200.30–3(a)(12).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange notes that the projected 30-day moving average volume is not the same as the 30-day average daily volume for the security.

2. Total consolidated last sales volume for XYZ on Day 2 of 20,000 shares.

• Day 3

1. Projected 30-day moving average volume for Day 3 Moving Average Check = 10,645 [sic] shares ((10,332 x 29) + 20,000)/30.

As proposed, the Moving Average Check would not apply to orders designated for Auctions pursuant to NYSE Arca Equities Rule 7.35[5] and orders that were not marketable upon entry into the Exchange.[6] When determining the size of marketable Reserve Orders, the Exchange proposes to include the full volume of the order, including the reserve size.

The Exchange believes that the proposed Moving Average Check would provide appropriate thresholds for determining whether an incoming Market Order or marketable Limit Order should either be accepted by the Exchange and processed normally or be rejected. Specifically, the Exchange believes that if the size of the incoming Market Orders or marketable limit orders is greater than 75% of the projected moving average volume for that security, it is likely erroneous and should be rejected. The Exchange proposes to include a notification to the ETP Holder of the reason for the rejection so that the ETP Holder is on notice of why the order was rejected. While the Exchange will permit incoming orders that are greater than 50% but less than or equal to 75% of the projected moving average volume, the Exchange believes that a notification should be provided to the ETP Holder warning that the order is approaching a threshold size for rejection, thereby putting the ETP Holder on notice of the potential impact of that order on the market for that security. Such a notification would also put an ETP Holder on notice of whether an order of such size was intended to be entered or should be modified.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed 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. Specifically, the Exchange believes that the proposed Moving Average Check will remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest by ensuring that exceedingly large-sized Market Orders and marketable limit orders cannot be entered into the Exchange and potentially cause significant price dislocation for the security. The Exchange believes that the percentage thresholds for the Moving Average Check provide appropriate parameters for determining whether an incoming Market Order or marketable limit order should either trade normally, receive a warning notification, or be rejected by the Exchange, thereby facilitating transactions on the Exchange in a just and equitable manner while protecting investors from exceedingly large or potentially erroneously sized orders that may dislocate pricing and liquidity in the market and result in extreme price volatility.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal will serve as an additional safeguard to help limit potential harm from extreme price volatility by preventing executions from exceedingly large or potentially erroneously sized orders in a manner that promotes a fair and orderly market while protecting investors on the Exchange. In addition, the proposal should act to promote competition amongst market participants on the Exchange by facilitating transactions on the Exchange in a just and equitable faction while protecting investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order, approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca-2013–39 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR-NYSEArca-2013-39. 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

[5] The Exchanges notes that one of the purposes of an auction is to maximize liquidity for efficient price discovery for a single-priced transaction and that the auction may not function effectively if order size were limited.

[6] The Exchange notes that a large-sized limit order could be unmarketable at the time of entry, but that after the price of that security moves, the order could become marketable. The Exchange believes that if such a large-sized order were displayed, the market would respond with adequate liquidity to dampen the potential market impact of such large-sized order before it becomes marketable.

[7] 15 U.S.C. 78f(b).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2013-39 and should be submitted on or before May 21, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–10167 Filed 4–29–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69438; File No. SR–CBOE–2013–037]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fees for the BBO Data Feed for CBOE Listed Options

April 23, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 16, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') proposes to amend the fee schedule of Market Data Express, LLC (''MDX''), an affiliate of CBOE, for the BBO Data Feed for CBOE listed options (''BBO Data Feed'' or ''Data''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the fees charged by MDX for the BBO Data Feed and to make several clarifying changes to the MDX fee schedule.[3] The BBO Data Feed is a real-time, low latency data feed that includes CBOE ''BBO data'' and last sale data.[4] The BBO and last sale data contained in the BBO Data Feed is identical to the data that CBOE sends to the Options Price Reporting Authority (''OPRA'') for redistribution to the public.[5]

The BBO Data Feed also includes certain data that is not included in the data sent to OPRA, namely, (i) totals of customer versus non-customer contracts at the BBO, (ii) All-or-None contingency orders priced better than or equal to the BBO, (iii) BBO data and last sale data for complex strategies (e.g., spreads, straddles, buy-writes, etc.) (''Spread Data''), (iv) BBO data and last sale data for Flexible Exchange (''FLEX'') options traded on the CBOE FLEX Hybrid Trading System, including BBO data and last sale data for FLEX complex strategies (collectively, ''FLEX BBO data''), and (v) expected opening price (''EOP'') and expected opening size (''EOS'') information that is disseminated prior to the opening of the market and during trading rotations (collectively, ''EOP/EOS data'').[6]

MDX currently charges Customers a ''direct connect fee'' of $3,500 per connection per month and a ''per user fee'' of $25 per month per ''Authorized User'' or ''Device'' for receipt of the BBO Data Feed by Subscribers.[7] Either a CBOE Trading Permit Holder or a non-CBOE Trading Permit Holder may be a Customer. All Customers are assessed the same fees.

The Exchange proposes to eliminate both the direct connect fee and the per user fee and replace them with a ''data fee'', payable by a Customer, of $5,000 per month for internal use and external redistribution of the BBO Data Feed. A ''Customer'' is any entity that receives the BBO Data Feed directly from MDX's system or through a connection to MDX provided by an approved redistributor (i.e., a market data vendor or an extranet service provider) and then distributes it internally and/or externally. The data fee would entitle a Customer to provide the BBO Data Feed to an unlimited number of internal users and Devices within the Customer. The data fee would also entitle a Customer to distribute externally the BBO Data Feed to other Customers. A Customer receiving the BBO Data Feed from another Customer would be assessed the data fee by MDX and would be entitled to distribute the Data internally and/or externally.[8] All Customers would have

[8] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] The BBO Data Feed and the fees charged by MDX for the BBO Data Feed were established in March 2011. *See* Securities Exchange Act Release No. 63997 (March 1, 2011), 76 FR 12388 (March 7, 2011).

[4] The BBO Data Feed includes the ''best bid and offer,'' or ''BBO'', consisting of all outstanding quotes and standing orders at the best available price level on each side of the market, with aggregate size (''BBO data,'' sometimes referred to as ''top-of-book data''). Data with respect to executed trades is referred to as ''last sale'' data.

[5] The Exchange notes that MDX makes available to Customers the BBO data and last sale data that is included in the BBO Data Feed no earlier than the time at which the Exchange sends that data to OPRA. A ''Customer'' is any entity that receives the BBO Data Feed directly from MDX's system and then distributes it either internally or externally to Subscribers. A ''Subscriber'' is a person (other than an employee of a Customer) that receives the BBO Data Feed from a Customer for its own internal use.

[6] The Exchange identified the inclusion of FLEX BBO data and EOP/EOS data in the BBO Data Feed in a proposed rule change filed in January 2013. *See* Securities Exchange Act Release No. 68696 (January 18, 2013), 78 FR 5527 (January 25, 2013). MDX also makes the FLEX BBO data available as a separate data feed at no charge to any Customer that wishes to subscribe to only that data. EOP/EOS data is not offered separate from the BBO Data Feed.

[7] An ''Authorized User'' is defined as an individual user (an individual human being) who is uniquely identified (by user ID and confidential password or other unambiguous method reasonably acceptable to MDX) and authorized by a Customer to access the BBO Data Feed supplied by the Customer. A ''Device'' is defined as any computer, workstation or other item of equipment, fixed or portable,that receives, accesses and/or displays data in visual, audible or other form.

[8] A Customer may choose to receive the Data from another Customer rather than directly from MDX's system because it does not want to or is not equipped to manage the technology necessary to establish a direct connection to MDX. In addition,

the same rights to utilize the Data (i.e., distribute the Data internally and/or externally) as long as the Customer has entered into an agreement with MDX for the Data and pays the data fee. Either a CBOE Trading Permit Holder or a non-CBOE Trading Permit Holder may be a Customer.

The Exchange also proposes to make several clarifying changes to the MDX fee schedule. MDX charges Customers a monthly fee of $500 for each port connection to MDX to receive the BBO Data Feed (''Port Fee'').[9] The Exchange proposes to move the Port Fee into a new section of the MDX fee schedule called Systems Fees. The Exchange proposes to add a description of the Port Fee to the Definitions section of the MDX fee schedule. The Exchange proposes to reflect on the MDX fee schedule that there are no data fees for the FLEX BBO data feed. The Exchange proposes to clarify that MDX will not charge the data fee or the Port Fee for any calendar month in which a Customer commences receipt of Data after the 15th day of the month or discontinues receipt of the Data before the 15th day of the month. The Exchange also proposes to include in the MDX fee schedule provisions relating to invoicing and late payments. Lastly, the Exchange proposes to remove the definition of per user fee from the MDX fee schedule consistent with the elimination of that fee.

The proposed fee change is to take effect on May 1, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (''Act'') [10] in general, and, in particular, with Section 6(b)(4) of the Act [11] in that it provides for the equitable allocation of reasonable dues, fees and other charges among users and recipients of the Data, and with Section 6(b)(5) [12] of the Act in that it is not designed to permit unfair discrimination between them. The Exchange believes the proposed data fee is equitable and not unfairly discriminatory because it would apply equally to all Customers. All Customers would have the same rights to utilize the Data (i.e., distribute the Data internally and/or externally) as long as the Customer has entered into an agreement with MDX for the Data and pays the data fee.

The Exchange believes the proposed fee is reasonable because it compares favorably to fees that other markets charge for similar products. For example, the Exchange believes NASDAQ OMX PHLX charges Internal Distributors a monthly fee of $4,000 per organization and External Distributors a monthly fee of $5,000 per organization for its ''TOPO Plus Orders'' data feed, which like the BBO Data Feed includes top-of-book data (including orders, quotes and trades) and other market data. The International Securities Exchange offers a ''Top Quote Feed'', which includes top-of-book data, and a separate ''Spread Feed'', which like the BBO Data Feed includes order and quote data for complex strategies. The Exchange believes ISE charges distributors of its Top Quote Feed a base monthly fee of $3,000 and distributors of its Spread Feed a base monthly fee of $3,000. The Exchange notes that the BBO Data Feed also competes with products offered by the NYSE entitled NYSE ArcaBook for Amex Options and NYSE ArcaBook for Arca Options that include top-of-book and last sale data similar to the data in the BBO Data Feed. As noted above, the BBO Data Feed also includes FLEX BBO and EOP/EOS data as well as other data.

For the reasons cited above, the Exchange believes the proposed fee for the BBO Data Feed is equitable, reasonable and not unfairly discriminatory. In addition, the Exchange believes that no substantial countervailing basis exists to support a finding that the proposed terms and fee for the BBO Data Feed fails to meet the requirements of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the market for options orders and executions is already highly competitive and the Exchange's proposal is itself pro-competitive as described below.

The Exchange believes competition provides an effective constraint on the market data fees that the Exchange, through MDX, has the ability and the incentive to charge. CBOE has a compelling need to attract order flow from market participants in order to maintain its share of trading volume. This compelling need to attract order flow imposes significant pressure on CBOE to act reasonably in setting its fees for market data, particularly given that the market participants that will pay such fees often will be the same market participants from whom CBOE must attract order flow. These market participants include broker-dealers that control the handling of a large volume of customer and proprietary order flow. Given the portability of order flow from one exchange to another, any exchange that sought to charge unreasonably high data fees would risk alienating many of the same customers on whose orders it depends for competitive survival. CBOE currently competes with ten options exchanges (including CBOE's affiliate, C2 Options Exchange) for order flow.[13]

CBOE is constrained in pricing the BBO Data Feed by the availability to market participants of alternatives to purchasing the BBO Data Feed. CBOE must consider the extent to which market participants would choose one or more alternatives instead of purchasing the exchange's data. For example, the BBO data and last sale data available in the BBO Data Feed is included in the OPRA data feed. The OPRA data is widely distributed and relatively inexpensive, thus constraining CBOE's ability to price the BBO Data Feed. In this respect, the OPRA data feed, which includes the exchange's transaction information, is a significant alternative to the BBO Data Feed product.

Further, other options exchanges can and have produced their own top-of-book products, and thus are sources of potential competition for MDX. As noted above, NASDAQ OMX PHLX, ISE and NYSE offer market data products that compete with the BBO Data Feed. In addition, the Exchange believes other options exchanges may currently offer top-of-book market data products for a fee or for free.

The Exchange believes that the BBO Data Feed offered by MDX will help attract new users and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

a Customer is not subject to the MDX Port Fee if it does not establish a port connection to an MDX server.

[9] *See* Securities Exchange Act Release No. 66486 (February 28, 2012), 77 FR 13166 (March 5, 2012).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78f(b)(5).

[13] The Commission has previously made a finding that the options industry is subject to significant competitive forces. *See* e.g., Securities Exchange Act Release No. 59949 (May 20, 2009), 74 FR 25593 (May 28, 2009) (SR–ISE–2009–97) (order approving ISE's proposal to establish fees for a real-time depth of market data offering).

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.[14] 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–CBOE–2013–037 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–037. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–CBOE–2013–037 and should be submitted on or before May 21, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–10077 Filed 4–29–13; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13549 and #13550]

Massachusetts Disaster #MA–00054

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Massachusetts (FEMA–4110–DR), dated 04/19/2013.

Incident: Severe Winter Storm, Snowstorm, and Flooding.

Incident Period: 02/08/2013 through 02/09/2013.

Effective Date: 04/19/2013.

Physical Loan Application Deadline Date: 06/18/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 01/21/2014.

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 President's major disaster declaration on 04/19/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, Worcester.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13549B and for economic injury is 13550B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2013–10119 Filed 4–29–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13543 and # 13544]

Mississippi Disaster # MS–00066

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Mississippi dated 04/18/2013.

Incident: Severe Storms and Tornadoes.

Incident Period: 04/11/2013 through 04/12/2013.

Effective Date: 04/18/2013.

Physical Loan Application Deadline Date: 06/17/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 01/21/2014.

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: Noxubee.

Contiguous Counties:

Mississippi: Kemper, Lowndes, Oktibbeha, Winston.

Alabama: Pickens, Sumter.

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 13543 C and for economic injury is 13544 0.

The States which received an EIDL Declaration # are Mississippi, Alabama.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: April 18, 2013.

Karen G. Mills,

Administrator.

[FR Doc. 2013–10121 Filed 4–29–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8294]

Culturally Significant Object Imported for Exhibition

Determinations: ''Bronze Statue of a Boxer, Hellenistic Period''

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 object to be included in the exhibition ''Bronze Statue of a Boxer, Hellenistic Period,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Metropolitan Museum of Art, New York, NY, from on or about May 31, 2013, until on or about August 11, 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 object, 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 15, 2013.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–10139 Filed 4–29–13; 8:45 am]

BILLING CODE 4710–05–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice With Respect to List of Countries Denying Fair Market Opportunities for Government-Funded Airport Construction Projects

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Pursuant to section 533 of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. 50104), the United States Trade Representative (USTR) has determined not to list any countries as denying fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

DATES: *Effective Date:* Date of Publication.

FOR FURTHER INFORMATION CONTACT: Scott Pietan, International Procurement Negotiator, Office of the United States Trade Representative, (202) 395–9646, or Arthur Tsao, Assistant General Counsel, Office of the United States Trade Representative, (202) 395–6987.

SUPPLEMENTARY INFORMATION: Section 533 of the Airport and Airway Improvement Act of 1982, as amended by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (codified at 49 U.S.C. 50104) (''the Act''), requires the USTR to decide whether any foreign country has denied fair market opportunities to U.S. products, suppliers, or bidders in connection with airport construction projects of $500,000 or more that are funded in whole or in part by the government of such country. The list of such countries must be published in the **Federal Register**. The Office of the U.S. Trade Representative has not received any complaints or other information that indicates that U.S. products, suppliers, or bidders are being denied fair market opportunities in such airport construction projects. As a consequence, for purposes of the Act, the USTR has decided not to list any countries as denying fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

Demetrios Marantis,

Acting United States Trade Representative.

[FR Doc. 2013–10127 Filed 4–29–13; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Operations Specifications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 28, 2013, vol. 74, no. 172, page 5858. The FAA assesses the information collected and issues operations specifications to foreign air carriers. These operations specifications assure

the foreign air carrier's ability to navigate and communicate safely within the U.S. National Airspace System.

DATES: Written comments should be submitted by May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0749.

Title: Operations Specifications.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: This rule clarifies and standardizes the rules for applications by foreign air carriers and foreign persons for operations specifications issued under 14 CFR part 129 and establishes new standards for amendment, suspension and termination of those operations specifications. This final rule also applies to foreign air carriers and foreign persons operating U.S.-registered aircraft in common carriage solely outside the United States. This action was necessary to update the process for issuing operations specifications, and it establishes a regulatory basis for current practices, such as amending, terminating, and suspending operations specifications.

Respondents: Approximately 25 new applicants for operations specifications annually.

Frequency: Five FSDOs will receive approximately five applications per year.

Estimated Average Burden per Response: 3 hours.

Estimated Total Annual Burden: 75 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on April 25, 2013.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2013–10155 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group Aviation Rulemaking Committee

AGENCY: Federal Aviation Administration, Transportation.

ACTION: Notice.

SUMMARY: By **Federal Register** notice (See 77 FR 27835–27836, May 11, 2012, 77 FR 48201–48202, August 13, 2012, and 78 FR 5242–5243, January 24, 2013) the National Park Service (NPS) and the Federal Aviation Administration (FAA) invited interested persons to apply to fill one opening on the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC) to fill a vacancy representing environmental concerns due to the incumbent member's completion of a three-year term appointment on October 9, 2012. By **Federal Register** notice (See 78 FR 5242–5243, January 24, 2013) NPS and FAA also invited interested persons to apply to fill one opening on the NPOAG ARC to fill a vacancy representing commercial air tour operator interests due to the incumbent member's completion of a three-year term on May 19, 2013. This notice informs the public of the persons selected to fill these two vacancies on the NPOAG ARC.

FOR FURTHER INFORMATION CONTACT: Keith Lusk, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA 90009–2007, telephone: (310) 725–3808, email: *Keith.Lusk@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act required the establishment of the advisory group within 1 year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

In accordance with the Act, the advisory group provides ''advice, information, and recommendations to the Administrator and the Director-

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Membership

The current NPOAG ARC is made up of one member representing general aviation, three members representing the commercial air tour industry, four members representing environmental concerns, and two members representing Native American interests. Current members of the NPOAG ARC are as follows:

Heidi Williams representing general aviation; Alan Stephen, Elling Halvorson, and Matthew Zuccaro representing commercial air tour operators; Greg Miller, Kristen Brengel, and Dick Hingson representing environmental interests with one open seat; and Rory Majenty and Martin Begaye representing Native American tribes.

Selection

Selected to fill the seat representing environmental concerns is Michael Sutton who will be filling a currently open seat. Selected to represent commercial air tour operator interests is Mark Francis who will be filling incumbent Elling Halvorson's seat which expires on May 19, 2013. The term of service for NPOAG ARC

members is 3 years. Both of these terms will start on May 20, 2013.

Issued in Hawthorne, CA, on April 23, 2013.

Keith Lusk,

Special Programs Staff, Western-Pacific Region.

[FR Doc. 2013–10158 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2013–0012]

Notice of Funding Availability for the Tribal Transportation Program Safety Funds; and Request for Comments

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of funding availability; request for comments.

SUMMARY: This notice announces the availability of funding for Indian tribal governments for Tribal Transportation Program Safety Funds (TTPSF) authorized within the Tribal Transportation Program (TTP) under the Moving Ahead for Progress in the 21st Century Act (MAP–21). The FHWA will distribute these funds as described in this notice on a competitive basis in a manner consistent with the eligibilities of this program.

In addition, this notice proposes criteria FHWA will use to identify projects for funding and describes application procedures. The FHWA requests comments on the content of this notice. The FHWA will take all comments into consideration and publish a final notice of funding availability.

The FHWA will solicit grant applications through the government-wide electronic grants Web site at *http://www.grants.gov* and will publish a solicitation memo on the FHWA Web site at *http://flh.fhwa.dot.gov.*

DATES: All public comments must be received on or before May 30, 2013. Late-filed comments will be considered to the extent practicable.

The FHWA plans to conduct outreach regarding the TTPSF in the form of Webinars on May 1 at 1:00 e.t., (participants can pre-register online at: *https://www.nhi.fhwa.dot.gov/resources/webconference/web_conf_learner_reg.aspx?webconfid=26059*) and May 8 at 4:00 e.t., (participants can pre-register online at: *https://www.nhi.fhwa.dot.gov/resources/webconference/web_conf_learner_reg.aspx?webconfid=26060*). Both Webinars will be recorded and posted on FHWA's Web site at: *http://flh.fhwa.dot.gov*.

ADDRESSES: You may submit comments, identified by docket number FHWA–2013–0012, by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number FHWA–2013–0012 on your comments. All comments received will be posted, without change, to *http//www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For questions about the program discussed herein, contact Ms. Cindi Ptak by telephone at (202) 366–1586; by email at *cindi.ptak@dot.gov;* or by mail at Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:30 a.m. to 5:00 p.m. e.t., Monday through Friday, except Federal holidays. For legal questions, contact Ms. Vivian Philbin, Office of the Chief Counsel, by telephone at (720) 963–3445; by email at *vivian.philbin@dot.gov;* or by mail at Federal Highway Administration, Central Federal Lands Highway Division, 12300 West Dakota Avenue, Lakewood, CO 80228. Office hours are from 7:30 a.m. to 4:00 p.m. m.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may retrieve a copy of the notice through the Federal eRulemaking portal at: *http://www.regulations.gov.* The Web site is available 24 hours each day, every day of the year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from Office of the Federal Register's home page at: *http://www.archives.gov/federal_register* and the Government Printing Office's Web page at: *http://www.gpoaccess.gov.*

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I. Background

On July 6, 2012, President Obama signed into law MAP–21 (Pub. L. 112–141), which authorizes TTPSF as a set aside of not more than 2 percent of the funds made available under the TTP for each of Federal Fiscal Years (FY) 2013 and 2014. Section 202(e) of title 23, United States Code (U.S.C.), provides that the funds are to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal lands, as determined by the Secretary, on application of the Indian tribal governments for eligible projects described in 23 U.S.C. 148(a)(4). Eligible projects described in section 148(a)(4) include strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and correct or improve a hazardous road location or feature, or address a highway safety problem.

Section 202(e) further specifies that in applying for TTPSF, an Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program (TIP), subject to the approval of the Secretary of Transportation and the Secretary of the Interior.

II. Eligibility

A. Entities Eligible To Apply for Funding

Section 202(e) specifies that TTPSF are to be made available to Indian tribal governments. Accordingly, consistent with other FHWA funding provided to tribes, FHWA proposes that any federally recognized tribe identified on the list of ''Indian Entities Recognized and Eligible to Receive Services from the Bureau of Indian Affairs'' (published at 77 FR 47868) is eligible to apply for TTPSF.

B. Eligible Uses of Funds

Under section 202(e), projects for which Indian tribal governments may apply are highway safety improvement projects eligible under the Highway Safety Improvement Program as described in 23 U.S.C. 148(a)(4). Projects eligible for funding may include strategies, activities, or projects on a public road that are consistent with a State Strategic Highway Safety Plan (SHSP) and correct or improve a hazardous road location or feature, or address a highway safety problem.[1] This includes infrastructure and non-infrastructure strategies, activities or projects including education activities. For purposes of the TTPSF, FHWA proposes that for a project to be consistent with a State's SHSP it must be data-driven or address a priority in an applicable tribal transportation safety plan that considers the priorities and strategies addressed in the State SHSP. To be considered eligible for TTPSF, roadway or transportation facilities improvement projects also must be (1) included in the tribe's official National Tribal Transportation Facility Inventory, as identified in 23 U.S.C. 202(b)(1), and (2) listed in the TIP.

III. Selection Criteria and Policy Considerations

The FHWA proposes to award TTPSF funds based on the selection criteria and policy considerations as outlined below.

The FHWA shall give priority consideration to eligible projects under 23 U.S.C. 148(a)(4) that fall within one of the following four categories: (1) Safety planning activities; (2) engineering improvements; (3) enforcement and emergency services improvements; and (4) education programs. The priority categories were determined in consultation with the Tribal Transportation Program Coordinating Committee (TTPCC)[2] and are intended to strengthen safety planning activities in tribal transportation while also directing resources to needed safety improvements. The categories are also consistent with the FHWA SHSP for Indian Lands which has as its mission to, ''Implement effective transportation safety programs to save lives while respecting Native American culture and tradition by fostering communication, coordination, collaboration, and cooperation.''[3] These categories are also consistent with the Tribal Safety Management Implementation Plan (TSMIP). The TSMIP recognizes that, ''tribal safety plans are an essential component and an effective planning tool for prioritizing and implementing safety solutions.''[4] The TSMIP also states that ''reducing highway fatalities and serious injuries with any sustained success requires that all four elements (4E's) of highway safety be addressed—engineering, enforcement, education, and emergency services. A Tribal Safety Program, whether large or small, should work to address the 4 E's, and its foundation, data.''

The FHWA proposes to allocate the TTPSF among the four categories as follows: (1) Safety planning activities (40 percent); (2) engineering improvements (30 percent); (3) enforcement and emergency services improvements (20 percent); and (4) education programs (10 percent). These funding goals were established with the TTPCC and will be reviewed annually and may be adjusted to reflect current tribal transportation safety priorities and needs. These proposed allocation amounts provide substantial funding for tribal safety plans to reflect the strong need that has been identified in this area and to ensure that all tribes have an opportunity to assess their safety needs and prioritize safety projects. The remaining proposed allocation amounts were established based on the significant need for transportation related capital improvement projects, while still allowing for applications that would cover all 4E's of safety.

A. Safety Planning Activities (Funding Goal 40 Percent of TTPSF)

The development of a tribal safety plan that is data driven, identifies transportation safety issues, prioritizes activities, is coordinated with the State SHSP and promotes a comprehensive approach to addressing safety needs by including all 4E's is a critical step in improving highway safety. Additional information on developing a tribal safety plan can be found at: *http://flh.fhwa.dot.gov/programs/ttp/safety/.*

Accordingly, FHWA proposes to award TTPSF for developing and updating tribal safety plans, and other safety planning activities. Eligible uses of funds are described in Section II of this notice and example projects are listed in 23 U.S.C. 148(a)(4), which can be found at: *http://www.fhwa.dot.gov/map21/docs/title23usc.pdf.*

The FHWA will use the following criteria in the evaluation of TTPSF funding requests for tribal safety plans: (1) Development of a tribal safety plan where none currently exists; and (2) age and status of existing tribal safety plans. The FHWA will use the following criteria in the evaluation of TTPSF funding requests for safety planning activities: (1) Inclusion of the activity in a completed State SHSP or tribal transportation safety plan that is no more than 5 years old; (2) submission of supporting data that clearly demonstrates the need for the activity; (3) leveraging of private or other public funding; (4) extent to which the project compliments a comprehensive approach to safety and addresses elements of the 4Es.

B. Engineering Improvements (Funding Goal 30 Percent of TTPSF)

Eligible uses of funds are described in Section II of this notice and example projects are listed in 23 U.S.C. 148(a)(4) which can be found at: *http://www.fhwa.dot.gov/map21/docs/title23usc.pdf.*

The FHWA proposes to award TTPSF for engineering improvement projects. The FHWA will use the following criteria in the evaluation of funding requests for engineering improvements: (1) Inclusion of the activity in a completed State SHSP or tribal transportation safety plan that is no more than 5 years old; (2) inclusion of the activity in a completed road safety audit, engineering study, impact assessment or other engineering document; (3) submission of supporting data that clearly demonstrates the need for the project; (4) ownership of the facility; (5) leveraging of private or other public funding; (6) years since the tribe

[1] Examples of eligible HSIP projects include but are not limited to the projects set for in 23 U.S.C. 148(a)(4)(B).

[2] The TTPCC is a committee established in 25 CFR Part 170 and is charged with providing input and recommendations to the Bureau of Indian Affairs (BIA) and FHWA in developing TTP policies and procedures. Its members are appointed by the Secretary of the Interior and represent all 12 BIA Regions. Tribal consultation is described further in Section VIII of this notice.

[3] The Strategic Safety Plan of Indian Lands is available at: *http://flh.fhwa.dot.gov/programs/ttp/safety/documents/strategic-hsp.pdf.*

[4] The SMS Implementation Plan is available at: *http://flh.fhwa.dot.gov/programs/ttp/safety/documents/sms-implementation.pdf.*

has last received funding for an TTPSF engineering improvement project; (7) extent to which the project compliments a comprehensive approach to safety and addresses elements of the 4Es.

C. Enforcement and Emergency Services Improvements (Funding Goal 20 Percent of TTPSF)

Eligible uses of funds are described in Section II of this notice and example projects are listed in 23 U.S.C. 148(a)(4) which can be found at: *http://www.fhwa.dot.gov/map21/docs/title23usc.pdf.*

The FHWA proposes to award TTPSF for enforcement and emergency service projects. The FHWA will use the following criteria in the evaluation of funding requests for enforcement and emergency services improvements: (1) Inclusion of the activity in a completed State SHSP or tribal transportation safety plan that is no more than 5 years old; (2) submission of supporting data that clearly demonstrates the need for the project; (3) leveraging of private or other public funding; (4) extent to which the project compliments a comprehensive approach to safety and addresses elements of the 4Es.

D. Education Programs (Funding Goal 10 Percent of TTPSF)

Eligible uses of funds are described in Section II of this notice and example projects are listed in 23 U.S.C. 148(a)(4) which can be found at: *http://www.fhwa.dot.gov/map21/docs/title23usc.pdf.*

The FHWA proposes to award TTPSF for education projects. The FHWA will use the following criteria in the evaluation of funding requests for education projects: (1) Inclusion of the activity in a completed State SHSP or tribal transportation safety plan that is no more than 5 years old; (2) submission of supporting data that clearly demonstrates the need for the project; (3) leveraging of private or other public funding; (4) extent to which the project compliments a comprehensive approach to safety and addresses elements of the 4Es.

IV. Evaluation Process

The TTPSF grant applications will be evaluated in accordance with the below discussed evaluation process. The FHWA will establish an evaluation team to review each application received by FHWA prior to the Application Deadline. The evaluation team will be led by FHWA and will include members from the Bureau of Indian Affairs (BIA). The team will include technical and professional staff with relevant experience and expertise. The evaluation teams will be responsible for evaluating and rating all of the projects and making funding recommendations.

All proposals will be evaluated and assigned a rating of ''Highly Qualified,'' ''Qualified,'' or ''Not Qualified.'' The ratings, as defined below, are proposed within each priority funding category as follows:

1. Safety Plans and Safety Planning Activities

a. *Highly Qualified Safety Plans:* Requests (up to a maximum of $10,000.00) for development of new tribal safety plans or to update incomplete tribal safety plans and requests (up to a maximum of $5,000.00) to update existing tribal safety plans that are more than 3 years old.

b. *Qualified:* Requests for other safety planning efforts that are in a current State SHSP or tribal safety plan; have leverage with other funding and are part of a comprehensive approach including other safety efforts.

c. *Not Qualified:* Projects that do not meet the eligibility requirements; any request to update an existing tribal safety plan that is less than 3 years old; projects that are not included in a State SHSP or tribal safety plan or do not have a comprehensive approach to safety with other partners.

If the number of applications rated as ''highly qualified'' exceed the amount of available funding, FHWA intends to give priority funding consideration to requests for development of new tribal safety plans.

2. Engineering Improvements

a. *Highly Qualified:* Efforts that are in a current State SHSP or tribal safety plan; data included in the application that directly supports the project; project is in a current road safety audit, engineering study, impact assessment or other engineering study; projects located on a BIA or Tribal facility; significant leverage with other funding; the tribe has not received funding for a safety construction project in more than 10 years or the project is part of a comprehensive approach to safety which includes three or more other safety efforts.

b. *Qualified:* Efforts that are in a current State SHSP or tribal safety plan, but the plan is more than 5 years old; some data included in the application that supports the project; project is in a road safety audit, engineering study, impact assessment or other engineering study that is more than 5 years old; project is located on a transportation facility not owned by a tribe or BIA; some leveraging with other funding; the tribe has not received funding for a safety construction project in the last 10 years or the projects is part of a coordinated approach with one to two other safety efforts.

c. *Not Qualified:* Projects that do not meet the eligibility requirements; are not included in a State SHSP or tribal safety plan; no data provided in the application to support the request; are not included in a road safety audit, engineering study, impact assessment or other engineering study; have received funding for a safety construction project within the last 2 years or do not have a comprehensive approach to safety with other partners.

If the number of applications rated as ''highly qualified'' exceed the amount of available funding, FHWA intends to give priority funding consideration to those applicants that have provided sufficient data that supports the project and indicates that the project is included in a road safety audit or other engineering study that clearly identifies the improvements that are needed.

3. Enforcement and Emergency Services

a. *Highly Qualified:* Efforts that are in a current State SHSP or tribal safety plan; data included in the application that directly supports the requested project, significant leverage with other funding or are part of a comprehensive approach to safety, including three or more other safety efforts.

b. *Qualified:* Efforts that are in a current State SHSP or tribal safety plan but the plan is more than 5 years old; some data included in the application that supports the project; some leveraging with other funding or are coordinated with one to two other safety efforts.

c. *Not Qualified:* Projects that do not meet the eligibility requirements; are not included in a State SHSP or tribal safety plan; no data provided in the application that supports the request or project does not have a comprehensive approach to safety with other partners.

If the number of applications rated as ''highly qualified'' exceed the amount of available funding, FHWA intends to give priority funding consideration to those applicants that have provided sufficient data that supports the project and indicates that the project is included in an existing transportation safety plan.

4. Education Programs

a. *Highly Qualified:* Efforts that are in a current State SHSP or tribal safety plan; data included in the application that directly supports the requested project; significant leverage with other funding or are part of a comprehensive

approach to safety including three or more other safety efforts.

b. *Qualified:* Efforts that are in a current State SHSP or tribal safety plan but the plan is more than 5 years old; some data included in the application that supports the project; some leveraging with other funding or are coordinated with one to two other safety efforts.

c. *Not Qualified:* Projects that do not meet the eligibility requirements; are not included in a State SHSP or tribal safety plan; no data provided in the application that supports the request or project does not have a comprehensive approach to safety with other partners.

If the number of applications rated as ''highly qualified'' exceed the amount of available funding, FHWA intends to give priority funding consideration to those applicants that have provided sufficient data that supports the project and shown the project is included in an existing transportation safety plan.

V. Application Process

A. Contents of Applications

The FHWA proposes that applicants would include all of the information requested below in their applications. The FHWA may request any applicant to supplement the data in its application, but would encourage applicants to submit the most relevant and complete information the applicant could provide. The FHWA also would encourage applicants, to the extent practicable, to provide data and evidence of project merits in a form that is publicly available or verifiable.

A complete application would consist of: (1) The Standard Form 424 (SF 424) available from Grants.gov; and (2) the narrative attachment to the SF 424 as described below.

B. Standard Form 424, Application for Federal Assistance

Applicants should see *www.grants.gov/assets/SF424Instructions.pdf* for instructions for completing the SF 424, which is part of the standard Grants.gov submission.

C. Narrative (Attachment to SF 424)

Applicants would attach a supplemental narrative to their submission in Grants.gov to successfully complete the application process. Once completed, the applicant would include the supplemental narrative in the attachments section of the SF 424 mandatory form.

The applicant would identify in the project narrative the eligibility category under which the project identified in the application fits. The applicant also would respond to the application requirements proposed below. The FHWA proposes that the project narrative would be prepared with standard formatting preferences (e.g. a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins).

An application would include any information needed to verify that the project meets the statutory eligibility criteria as well as other information required for FHWA to assess each of the proposed criteria specified in Section V (*Selection Criteria).* Applicants would be required to demonstrate the responsiveness of their proposal to any pertinent selection criteria with the most relevant information that applicants could provide, regardless of whether such information is specifically requested, or identified, in the final notice. Applicants would provide concrete evidence of project milestones, financial capacity and commitment in order to support project readiness.

Consistent with the requirements for an eligible highway safety improvement project under 23 U.S.C. 148(a)(4), applicants would be required to describe clearly how the project would correct or improve a hazardous road location or feature or would address a highway safety problem. The application would include supporting data.

For ease of review, FHWA proposes that the project narrative generally adhere to the following basic outline, and include a table of contents, project abstract, maps and graphics:

1. *Project Abstract:* Describe project work that would be completed under the project, the hazardous road location or feature or the highway safety problem that the project would address, and whether the project is a complete project or part of a larger project with prior investment. (Maximum five sentences.) The project abstract would succinctly describe how this specific request for TTPSF would be used to complete the project.

2. *Project Description:* (Including information on the expected users of the project, a description of the hazardous road location or feature or the highway safety problem that the project would address, and how the project would address these challenges);

3. Applicant information and coordination with other entities (identification of the Indian tribal government applying for TTPSF, description of cooperation with other entities in selecting projects from the TIP as required under 23 U.S.C. 202(e)(2), information regarding any other entities involved in the project));

4. Grant Funds and Sources/Uses of Project Funds (information about the amount of grant funding requested for the project, availability/commitment of funds sources and uses of all project funds, total project costs, percentage of project costs that would be paid for with the TTPSF, and the identity and percentage shares of all parties providing funds for the project (including Federal funds provided under other programs));

5. A description of how the proposal meets the Selection Criteria identified in Section III (*Selection Criteria and Policy Considerations*) and the statutory eligibility criteria as described in Section II (*Eligibility*).

D. Contact Information

The applicant would include contact information requested as part of the SF–424. The FHWA would use this information if additional application information is needed or to inform parties of FHWA's decision regarding selection of projects. Contact information would be provided for a direct employee of the lead applicant. Contact information for a contractor, agent, or consultant of the lead applicant is insufficient for FHWA's purposes.

E. Additional Information on Applying Through Grants.gov

Applications for TTPSF would be submitted through Grants.gov. To apply for funding through Grants.gov, applicants must be properly registered. Complete instructions on how to register and apply can be found at *www.grants.gov.* If interested parties experience difficulties at any point during registration or application process, they should call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday-Friday from 7:00 a.m. to 9:00 p.m. e.t.

Registering with Grants.gov is a one-time process; however, processing delays may occur and it can take up to several weeks for first-time registrants to receive confirmation and a user password. Accordingly, FHWA highly recommends that potential applicants start the registration process as early as possible to prevent delays that may preclude submitting an application by the deadlines specified. Applications will not be accepted after the relevant due date; delayed registration is not an acceptable reason for extensions. In order to apply for TTPSF under this announcement and to apply for funding through Grants.gov, all applicants are required to complete the following:

1. Acquire a DUNS Number. A DUNS number is required for Grants.gov

registration. The Office of Management and Budget requires that all applicants for Federal funds include a DUNS (Data Universal Numbering System) number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and sub-recipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity that can be completed by calling 1–866–705–5711 or by applying online at *http://fedgov.dnb.com/webform.*

2. Acquire or Renew Registration with the CCR Database. All applicants for Federal financial assistance maintain current registrations in the Central Contractor Registration (CCR) database. An applicant must be registered in the CCR to successfully register in Grants.gov. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients, and sub-recipients. Entities that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Please note, however, that applicants must update or renew their CCR registration at least once per year to maintain an active status, so it is critical to check registration status well in advance of relevant application deadlines. Information about CCR registration procedures can be accessed at: *https://www.sam.gov/portal/public/SAM/.*

3. Acquire an Authorized Organization Representative (AOR) and a Grants.gov Username and Password. Applicants will need to complete an AOR profile on Grants.gov and create a username and password. The assigned DUNS Number is required to complete this step. For more information about the registration process, go to: *www.grants.gov/applicants/get_registered.jsp.*

4. Acquire Authorization for the AOR from the E-Business Point of Contact (E-Biz POC). The E-Biz POC for the tribe must log in to Grants.gov to confirm the applicant as an AOR. Please note that there can be more than one AOR for your tribe.

5. Search for the Funding Opportunity on Grants.gov. Applicants would use the Catalog of Federal Domestic Assistance number for this solicitation is 20.205, titled Highway Planning and Construction, when searching for the TTPSF opportunity on Grants.gov.

6. Submit an Application Addressing All of the Requirements Outlined in this Funding Availability Announcement. Within 24 to 48 hours after submitting an electronic application, applicants should receive an email validation message from Grants.gov. The validation message will specify whether the application has been received and validated or rejected, with an explanation. Applicants are encouraged to submit applications at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

Note: When uploading attachments, applicants should use generally accepted formats such as .pdf, .doc, and .xls. While applicants may imbed picture files such as .jpg, .gif, .bmp, in your files, they should not save and submit the attachment in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

F. Experiencing Unforeseen Grants.gov Technical Issues

If an applicant experiences unforeseen Grants.gov technical issues beyond its control that prevent the submission of an application by the established deadline, such applicant must contact Grants.gov.

To ensure a fair competition for limited TTPSF, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline date; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Web site; (3) failure to follow all of the instructions in the funding availability notice; and (4) technical issues experienced with the applicant's computer or information technology environment.

VI. Program Funding and Award

Section 1101 of MAP–21 authorized $450,000,000 for the TTP for each of FY 2013 and 2014. Section 1119 of MAP–21 amends 23 U.S.C. 202(e) to provide that not more than 2 percent of such funds made available for the TTP may be allocated for TTPSF. Accordingly, FHWA expects that a maximum of $9,000,000 could be made available in each of FYs 2013 and 2014 for TTPSF. The FHWA anticipates high demand for this limited amount of funding and encourages applications for modest-sized, scalable requests that allow more tribes to receive funding.

VII. Request for Comments

Because this is a new category of funding under the TTP and a broad range of eligible activities will be considered, this notice invites interested parties to submit comments about FHWA's implementation of the TTPSF. Interested parties can provide comments on any aspect of FHWA's implementation of the changes required by MAP–21. The FHWA will consider these comments and publish a final notice of funding availability.

VIII. Consultation Process

The DOT issued Order 5301.1, ''Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes'' on November 16, 1999. This Order affirmed the DOT's and its Modal Administrations' unique legal relationship with Indian tribes, established DOT's consultation and coordination process with Indian tribes for any action that may significantly or uniquely affect them, and listed goals for Modal Administrations to meet when carrying out policies, programs, and activities affecting American Indians, Alaska Natives, and tribes. The Department affirms its commitment to these principles, and those set forth in Executive Order 13175 and the President's November 5, 2009, memorandum in establishing the DOT Consultation Plan dated March 4, 2010, and found at: *http://www.dot.gov/sites/dot.dev/files/docs/Tribal%20Consultation%20Plan.pdf*

In furtherance of these documents pertaining to consultation, FHWA informally consulted with the TPPCC in categorizing the eligible activities and determining funding priorities as described herein. In addition to soliciting comments on this notice, FHWA expects to provide other outreach opportunities with tribes through webinars in advance of publication of a final notice of funding availability.

Authority: Section 1119 of Pub. L. 112–141; 23 U.S.C. 202(e).

Issued on: April 19, 2013.

Victor M. Mendez,

Federal Highway Administrator.

[FR Doc. 2013–10100 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0037]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 235 of Title 49 Code of Federal Regulations and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated March 26, 2013, the Western New York & Pennsylvania Railroad, LLC (WNYP) has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2013–0037.

Applicant: Western New York & Pennsylvania Railroad, LLC, Mr. Carl P. Belke, President and Chief Operating Officer, 3146 Constitution Avenue, Olean, New York 14760.

WNYP seeks approval of the proposed discontinuance of the remaining automatic block signal, interlocking, and traffic control system from Control Point (CP) South Olean at Milepost (MP) BR73.0 up to and including CP North Olean at MP BR66.49 on WNYP's Buffalo Line, as well as on WNYP's Main Line from MP JC–393 to MP JC–397.86, which crosses the Buffalo Line at grade at CP Olean in Olean, NY. All power-operated switches in the application area will be converted to hand operation. Operation will be governed by the General Code of Operating Rules track warrant control limit rules, using a computer-aided dispatching system.

In its petition, WNYP states that it requests the proposed changes due to the reduction in train service activity and a need to eliminate unused and unnecessary track and track appurtenances.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax*: 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by June 14, 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 24, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–10076 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0038]

Petition for a 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 February 24, 2013, the Naugatuck Railroad (NAUG) 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 240, Qualification and Certification of Locomotive Engineers. FRA assigned the petition Docket Number FRA–2013–0038.

Specifically, NAUG seeks a waiver of compliance from 49 CFR 240.201(d), which provides that only certified persons may operate a locomotive in any class of locomotive or train service, in order to operate an ''engineer-for-an-hour'' (EFH) program. NAUG is a wholly owned subsidiary of the Railroad Museum of New England, Inc. (Museum), and the EFH program is in support of funding the educational mission of the Museum. NAUG is a Class III shortline railroad that operates and controls the Torrington Secondary line, which is owned by the State of Connecticut, and leased to the railroad. The line extends approximately 20 miles between Waterbury, Connecticut; and Torrington, Connecticut.

In its petition, NAUG proposes to conduct the EFH program between Milepost (MP) 4.5 in Watertown, Connecticut; and MP 17.5 in Torrington, Connecticut. There are no public highway-rail grade crossings between these two locations. NAUG proposes to operate the EFH program under the following conditions and controls: (1) NAUG will use a positive blocking system (pursuant to the Northeast Operating Rules Advisory Committee Form D Control System rules) to ensure only EFH operations can be operated over a given segment of track, during daylight hours only; (2) NAUG will verify that each participant in the EFH program is in possession of a valid State-issued motor vehicle license; (3) NAUG will evaluate each participant in the EFH program for his or her visual fitness to operate the locomotive with respect to obvious signs of alcohol or drug use; and (4) NAUG will ensure that a certified locomotive engineer is in the locomotive cab at all times.

NAUG also states in its petition that a qualified and certified locomotive engineer will conduct a job briefing with each participant in the EFH program to ensure that all parties know and understand the movement that will be made and each individual's responsibilities in the proposed movements. NAUG proposes to limit the EFH train size to one locomotive and not more than three cars. No revenue passengers or members of the public will be on board during EFH rail operations. NAUG asserts that if FRA were to grant this waiver, it will enable NAUG to generate funds for the Museum to support its goals of refurbishing antique railroad equipment and educating the public about railroad history and operations. NAUG does not believe that the EFH operations will

pose any safety concerns to the public at large.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within May 30, 2013 of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as 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 24, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–10067 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0034]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated March 11, 2013, the Charlotte Southern Railroad (CHS) 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–2013–0034.

CHS has requested a waiver of compliance from the glazing requirements set forth in 49 CFR 223.11 and 223.15 for one locomotive, two cars, and one equipment/generator car. Specifically, CHS seeks a waiver of compliance for Locomotive CHS 3 constructed in 1956, Butternut Creek #5206 constructed in 1937, Battle Creek #2502 constructed in 1955, and Power Car #5874 constructed in 1949.

CHS operates on approximately 3½ miles of track, and the majority of its operations are through rural or lightly populated areas. In its petition, CHS states that the existing glazing in its locomotive, cars, and equipment/generator car, is in good condition and has no history of glazing-related accidents or injuries.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by June 14, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as is practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on April 24, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–10068 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0033]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated March 11, 2013, the Adrian & Blissfield Rail Road Company (ADBF) 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–2013–0033.

ADBF has petitioned FRA for a waiver for compliance from the glazing requirements set forth in 49 CFR 223.15 for the following equipment: The Raisin River #5197, which was constructed in 1937; the Columbia River, which was constructed in 1949; and the Watts Creek Power Car, which was constructed in the 1950s.

ADBF operates on approximately 20 miles of track between Blissfield and Adrian, MI. The majority of ADBF's operations are through rural or lightly populated areas.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by June 14, 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 24, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–10069 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0007]

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 18, 2013, the Illinois Central Railroad (ICR) 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 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. FRA assigned the petition Docket Number FRA–2013–0007.

Specifically, ICR seeks a waiver of compliance from 49 CFR 232.207, Class IA brake tests—1,000-mile inspection. ICR currently operates a total of five cycle trains and requests to extend the required mileage interval of the Class 1A brake tests of said trains from 1,000 miles to 1,323 miles. ICR acknowledges that the subject trains currently operate as extended-haul trains and that the distance between any two inspections can be 1,500 miles. ICR states that it seems logical that if a train is safe to travel 1,500 miles under the extended-haul provisions, then there is no apparent danger in operating the trains as cycle trains for 1,323 miles between Class IA brake tests. In addition, ICR would enhance inspection quality by replacing the qualified person (transportation employee) with a qualified mechanical inspector (carman) during the Class 1A inspections.

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 June 14, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as is practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on April 24, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–10072 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0030]

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 February 14, 2013, the BNSF Railway Company (BNSF) and the Union Pacific Railroad (UP) have jointly 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 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. FRA assigned the petition Docket Number FRA–2013–0030.

Specifically, BNSF and UP seek a waiver of compliance from 49 CFR 232.305(b)(2) for railroad cars tested with automatic single car test devices (ASCTD). The current rule stipulates that if a car is on a shop or repair track for any reason and has not had a single car air brake test within the previous 12-month period, a single car air brake test must be performed. In their petition, UP and BNSF state that when this requirement became effective, the new ASCTDs were not in widespread use. BNSF and UP further state that sufficient time has passed, and enough industry experience has been gained, to establish the advance in testing technology that the ASCTD has over the old manual device. Comparisons of the manual versus the automated testers made by BNSF and UP show an improvement of 11.5 percent in solving air brake-related issues. BNSF and UP submitted additional data to support their waiver petition, which has been placed in the subject docket.

BNSF and UP request that relief be granted to railroad cars tested within the previous 2 years, if shopped for any non-air brake-related reason on a shop or repair track, as set forth in 49 CFR 232.305(b). BNSF and UP propose a test waiver where all cars tested with the ASCTDs will be tracked through the Association of American Railroads' billing records for repeat air brake repairs within the 2-year period from the last single car air brake test performed with an ASCTD. Additionally, BNSF and UP will scan data from the wheel impact load and hot/cold wheel detector reports to see if the test cars develop any detector exceptions within the 2-year time period from the last single car air brake test performed with an ASCTD. BNSF and UP suggest that every 6 months, FRA, BNSF, and UP should hold a conference to review the data. BNSF and UP believe that data from this test waiver will demonstrate the effectiveness of the ASCTDs.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by June 14, 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 24, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–10070 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2012–0054]

Petition for Amending Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January 24, 2013, the National Railroad Passenger Corporation (Amtrak) has petitioned the Federal Railroad Administration (FRA) for an amendment of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 242, Conductor Certification, in Docket Number FRA–2012–0054. On January 15, 2013, FRA granted Amtrak a waiver of compliance from 49 CFR 242.403(b), (c)(1)–(3), (d), (e)(1)–(4), (e)(6)–(11), and (f)(1)–(2). The relief granted to Amtrak was contingent on its continued participation in the Confidential Close Call Reporting System (C3RS) pilot project.

Amtrak, the Brotherhood of Locomotive Engineers and Trainmen, and the United Transportation Union seek to shield the reporting employees and the railroad from punitive sanctions that would otherwise arise as provided in selected sections of 49 CFR 242.403 to encourage conductor reporting of close calls, and to protect conductors and Amtrak from discipline or sanctions arising from the incidents reported pursuant to the Implementing Memorandum of Understanding (IMOU).

The proposed amendment extends the boundaries of inclusion under Article 3 of the IMOU to all Amtrak-owned or -controlled properties nationwide. The added locations include the Northeast Corridor (all main track operations); the Hudson Line; the Michigan Line in New Orleans, LA; and yards and facilities owned by Amtrak connected to other carriers' tracks.

Further, the amendment proposes changing the applicability parameters under Article 3.1 of the Amtrak IMOU, affording C3RS protection to NJ Transit train and engine service employees working in Sunnyside Yard.

Finally, the amendment proposes amending Article 6.4 of the Amtrak IMOU pertaining to special additional criteria for close call event reporting to allow coverage for events involving damage or derailment below the FRA monetary reporting threshold.

Amtrak's C3RS pilot project was initially approved by FRA on May 11, 2010. In Docket Number FRA–2010–0152, Amtrak requested and was granted a waiver of compliance from certain provisions of 49 CFR Part 240, Qualification and Certification of Locomotive Engineers, to support its C3RS pilot project.

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. If you do not have access to the Internet, please contact FRA's Docket Clerk at 202–493–6030 who will provide necessary information concerning the contents of the petition.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within May 20, 2013 of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as 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 24, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–10075 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0032]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated March 21, 2013, New York, Susquehanna and Western Railway (NYSW) 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 231, Railroad Safety Appliance Standards. FRA assigned the petition Docket Number FRA–2013–0032.

NYSW has petitioned FRA for a waiver to operate RailRunner equipment in its service between Syracuse, NY, and North Bergen, NJ. Specifically, NYSW seeks a waiver of compliance from certain provisions of 49 CFR Part 231, which stipulates the number, location, and dimensions for handholds, ladders, sill steps, uncoupling levers, and hand brakes. NYSW also seeks relief from 49 CFR 231.1, which sets forth the standard height for drawbars.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by June 14, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as is practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 10, 2013 (65 FR 19477).

Issued in Washington, DC, on April 24, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations

[FR Doc. 2013–10073 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0035]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated March 11, 2013, the Lapeer Industrial Railroad Company (LIRR) 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–2013–0035.

LIRR has petitioned FRA for a waiver of compliance from the glazing requirements set forth in 49 CFR 223.11 for its locomotive LIRR 5, which was constructed by General Electric in 1950.

LIRR operates on approximately 1.5 miles of track, and the majority of its operations are through rural or lightly populated areas. In its petition, LIRR states that the existing glazing in its locomotive is in good condition, and it has no history of glazing-related accidents or injuries.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by June 14, 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 24, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–10074 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Policy Clarification Concerning Designation of Adjacent Coastal States for Deepwater Port License Applications

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of policy clarification.

SUMMARY: The Maritime Administration (''MarAd'') is providing this notice to clarify its policy on the unit of distance measurement to apply when designating Adjacent Coastal States (''ACS'') under the agency's Deepwater Ports licensing program.

FOR FURTHER INFORMATION CONTACT: Ms. Yvette Fields, Director of the Office of Deepwater Ports and Offshore Activity, Maritime Administration, Room W21–309, 1200 New Jersey Ave. SE., Washington, DC 20590; *Yvette.Fields@dot.gov*; phone (202) 366–0926.

SUPPLEMENTARY INFORMATION: MarAd has reviewed policies and practices with regard to the designation of ACS in the deepwater port application licensing process. In past applications and public notices, MarAd found inconsistency in the use of units of distance to describe the distance between proposed deepwater ports and ACS.

Under 33 U.S.C. 1508(a)(1), when issuing a Notice of Application, MarAd, as delegated by the Secretary of Transportation, shall designate as an ACS ''any coastal State which (A) would be directly connected by pipeline to a deepwater port as proposed in an application, or (B) would be located within 15 miles of any such proposed deepwater port.'' In general, in its publications, MarAd adopted the units of measurement provided by the deepwater port license applicants in their descriptions of proposed deepwater ports. At different times, MarAd used statute miles (approximately 0.87 nautical miles) or nautical miles (approximately 1.15 statute miles) to describe the location of deepwater ports in its publications.

Due to the configuration and physical location of proposed deepwater port projects in prior applications, the use of either statute or nautical miles did not impact the designation of ACS, since those projects were either connected to the ACS directly by pipeline, or were within both 15 statute and 15 nautical miles from those states. As a result, MarAd was not required to clarify which unit of measurement is the appropriate distance standard to apply when designating an ACS in Notices of Application. However, for proposed port locations where the chosen distance standard is significant to the designation of ACS (applications where the port location falls beyond 15 statute miles but within 15 nautical miles of a potential ACS), clarification of the distance standard is necessary. For the sake of clarity in such instances, MarAd is issuing this Final Notice of Policy Clarification that nautical miles shall be applied when designating ACS under 33 U.S.C. 1508(a)(1).

The Deepwater Port Act (''DWPA'' or the ''Act'') (33 U.S.C. 1501 *et seq.*) authorizes the Secretary of Transportation to issue licenses for the construction and operation of deepwater ports.[1] A deepwater port is defined in Section 1502 of the Act as ''any fixed or floating manmade structure other than a vessel, or any group of such structures, that are located beyond State seaward boundaries and that are used or intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to any State * * *.''[2] Deepwater ports include ''all components and equipment, including pipelines…to the extent they are located seaward of the high water mark.''[3] The DWPA provides for a mandatory designation of State(s) as ''Adjacent Coastal State(s)'' (''ACS'') if certain criteria are met. Those criteria are: (1) If the ACS would be ''directly connected by pipeline to a deepwater port,'' or (2) ''would be located within 15 miles of

[1] The Secretary of Transportation delegated to the Maritime Administrator the authority to ''issue, transfer, amend, or reinstate a license for the construction and operation of a deepwater port.'' 49 CFR 1.93(h)(1).

[2] 33 U.S.C. 1502(9)(A).

[3] *Id.* Sec. 1502(9)(B).

any such proposed deepwater port.''[4] The DWPA does not specify whether the 15 mile geographical limit for the automatic designation of an ACS should be measured in statute miles[5] or nautical miles.[6]

Congress did not specify how the 15 mile distance should be measured. Nevertheless, an examination of the entire statute and legislative history leads to the conclusion that Congress intended that for these purposes, where units of distance measurement are not specified as statute miles or nautical miles, those units of measurement should be read in terms of generally accepted nautical standards (i.e., nautical miles).

In enacting the DWPA, Congress declared its purpose to be, among other things, to: ''(1) authorize and regulate the location, ownership, construction, and operation of deepwater ports in waters beyond the territorial limits of the United States; [and] (2) provide for the protection of the marine and coastal environment to prevent or minimize any adverse impact which might occur as a consequence of the development of such ports.''[7] The Act defines the term ''coastal environment'' in relevant part as: ''the navigable waters (including the lands therein and thereunder) and the adjacent shorelines (including waters therein and thereunder).[8] The term ''marine environment'' is defined as including: ''the coastal environment, waters of the contiguous zone, and waters of the high seas''.[9]

The DWPA does not provide further definition of the terms ''territorial limits'', ''navigable waters (including the lands therein and thereunder)'', or ''contiguous zone.'' However, these jurisdictional boundaries have well accepted meanings both in international law and United States law, and help clarify how the 15 mile jurisdictional area for automatic designation of an ACS should be measured. Article 1 of the Convention on the Territorial Sea and the Contiguous Zone establishes that a Coastal State's sovereignty extends ''beyond its land territory and internal waters, to a belt of sea adjacent to its coast, described as a territorial sea.''[10] Article 24 of the treaty also establishes that a Coastal State may exercise certain authorities in a ''zone of the high seas contiguous to its territorial sea * * *.''[11] For purposes of the Treaty, both the Territorial Sea and the Contiguous Zone are measured from the ''baseline,'' normally the mean low water line along the coast of the United States. The United Nations Convention on the Law of the Sea (''UNCLOS'') further clarifies the breadth of a Coastal State's jurisdiction in its Territorial Sea and Contiguous Zone by establishing a seaward limit of ''12 nautical miles'' and ''24 nautical miles'' respectively.[12] Although the United States has not ratified UNCLOS, it has adopted the jurisdictional areas referenced in UNCLOS. In establishing its territorial limits, the U.S. has uniformly applied the international standard and used nautical miles as the unit of measurement.[13]

The Submerged Lands Act (''SLA'') was enacted in 1953.[14] Its purpose was to ''confirm and establish the titles of the States to lands beneath navigable waters within State boundaries and to the natural resources within such lands and waters, to provide for the use and control of said lands and resources, and to confirm the jurisdiction and control of the United States over the natural resources of the seabed of the Continental Shelf seaward of State boundaries.''[15] The SLA defines the term ''boundaries'' in relevant part to include: ''the seaward boundaries of a State* * *but in no event shall the term 'boundaries' be interpreted as extending from the coast line more than three geographical miles into the Atlantic Ocean or the Pacific Ocean, or more than three marine leagues into the Gulf of Mexico.''[16] The SLA also provides that ''[t]he seaward boundary of each original coastal State is hereby approved and confirmed as a line three geographical miles distant from its coast line * * *.''[17] In the case of *United States* v. *California*,[18] the Supreme Court considered the extent of submerged lands granted to the State of California by the SLA. After reviewing the SLA and its legislative history, the court concluded that the SLA ''effectively grants each State on the Pacific coast all submerged lands shoreward of a line three geographical miles from its coast line * * *.''[19] The Court further explained that ''one English, statute, or land mile equals approximately 0.87 geographical, marine, or nautical mile. The conventional '3-mile limit' under international law refers to three geographical miles, or approximately 3.45 land miles.''[20]

In defining the term ''coastal environment'', the DWPA explicitly refers to ''navigable waters (including the lands therein and thereunder).''[21] This definition is similar to what is found in the SLA's statement of purpose (''lands beneath navigable waters within State boundaries''[22]). As noted above, the SLA confers upon States possession of title to, and ownership of the ''lands beneath navigable waters within [their] boundaries,''[23] and applies geographical (nautical) miles for that purpose.

The legislative history of the DWPA reveals that Congress viewed ACS status as a jurisdictional issue. For example, in the Conference Report to the DWPA, the State's role in approving a deepwater port is discussed in terms of the three-mile limit which is measured in nautical miles. Congress recognized that ''under the Submerged Lands Act * * *, the States have either exclusive or concurrent authority with the Federal government over most activities within the 3-mile limit,''[24] which is measured in geographical (nautical) miles. Moreover, the Senate Report noted, a coastal State's jurisdiction would normally end at the State's three-nautical mile seaward boundary and the State would have no authority over offshore activity beyond that point.

Consistent with Congress' view of ACS status as a jurisdictional issue, the use of nautical miles to determine ACS status allows for an extension of the State's jurisdiction to be measured consistently with the measures of jurisdiction required by law. Absent this interpretation, a State's jurisdiction that is measured in nautical miles would then subsequently be extended by Congress under a different unit of measurement.

[4] *Id.* Sec. 1502(1)(A–B). The Act also provides for a permissive designation of an ACS if, upon petition and provision of evidence, the Maritime Administrator determines that ''there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State directly connected by pipeline to the proposed deepwater port.'' 33 U.S.C. 1508(a)(2).

[5] One statute mile equals 5,280 feet.

[6] One nautical mile equals 6,076 feet.

[7] 33 U.S.C. 1501(a)(1–2).

[8] *Id.* Sec. 1502(5).

[9] *Id.* Sec. 1502(12).

[10] 15 U.S.T. 1606 (U.S. Treaty). This treaty was ratified by the United States on March 24, 1961, and entered into force on September 10, 1964.

[11] *Id.*

[12] United Nations Convention on the Law of the Sea, Art. 2–3, Art. 33, Dec. 10, 1982, 1833 U.N.T.S. 397.

[13] *See, e.g.,* Proclamation No. 5928, 54 FR 777 (Dec. 27, 1988) (''The territorial sea of the United States henceforth extends to 12 nautical miles from the baselines of the United States determined in accordance with international law.'')

[14] 67 Stat. 29.

[15] *Id.*

[16] 43 U.S.C. 1301(b).

[17] *Id.* § 1312.

[18] *U.S.* v. *California,* 381 U.S. 139(1965).

[19] 381 U.S.C. at 148.

[20] *Id.* at Fn. 8.

[21] *See supra* Fn. 16.

[22] 67 Stat. 29.

[23] *Id.*

[24] 1974 U.S.C.C.A.N. 7529, 7538.

In addition to the legislative history, the regulatory history of the Deepwater Ports program provides further support for interpreting the DWPA to apply nautical miles to ACS designations. The original Final Rule in 33 CFR part 148 published on November 10, 1975, defined mile for the purposes of the regulations as a nautical mile.[25] Although the definition for ''mile'' was subsequently removed in a May 20, 2003 Notice of Proposed Rulemaking and did not appear in the Final Rule published on September 29, 2006, 33 CFR part 2 indicates that nautical miles are the appropriate units of measurement to be employed for determining United States Coast Guard jurisdictional definitions where such jurisdictional definitions are not otherwise provided.[26]

Discussion of Comments

MarAd published a Notice of Proposed Policy Clarification on Tuesday, March 5, 2013 (78 FR 14411). Interested persons were invited to submit comments on the proposed policy clarification by April 4, 2013. MarAd received one comment. The comment and MarAd's response is set forth in the following paragraph.

Clean Ocean Action, a coalition of diverse groups interested in improving the water quality of the New Jersey and New York coastal marine environment offered their support of the agency's analysis stating,

> Clearly, the MARAD analysis of the Congressional Record, international law, and related domestic U.S. law properly led to the conclusion that ''miles'', for the purposes of Deepwater Ports, means nautical miles.

MarAd values Clean Ocean Action's input.

Accordingly, as a result of its interpretation of the DWPA, its legislative history, and implementing regulations, MarAd will apply nautical miles when designating ACS in future Notices of Application under 33 U.S.C. 1508(a)(1).

Authority: 33 U.S.C. 1501, *et seq.;* 49 CFR 1.93(h)(1).

Dated: April 24, 2013.

By Order of the Maritime Administrator.

Julie Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–10080 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–81–P

[25] 40 FR 52554 (Nov. 10, 1975).

[26] See 33 CFR 2.1(a) (''The purpose of this part is to define terms the Coast Guard uses in regulations, policies, and procedures, to determine whether it has jurisdiction on certain waters where specific jurisdictional definitions are not otherwise provided.'')

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0002]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period was published on January 11, 2013.

DATES: Comments must be received on or before May 30, 2013.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street NW., Washington, DC 20503, Attention: NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Mike Joyce, NHTSA, 1200 New Jersey Avenue SE., W52–238, NPO–520, Washington, DC 20590. Mr. Joyce's telephone number is (202) 366–5600 and email address is *mike.joyce@dot.gov.*

Docket: For access to the docket to read background documents, go to *http://www.regulations.gov,* or the street address listed above. Follow the online instructions for accessing the dockets.

SUPPLEMENTARY INFORMATION: In compliance with the Paperwork Reduction Act of 1995, NHTSA previously opened a docket for a 60-day comment period. Based upon comment to the docket, NHTSA modified its research plan. This notice announces that the ICR abstracted below has been forwarded to OMB for review and comment. The ICR describes the nature of the information collection and the expected burden. This is a request for new collection.

Title: Advanced Crash Avoidance Technologies Consumer Research.

OMB Control Number: 2127–XXXX.

Form Number: None.

Type of Request: New collection.

Affected Public: For the focus group phase of this collection, NHTSA plans to conduct a total of 9 focus groups, each lasting approximately two hours. In each group, 8 participants will be seated. Therefore, a total of 72 people will participate in the group sessions. For recruiting of these participants, however, a total of 108 potential participants (12 per group) will be recruited via telephone screening calls, which are estimated to take 10 minutes per call. Based on experience, it is prudent to recruit up to 12 people per group in order to ensure at least 8 will appear at the focus group facility at the appointed time.

Thus, the total burden per person actually participating in this focus group phase of research is estimated to be 130 minutes (10 minutes for the screening/recruiting telephone call plus 120 minutes in the focus group discussion session). Additionally, the total burden per person recruited (but not participating in the discussions) is 10 minutes. Therefore, the total annual estimated burden imposed by this portion of the collection is approximately 162 hours.

NHTSA also plans to conduct eight 30-minute dealer interviews. Accounting for recruiting and interviewing time, the total annual estimated burden imposed by this portion of the collection is approximately 8 hours.

In total, the annual estimated burden imposed by this collection of information is approximately 170 hours.

Estimated Total Annual Burden: 170 hours.

Number of Respondents: 80.

Abstract: The National Highway Traffic Safety Administration (NHTSA) was established by the Highway Safety Act of 1970 (23 U.S.C. 101) to carry out a Congressional mandate to reduce the mounting number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. In support of this mission, NHTSA proposes to conduct a limited number of focus group sessions and in-

depth interviews with members of the general public to help inform future revisions to the Monroney label and guide the development of a consumer education program. In addition, this consumer research will help to ensure that various advanced crash avoidance technologies the agency promotes are important and usable to consumers, and the information provided leads to consumer understanding of the benefits of these technologies.

In this collection of information, NHTSA is seeking approval to conduct qualitative consumer research and in-depth interviews to test consumer familiarity and understanding of advanced crash avoidance technology systems so that labeling and consumer materials will help consumers make informed vehicle purchase decisions. Specifically, this research will be guided by the following objectives:

(i) Explore consumer familiarity with and understanding of advanced crash avoidance technologies;

(ii) Explore potential nomenclature and rating systems that can be used to communicate information about advanced crash avoidance technologies;

(iii) Guide considerations for design modifications of current New Car Assessment Program Government 5-Star Safety Ratings label to include information about advanced crash avoidance technologies;

(iv) Guide the development of a consumer information program to improve awareness and understanding of advanced crash avoidance technologies.

On January 11, 2013, NHTSA published the 60-day notice requesting public comment on the proposed collection of information to the **Federal Register** on January 11, 2013. One comment was received from Agero, Inc, which expressed support for this research plan. Specifically, Agero requested NHTSA explore technologies such as advanced automatic crash notification and other technologies to determine how best to provide consumers with meaningful, useful information. They have also requested exploring standard nomenclature, communication channels and the potential impact that including technologies on the Monroney Label has on a consumer's likelihood to seek more information—all of which are goals for the focus group research.

Requested Expiration Date of Approval: Three years from approval date.

Gregory A. Walter,

Senior Associate Administrator, Policy and Operations.

[FR Doc. 2013–10126 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research & Innovative Technology Administration

[Docket ID Number RITA 2008–0002]

Agency Information Collection; Activity Under OMB Review; Preservation of Air carrier Records

AGENCY: Research & Innovative Technology Administration (RITA), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 13, 2013 (74 FR 59018). No comments were received.

DATES: Written comments should be submitted by May 30, 2013.

FOR FURTHER INFORMATION CONTACT: Jeff Gorham, Office of Airline Information, RTS–42, Room E34–414, RITA, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–4406, Fax Number (202) 366–3383 or EMAIL *jeff.gorham@dot.gov*.

Comments: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street NW., Washington, DC 20503, Attention: RITA/BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0006

Title: Preservation of Air carrier Records—14 CFR Part 249

Form No.: None.

Type of Review: Extension of a currently approved collection

Respondents: Certificated air carriers and charter operators

Number of Respondents: 90 certificated air carriers and 300 charter operators.

Estimated Time per Response: 3 hours per certificated air carrier; 1 hour per charter operator.

Total Annual Burden: 570 hours.

Needs and Uses: Part 249 requires the retention of records such as: general and subsidiary ledgers, journals and journal vouchers, voucher distribution registers, accounts receivable and payable journals and legers, subsidy records documenting underlying financial and statistical reports to DOT, funds reports, consumer records, sales reports, auditors' and flight coupons, air waybills, etc. Depending on the nature of the document, the carrier may be required to retain the document for a period of 30 days to 3 years. Public charter operators and overseas military personnel charter operators must retain documents which evidence or reflect deposits made by each charter participant and commissions received by, paid to, or deducted by travel agents, and all statements, invoices, bills and receipts from suppliers or furnishers of goods and services in connection with the tour or charter. These records are retained for 6 months after completion of the charter program.

Not only is it imperative that carriers and charter operators retain source documentation, but it is critical that we ensure that DOT has access to these records. Given DOT's established information needs for such reports, the underlying support documentation must be retained for a reasonable period of time. Absent the retention requirements, the support for such reports may or may not exist for audit/validation purposes and the relevance and usefulness of the carrier submissions would be impaired, since the data could not be verified to the source on a test basis.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 USC 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Comments are invited on: Whether the proposed record retention requirements are necessary for the proper performance of the functions of the Department. Comments should

address whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on April 23, 2013.

William Chadwick Jr.,

Director, Office of Airline Information.

[FR Doc. 2013–10113 Filed 4–29–13; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2013–0005]

Proposed Guidance on Deposit Advance Products; Withdrawal of Proposed Guidance on Deposit-Related Consumer Credit Products

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Proposed guidance with request for comment; withdrawal of proposed Guidance on Deposit-Related Consumer Credit Products.

SUMMARY: The OCC is proposing guidance on safe and sound banking practices and consumer protection in connection with deposit advance products. The OCC is also withdrawing its proposed guidance on Deposit-Related Consumer Credit Products published on June 8, 2011.

DATES: Comments must be submitted on or before May 30, 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. Please use the title ''Guidance on Deposit Advance Products'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Email: regs.comments@occ.treas.gov.*
- *Mail:* 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.
- *Hand Delivery/Courier:* 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2013–0005'' in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. 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.

You may review comments and other related materials that pertain to this notice by any of the following methods:

- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC. 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.
- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT: Robert Piepergerdes, Director for Retail Credit Risk, (202) 649–6220; Kimberly Hebb, Director for Compliance Policy, (202) 649–5470; Kenneth Lennon, Assistant Director for Community and Consumer Law, (202) 649–6350; Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Office of the Comptroller of the Currency (OCC) is proposing supervisory guidance to clarify the OCC's application of principles of safe and sound banking practices and consumer protection in connection with deposit advance products. This proposed guidance details the principles that the OCC expects OCC-supervised financial institutions to follow in connection with any deposit advance product to address potential reputational, compliance, legal and credit risks. The OCC expects institutions to apply the principles set forth in this guidance to any deposit advance product they offer.

The OCC is also withdrawing its proposed guidance on Deposit-Related Consumer Credit Products published on June 8, 2011 (76 FR 33409).

II. Description of Guidance

A deposit advance product is a small-dollar, short-term loan that a depository institution (bank) makes available to a customer whose deposit account reflects recurring direct deposits. The customer is allowed to take out a loan, which is to be repaid from the proceeds of the next direct deposit. These loans typically have high fees, are repaid in a lump sum in advance of the customer's other bills, and often do not utilize fundamental and prudent banking practices to determine the customer's ability to repay the loan and meet other necessary financial obligations.

The OCC continues to encourage banks to respond to customers' small-dollar credit needs; however, banks should be aware that deposit advance products can pose a variety of safety and soundness, compliance, consumer protection, and other risks. The OCC is proposing guidance to ensure that any bank offering these products does so in a safe and sound manner and does not engage in practices that would increase credit, compliance, legal, and reputation risks to the institution.

III. Guidance

The text of the proposed supervisory guidance on deposit advance products follows:

OCC Proposed Guidance on Deposit Advance Products

The Office of the Comptroller of the Currency (OCC) is proposing supervisory guidance to depository institutions (banks) that offer deposit advance products. This guidance is intended to ensure that banks are aware of the significant risks associated with deposit advance products. The guidance also supplements the OCC's existing guidance on payday loans and subprime lending.[1] Although the OCC encourages banks to respond to customers' small-dollar credit needs in a responsible manner and with reasonable terms and conditions, deposit advance products pose a variety of safety and soundness, compliance, and consumer protection risks to banks.[2]

[1] *OCC Advisory Letter* AL 2000–10 *Payday Lending,* AL 2000–10 (November 27,2000); ''Expanded Guidance for Subprime Lending Programs'' (*Subprime Lending Guidance),* jointly signed by the OCC, the Board of Governors of the Federal Reserve (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (January 31, 2001).

[2] This Guidance on Deposit Advance Products does not apply to banks' overdraft lines of credit. Overdraft lines of credit typically do not have

Continued

Background: A deposit advance product is a type of small-dollar, short-term credit product offered to customers maintaining a deposit account, reloadable prepaid card, or similar deposit-related vehicle at a bank. The bank provides a credit feature that allows the customer to take out a loan in advance of the customer's next direct deposit. The advance is based on the customer's history of recurring deposits. Typically, the advance is offered as an open-end line of credit. While the specific details of deposit advance products vary from bank to bank, and also may vary over time, those currently offered incorporate some or all of the characteristics described below.

Cost. The cost of the deposit advance is typically based on a fee structure, rather than an interest rate. Generally advances are made in fixed dollar increments and a flat fee is assessed for each advance. For example, a customer may obtain advances in increments of $20 with a fee of $10 per every $100 advanced. The cost of the deposit advance can be more expensive than other forms of credit, such as a credit card, or a traditional line of credit.

Eligibility, Loan Limits and Ability to Repay. Typically, a customer is eligible for a deposit advance if the deposit account has been open for a certain period of time and the customer receives recurring deposits. Banks typically require a minimum sum to be directly deposited each month for a certain period of time in order for the borrower to be eligible for a deposit advance loan. Currently, some banks permit a recurring deposit as low as $100.

The maximum dollar amount of the advance is typically limited to a percent or amount of the recurring monthly deposit. For example, some banks permit the deposit advance to be the lesser of $500 or 50 percent of the scheduled direct deposits from the preceding statement cycle, rounded up to the nearest $10. The advance limit does not include the fee associated with the advance. In addition, some banks will allow the advance even if the customer's account is currently overdrawn. Some banks also permit a customer to exceed the advance limit, at the bank's discretion.

Typically, the bank does not analyze the customer's ability to repay the loan based on recurring debits or other indications of a need for residual income to pay other bills. The decision to advance credit to borrowers, based solely on the amount and frequency of their deposits, stands in contrast to banks' traditional underwriting standards for other products, which typically include an assessment of the ability to repay the loan based on an analysis of the borrower's finances.

Repayment. Repayment is generally required through an electronic payment of the fee and the advance with the next direct deposit. Typically, the bank is paid first before any other transactions are paid. In some cases, a bank will apply a time limit on how soon it will take the fee and the advance from the direct deposit, but the time limit is minimal, usually one or two days. If the first deposit is insufficient to repay the fee and the advance, the repayment will be obtained from subsequent deposits. If the deposits are insufficient to repay the fee and the advance within a certain time period, typically 35 days, then the bank executes a forced repayment by sweeping the underlying deposit account for the remaining balance. Unlike a payday lender, the bank has automatic access to the underlying deposit account. In some cases, borrowers may be able to access program features that allow for a longer repayment period than 35 days; however, this is not usually allowed.

If the deposit account funds are insufficient to repay the fee and the advance, then the account goes into overdraft status. Some banks will charge an overdraft fee based on the deposit advance overdrawing the account. Other banks will only charge overdraft fees based on any subsequent transactions that overdraw the account.

Although the deposit advance limit is based on an amount or percentage of the monthly deposit, the repayment can be based on a shorter time period. For example, if a customer receives direct deposits of $500 every other Friday from her employer, her monthly direct deposit would be $1000. Under the typical bank's advance limit, she could receive an advance of $500 with a fee of $50. If she obtains the deposit advance on the Thursday before her payday, then the bank will obtain repayment on Friday. The bank will take the entire $500 paycheck. In addition, the customer will still owe $50 in principal because the deposit was only sufficient to pay the $50 fee and $450 in principal. Assuming the customer has no other source of income, the customer will need to rely on savings to pay bills until the next paycheck. At the next paycheck, the bank will take the remaining $50 in principal and the customer will have $450 to pay all outstanding bills.

Some banks have implemented alternative repayment methods that provide more flexibility to the customer. For example, some banks will permit repayment to extend through to the second direct deposit if the first direct deposit falls below a specific dollar threshold. In addition, some banks allow payment by mail rather than electronic transfer, but may charge a fee for this option. Finally, some banks offer an installment loan option, but may also charge an additional fee or may only offer this option if the customer cannot repay the advance and fee from the monthly deposits.

Repeat Usage Controls. Banks often have repeat usage limits that trigger a ''cooling off'' period during which the customer cannot take out a deposit advance, or the credit limit is reduced. For example, some banks may prevent an advance for 35 days if the borrower has used the service at least once each month in the previous six-month period. However, the customer can resume use of the product after the 35-day period is completed. Other banks may prevent an advance for one full billing cycle if the customer borrows the entire amount of the advance each month in the previous six months. However, the customer can avoid this limit by taking out something less than the maximum advance.

Marketing and Access. Banks market deposit advance products as intended to assist customers through a financial emergency or to meet short-term needs. These advances, however, are typically not included with the bank's list of available credit products, but are instead listed as a deposit account ''feature.'' Customers are alerted to the availability of the products by a reference on their account statement or a ''button'' or hot link on their personal account Web page, but it is not clear that the customer is made equally aware of less expensive alternatives.

SUPERVISORY CONCERNS OF DEPOSIT ADVANCE LOANS

Although the OCC encourages banks to respond to customers' small-dollar credit needs, deposit advance products pose supervisory risks. These products share a number of characteristics seen in traditional payday loans, including: high fees; very short, lump-sum repayment terms; and inadequate attention to the consumer's ability to repay. As such, banks need to be aware of these products' potential to harm consumers, as well as elevated safety and soundness, compliance, and consumer protection risks.

The combined impact of an expensive credit product coupled with short repayment periods increases the risk that borrowers could be caught in a

repayment characteristics similar to deposit advance products.

cycle of high-cost borrowing over an extended period of time. Specifically, deposit advance customers may repeatedly take out loans because they are unable to fully repay the balance in one pay period while also meeting typical recurring and other necessary expenses (e.g., housing, food, and transportation). Customers may feel compelled to take out another loan very soon thereafter to make up for the shortfall. This cycle is referred to as the ''churning'' of loans and is similar to the practice of ''loan flipping'' that the OCC, the FDIC and the Board, have previously noted to be an element of predatory lending.[3] Though deposit advance products are often marketed as intended for emergency financial assistance, and as unsuitable for meeting a borrower's recurring or long-term obligations, the OCC believes the product's design results in consumer behavior that is frequently inconsistent with this marketing and is detrimental to the customer.

To address concerns that certain borrowers become dependent on deposit advance products to meet their daily expenses (as evidenced by their repeated borrowings), certain lenders now require borrowers who have taken out a specified number of deposit advance loans within a certain time frame to wait for a specified period before they are eligible to take out a new loan. However, the OCC is concerned these ''cooling-off'' periods can be easily avoided and are ineffective in preventing repeated usage of these high-cost, short-term loans.

Weak underwriting increases the risk that the borrower's account may become overdrawn and result in multiple overdraft fees when subsequent transactions are presented for payment. Some banks assess overdraft fees when the automatic repayment of the deposit advance loan causes the associated account to reflect a negative balance.

Safety and Soundness Risk

Credit Risk: Borrowers who obtain deposit advance loans may have cash flow difficulties or blemished or insufficient credit histories that limit other borrowing options. The high aggregate cost of numerous and repeated extensions of credit that may be a consequence of this product further increases credit risk. Lenders that offer deposit advance loans typically focus on the amount of the borrower's monthly deposit for underwriting purposes. Failure to consider whether the income sources are adequate to repay the debt while covering typical living expenses, other debt payments, and the borrower's credit history presents safety and soundness risks.

Numerous and repeated extensions of credit to the same individual may be substantially similar to continuous advances and subject the bank to increased credit risk. While re-aging, extensions, deferrals, renewals, and rewrites of lending products can be used to help borrowers overcome temporary financial difficulties, repeated re-aging credit practices can cloud the true performance and delinquency status of the portfolio.[4]

Relying on the amount of the customer's incoming deposits without consideration of expected outflows does not allow for a proper assessment of the customer's ability to repay the loan and other necessary expenses. This failure to properly assess the borrower's financial capacity, a basic underwriting principle, increases default risk.

Reputation Risk: Reputation risk is the risk arising from negative public opinion. Deposit advance products are receiving significant levels of negative news coverage and public scrutiny. This increased scrutiny includes reports of high fees and borrowers taking out multiple advances to cover prior advances and everyday expenses. Engaging in practices that are perceived to be unfair or detrimental to the customer can cause a bank to lose community support and business.

Legal Risk: The significant risks associated with deposit advance lending products may subject institutions to the risk of litigation—both from private lawsuits and regulatory enforcement actions.

Third-Party Risk: Banks remain responsible and liable for compliance with all applicable laws and regulations, even for the activities of a third party.[5] The OCC is aware of banks working with third parties to develop, design and service the deposit advance product. The existence of third-party arrangements may, when not properly managed, significantly increases institutions' legal, operational and reputation risks. Some of the risks are associated with the underlying activity itself, similar to the risks faced by a bank directly conducting the activity. Other potential risks arise from or are heightened by the involvement of a third party, particularly if the third party will receive a portion of the fees. Consequently, third-party arrangements may expose the bank to regulatory action and affect the institution's ability to establish new or service existing customer relationships.

Compliance and Consumer Protection Related Concerns

Deposit advance products must comply with all applicable federal laws and regulations, some of which are outlined below. State laws also may be applicable, including usury laws and laws on unfair or deceptive acts or practices. It is important that banks have their deposit advance products reviewed by counsel for compliance with all applicable laws prior to implementation. Furthermore, although the guidance below outlines federal laws and regulations as of the date this guidance is published, applicable laws and regulations are subject to amendment. In addition, statutes and regulations will have different applications depending on how a deposit advance product is structured. Banks offering deposit advances should carefully consider whether and how these laws and rules will apply to the particular version of a deposit advance product they are providing. Accordingly, banks should monitor applicable laws and regulations for revisions and to ensure that their deposit advance product is fully compliant. Federal laws and regulations applicable to deposit advance products include, but are not limited to, the following:

The Federal Trade Commission Act (FTC Act): Section 5 of the FTC Act prohibits unfair or deceptive acts or practices (UDAP).[6] The OCC enforces this section pursuant to its authority in Section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818.[7] An act or practice is unfair where it: (1) causes or is likely to cause substantial injury to consumers; (2) cannot be reasonably avoided by consumers; and (3) is not outweighed by countervailing benefits to consumers or to competition. Public policy may also be considered. An act or practice is deceptive if: (1) there is a representation, omission, or practice that misleads or is likely to mislead a consumer; (2) the consumer's interpretation is reasonable under the circumstances; and (3) the misleading

[3] *Subprime Lending Guidance,* jointly signed by the OCC, the Board, the FDIC, and the OTS (January 31, 2001).

[4] *See* the Federal Financial Institutions Examination Council Uniform Retail Credit Classification and Account Management Policy, 65 FR 36903, June 12, 2000. This policy is addressed more fully in the ''Credit Quality'' section.

[5] *See* OCC Bulletin, 2001–47, ''Third-Party Relationships: Risk Management Principles for Third-Party Relationships'' (November 1 2001).

[6] 15 U.S.C. 45(a) and (n).

[7] *See* OCC Advisory Letter 2002–3, ''Guidance on Unfair or Deceptive Acts or Practices'' (March 22, 2002).

representation, omission, or practice is material.

Deposit advance products may raise issues under the FTC Act depending upon how the products are marketed and implemented. Any FTC Act analysis will be dependent on the facts and circumstances in a particular matter.

The prohibition on UDAP applies not only to the product, but to every stage and activity, from product development to the creation and rollout of marketing campaigns, and to servicing and collections. For example, marketing materials and disclosures should be clear, conspicuous, accurate and timely; and should fairly and adequately describe the terms, benefits, potential risks and material limitations of the product.

Truth in Lending Act (TILA): TILA and Regulation Z require creditors to provide cost disclosures for extensions of consumer credit.[8] Different rules apply to Regulation Z disclosures depending on whether the loan is an open- or closed-end credit product. Banks should ensure the product's disclosures comply with the applicable requirements. TILA advertising rules for open-end credit require that, if an advertisement states any periodic rate that may be applied, it must state the rate as an Annual Percentage Rate, using that term.[9] Similarly, TILA advertising rules for closed-end credit require that, if an advertisement states a rate of finance charge, it must state the rate as an Annual Percentage Rate, using that term.[10]

Electronic Fund Transfer Act (EFTA): A program that involves the use of electronic fund transfers must meet the applicable disclosure and other requirements of EFTA and Regulation E.[11] EFTA requires disclosures,[12] prohibits creditors from mandating that loans be repaid by ''preauthorized electronic fund transfers,''[13] and allows borrowers to withdraw authorization for ''preauthorized fund transfers.'' [14]

Truth in Savings Act (TISA): A program that involves a consumer's deposit account must meet the disclosure requirements of TISA and Regulation DD.[15] Under TISA, deposit account disclosures must include the amount of any fee that may be imposed in connection with the account and the conditions under which the fee may be imposed.[16] TISA also prohibits institutions from making any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents their deposit contracts.[17] TISA disclosures enable consumers to make informed decisions about their deposit accounts at depository institutions. A consumer is entitled to receive TISA disclosures at account opening, when the terms of the consumer's account are changed, and when a periodic statement is sent.

Equal Credit Opportunity Act (ECOA): Under ECOA and Regulation B, creditors are prohibited from discriminating against an applicant on a prohibited basis in any aspect of a credit transaction.[18] This prohibition applies to deposit advance products. The creditor's discretion, for example in the application of eligibility requirements, loss mitigation options and fee waivers, may raise fair lending risk.[19] Steering or targeting certain customers on a prohibited basis toward deposit advance products while offering other customers more favorable credit products may also raise fair lending risk. Additionally, providing different product terms or conditions and different servicing or loss mitigation options to similarly situated customers on a prohibited basis may also violate ECOA.

In addition to the general prohibition against discrimination, ECOA and Regulation B contain specific rules concerning procedures and notices for credit denials and other adverse actions. Regulation B defines the term ''adverse action,'' and generally requires a creditor who takes an adverse action to send a notice to the consumer providing, among other things, the reasons for the adverse action.[20]

SUPERVISORY EXPECTATIONS

Deposit advance lending presents significant consumer protection and safety and soundness concerns, irrespective of whether the products are issued by a bank directly or by third parties. The OCC will take appropriate supervisory action to prevent harm to consumers, to address any unsafe or unsound banking practices associated with these products, and to ensure compliance with all applicable laws. Examinations will focus on compliance with applicable consumer protection statutes and potential safety and soundness issues.

Examiners will assess credit quality, including underwriting and credit administration policies and practices. In addition, examiners will assess the adequacy of capital, reliance on fee income, and adequacy of the allowance for loan and lease losses. Compliance with applicable federal consumer protection statutes, management's oversight, and relationships with third parties will also be assessed.

Credit Quality: The Uniform Retail Credit Classification and Account Management Policy (Retail Classification Policy) establishes guidelines for classifying consumer loans, such as deposit advance loans, based on delinquency, but also grants examiners the discretion to classify individual retail loans that exhibit signs of credit weakness, regardless of delinquency status. An examiner also may classify consumer portfolios, or segments thereof, where underwriting standards are weak and present unreasonable credit risk.

Deposit advance loans often have weaknesses that may jeopardize the liquidation of the debt. Borrowers often have limited repayment capacity. Banks should adequately review repayment capacity to assess whether borrowers will be able to repay the loan without needing to incur further deposit advance borrowing.

Deposit advance loans that have been accessed repeatedly or for extended periods of time are evidence of ''churning'' and inadequate underwriting. Banks should monitor for repeated or extended use, as will be discussed in greater detail in the discussion of underwriting expectations below.

Underwriting and Credit Administration Policies and Practices: As part of the credit quality review, examiners will assess underwriting and administration policies and practices for deposit advance loan products. Eligibility and underwriting criteria for deposit advance loans, consistent with eligibility and underwriting criteria for other bank loans, should be well documented in the bank's policy. The criteria should be designed to assure that the extension of credit can be

[8] 15 U.S.C. 1601 *et seq.* TILA is implemented by Regulation Z, 12 CFR 1026.

[9] *See* 12 CFR 1026.16(b)(1).

[10] *See* 12 CFR 1026.24(c).

[11] 15 U.S.C. 1693 *et seq.* The EFTA is implemented by Regulation E, 12 CFR 1005.

[12] *See, e.g.,* 12 CFR 1005.7, 1005.8, and 1005.9.

[13] *See* 12 CFR 1005.10(e).

[14] *See* 12 CFR 1005.10(c).

[15] 12 U.S.C. 4301 *et seq.* TISA is implemented by Regulation DD at 12 CFR 1030 for banks and federal savings associations.

[16] *See* 12 CFR 1030.4(b)(4).

[17] *See* 12 CFR 1030.8.

[18] 15 U.S.C. 1691 *et seq.* ECOA is implemented by Regulation B, 12 CFR Part 1002. ECOA prohibits discrimination on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract), the fact that all or part of the applicant's income derives from a public assistance program, and the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

[19] *See* Interagency Fair Lending Examination Procedures (August 2009) at 9–13.

[20] *See* 12 CFR 1002.2(c) and 1002.9.

repaid according to its terms while allowing the borrower to continue to meet typical recurring and other necessary expenses such as food, housing, transportation and healthcare, as well as other outstanding debt obligations. Additionally, criteria should ensure that borrowers can meet these requirements without needing to borrow repeatedly. Institutions should maintain appropriate criteria to prevent churning and prolonged use of these products. Underwriting for deposit advance products should occur prior to opening such accounts and should be monitored on an ongoing basis. Repetitive deposit advance borrowings indicate weak underwriting and will be criticized in the Report of Examination and then taken into account in an institution's rating.

Bank policies regarding the underwriting of deposit advance loan products should be written and approved by the bank's board of directors, and consistent with the bank's general underwriting standards and risk appetite. Factors a bank should address in its written underwriting policies for deposit advance products include, but are not necessarily limited to, the following:

- *The Length of a Customer's Deposit Relationship With the Bank.* Banks should ensure that the customer relationship is of sufficient duration to provide the bank with adequate information regarding the customer's recurring deposits and expenses in order to prudently underwrite deposit advance loans. The OCC will consider sufficient duration to evaluate a customer's deposit advance eligibility to be no less than six months.
- *Classified Credits.* Customers with any delinquent or adversely classified credits should be ineligible.
- *Financial Capacity.* In addition to any eligibility requirements, the bank should conduct an analysis of the customer's financial capacity including income levels. Underwriting assessments should consider the customer's ability to repay a loan without needing to borrow repeatedly from any source, including re-borrowing, to meet necessary expenses. The financial capacity assessment should include:
  - An analysis of the customer's account for recurring deposits (inflows) and checks/credit/customer withdrawals (outflows) over at least six consecutive months. Lines of credit of any sort, including overdrafts, and drafts from savings should not be considered inflows. In reviewing customers' transactions to determine deposit advance eligibility, the bank should consider the customers' net surplus or deficit at the end of each of the preceding six months, and not rely on a six-month transaction average.
  - After conducting the above described analysis, determine whether an installment repayment is more appropriate.
- *Cooling-Off Period.* Each deposit advance loan should be repaid in full before the extension of a subsequent deposit advance loan, and banks should not offer more than one loan per monthly statement cycle.[21] A cooling-off period of at least one monthly statement cycle after the repayment of a deposit advance loan should be completed before another advance may be extended in order to avoid repeated use of the short-term product.
- *Increasing Deposit Advance Credit Limits.* The amount of credit available to a borrower should not be increased without a full underwriting reassessment in compliance with the bank's underwriting policies and in accordance with the factors discussed in this guidance. Additionally, any increase in the credit limit should not be automatic and should be initiated by a request from the borrower.
- *Ongoing Customer Eligibility.* As part of their underwriting for this product, banks should, no less than every six months, reevaluate the customer's eligibility and capacity for this product. Additionally, banks should identify risks that could negatively affect a customer's eligibility to receive additional deposit advances. For example:
  - Repeated overdrafts (establish/set a certain number during a specified number of months).
  - Evidence that the borrower is overextended with respect to total credit obligations.

Capital Adequacy: Higher capital requirements generally apply to loan portfolios that exhibit higher-risk characteristics and are subject to less stringent loan underwriting requirements. Loans exhibiting subprime credit characteristics are higher-risk loans and may require higher levels of capital.

Over-Reliance on Fee Income: Fees associated with deposit advance products should be based on safe and sound banking principles. Institutions should monitor for any undue reliance on the fees generated by such products for their revenue and earnings.

Adequacy of the Allowance for Loan and Lease Losses (ALLL): Examiners will assess whether the ALLL is adequate to absorb estimated credit losses within the deposit advance loan portfolio. Examiners will also determine whether banks engaged in deposit advance lending have methodologies and analyses in place that demonstrate and document that the level of the ALLL is appropriate.

Consumer Compliance: Banks should implement effective compliance management systems, processes and procedures to appropriately mitigate risks. Examiners will review a bank's program with respect to deposit advance products for compliance with applicable consumer protection statutes and regulations, including TILA, EFTA, TISA, ECOA, and Section 5 of the FTC Act.

Management Oversight: Examiners will assess bank management's ability to administer a deposit advance loan program and board oversight of the program. Furthermore, examiners will determine whether bank management has established controls and implemented a rigorous analytical process to identify, measure, monitor, and manage the risks associated with deposit advance loans. The bank's compliance management system should ensure continuing compliance with applicable federal and state laws, rules and regulations, as well as internal policies and procedures.

Banks should maintain adequate oversight of deposit advance programs and adequate quality control over those products and services to minimize exposure to potential significant financial loss, reputation damage, and supervisory action. Management should provide the appropriate oversight and allocate sufficient qualified staff to monitor deposit advance programs. Results of oversight activities should be reported periodically to the financial institution's board of directors or designated committee, including identified weaknesses, which should be documented and promptly addressed.

Third-Party Relationships: Because third-party relationships are important in assessing a bank's overall risk profile, the OCC's primary supervisory concern in reviewing a bank's relationships with third parties is whether the bank is assuming more risk than it can identify, monitor, and manage. Management should allocate sufficient qualified staff to monitor for significant third-party relationships, excessive usage by borrowers, and excessive risk taking by

[21] The Interagency ''Expanded Guidance for Subprime Lending Programs'' (2001) states that loans to borrowers who do not demonstrate the capacity to repay the loan, as structured, from sources other than the collateral pledged, in this case the borrower's direct deposit, are generally considered unsafe and unsound. Such lending practices should be criticized in the Report of Examination as imprudent.

the bank. Therefore, examiners will review the risks associated with all material third-party relationships and activities together with other bank risks. In certain high risk situations, examiners may conduct on-site third-party reviews under specific authorities granted to the OCC.

RESPONSIBLE PRODUCTS TO MEET SMALL–DOLLAR CREDIT NEEDS

The OCC recognizes the need for responsible small-dollar credit products among consumers. A number of banks are currently offering reasonably priced small-dollar loans at reasonable terms to their customers. If such loans are structured properly, they can provide a safe and affordable means for borrowers to transition away from reliance on high-cost debt products that do not appropriately serve their needs. The OCC encourages these banks to continue to offer these products, consistent with safety and soundness and other supervisory considerations, and encourage other banks to consider offering such products as well. Properly managed small-dollar loan products offered with reasonable terms and at a reasonable cost do not pose the same level of supervisory risk as deposit advance products.

Dated: April 22, 2013.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2013–10094 Filed 4–29–13; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Indian Tribal Governments Treated as States for Certain Purposes.

DATES: Written comments should be received on or before July 1, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Gerald J. Shields, at (202) 972–4374, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Gerald.J.Shields@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Indian Tribal Governments Treated as States for Certain Purposes.

OMB Number: 1545–0823.

Regulation Project Number: FI–221–83 (notice of proposed rulemaking) and FI–100–83 (temporary regulation).

Abstract: These regulations relate to the treatment of Indian tribal governments as States for certain Federal tax purposes. The regulations provide that if the governing body of a tribe, or its subdivision, is not designated as an Indian tribal government or subdivision thereof for purpose of sections 7701(a)(40) and 7871 of the Internal Revenue Code, it may apply for a ruling to that effect from the Internal Revenue Service.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments.

Estimated Number of Respondents: 25.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 25.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 12, 2013.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–10065 Filed 4–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning regulation section 601.601, Rules and Regulations.

DATES: Written comments should be received on or before July 1, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Gerald J. Shields at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 927–4374, or through the Internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Rules and Regulations.

OMB Number: 1545–0800.

Regulation Project Number: Regulation section 601.601.

Abstract: Persons wishing to speak at a public hearing on a proposed rule must submit written comments and an outline within prescribed time limits, for use in preparing agendas and allocating time. Persons interested in the issuance, amendment, or repeal of a rule may submit a petition for this. IRS considers the petitions in it deliberations.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations, not-for-profit institutions, farms, and Federal, State, local or tribal governments.

Estimated Number of Respondents: 600.

Estimated Time per Respondent: 1 hour, 30 minutes.

Estimated Total Annual Burden Hours: 900.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved April 17, 2013.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–10066 Filed 4–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8873

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8873, Extraterritorial Income Exclusion.

DATES: Written comments should be received on or before July 1, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at Internal Revenue Service, Room 6511, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3215, or through the Internet at *Lanita.VanDyke@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Extraterritorial Income Exclusion.

OMB Number: 1545–1722.

Form Number: 8873.

Abstract: The FSC and Extraterritorial Income Exclusion Act of 2000 added section 114 to the Internal Revenue Code. Section 114 provides for an exclusion from gross income for certain transactions occurring after September 30, 2000, with respect to foreign trading gross receipts. Form 8873 is used to compute the amount of extraterritorial income excluded from gross income for the tax year.

Current Actions: There are no changes being made to the form at this time. This submission is for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 750,000.

Estimated Time per Respondent: 24 hours, 27 minutes.

Estimated Total Annual Burden Hours: 19,087,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 17, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–10063 Filed 4–29–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Agency Emergency Information Collection (Principles of Excellence Complaint Intake Questionnaire) Activities Under OMB—Request for Public Comment

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and public comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and the related form for this information collection, contact the **FURTHER INFORMATION CONTACT** listed in this notice.

DATE: Comments must be submitted on or before May 30, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. [NEW] (Principles of Excellence Complaint Intake Questionnaire)'' in any correspondence

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–7492, Fax (202) 632–7583 or email *crystal.rennie@va.gov*. Please refer to ''OMB Control No. [NEW] (Principles of Excellence Complaint Intake Questionnaire).''

SUPPLEMENTARY INFORMATION:

Title: Principles of Excellence Complaint Intake Questionnaire, VA Form 22–0959.

OMB Control Number: 2900–NEW.

Type of Review: New collection.

Abstract: The purpose of the centralized complaint system is to provide a standardized method for beneficiaries and others to submit a complaint or allegation that an entity or individual has not or may not have adhered to the principles of excellence established in the Executive Order 13607, Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members.

The Complaint Intake Form will enable VA to identify the entity or individual not in compliance with the Principles of Excellence and to assess the complaints of noncompliance. Assessment of compliance will include identifying areas we can improve to ensure adherence to the Principles of Excellence. The respondent will submit a complaint or allegation that an entity or individual has not adhered to the Principles of Excellence. The information gathered on the form can only be obtained from the individual respondent.

We are conducting a single 30-day public comment review period pursuant to 5 CFR 1320.13. This emergency approval, which will be for a limited time, will be followed by a request for extension of the approval for the standard 3-year period. 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.

Affected Public: Individuals or households.

Estimated Annual Burden: 400 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: April 24, 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. 2013–10112 Filed 4–29–13; 8:45 am]

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S. 716/P.L. 113–7
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